The Ontario Securities Commission

OSC Bulletin

January 6, 2012

Volume 35, Issue 1

(2012), 35 OSCB

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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Published under the authority of the Commission by:
Carswell, a Thomson Reuters business
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2075 Kennedy Road
Toronto, Ontario
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The OSC Bulletin is published weekly by Carswell, a Thomson Reuters business, under the authority of the Ontario Securities Commission.

Subscriptions are available from Carswell at the price of $649 per year.

Subscription prices include first class postage to Canadian addresses. Outside Canada, these airmail postage charges apply on a current subscription:

U.S.	$175
Outside North America	$400

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ISSN 0226-9325

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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

January 6, 2012

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
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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

January 9, 2012 10:00 a.m.	**Maple Leaf Investment Fund Corp., Joe Henry Chau (aka: Henry Joe Chau, Shung Kai Chow and Henry Shung Kai Chow), Tulsiani Investments Inc., Sunil Tulsiani and Ravinder Tulsiani** s. 127 A. Perschy/C. Rossi in attendance for Staff Panel: CP/PLK
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 11, 2012 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

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 12, March 28-30, and April 3, 2012 10:00 a.m. January 16 and March 26, 2012 11:00 a.m.	**Shaun Gerard McErlean, Securus Capital Inc., and Acquiesce Investments** s. 127 M. Britton in attendance for Staff Panel: VK/JDC
January 13, 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 16, 2012 10:00 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
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: JEAT
January 20, 2012 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
January 23-26, January 30 and February 1-8, 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: PLK/MCH/JNR
January 24, 2012 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

January 26-27, 2012 10:00 a.m.	**Empire Consulting Inc. and Desmond Chambers** s. 127 D. Ferris in attendance for Staff Panel: EPK
January 30, 2012 10:00 a.m.	**Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton** s. 127 H. Craig in attendance for Staff Panel: JEAT
January 31, 2012 3:00 p.m.	**Bruce Carlos Mitchell** s. 127 C. Johnson 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: PLK
February 1-3, February 7-10 February 15-17 and February 22-23, 2012 10:00 a.m. February 6, 13 and 21, 2012 11:00 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: VK
February 2-3, 2012 10:00 a.m.	**Zungui Haixi Corporation, Yanda Cai and Fengyi Cai** s. 127 J. Superina in attendance for Staff Panel: CP
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: EPK

March 5-12 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: CP
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: CP
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: EPK
March 27, 2012 10:00 a.m. June 18 and June 20-22, 2012 10:00 a.m.	**Shallow Oil & Gas Inc., Eric O'Brien, Abel Da Silva, Gurdip Singh Gahunia aka Michael Gahunia and Abraham Herbert Grossman aka Allen Grossman** s. 127(7) and 127(8) H. Craig in attendance for Staff Panel: PLK
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 18, 2012 10:00 a.m.	**Sextant Capital Management Inc., Sextant Capital GP Inc., Otto Spork, Robert Levack and Natalie Spork** s. 127 T. Center in attendance for Staff Panel: JDC
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: CP
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: EPK
June 4, June 6-18, and June 20-26, 2012 10:00 a.m.	**Peter Sbaraglia** s. 127 J. Lynch in attendance for Staff Panel: TBA
June 22, 2012 10:00 a.m.	**New Hudson Television Corporation, New Hudson Television L.L.C. & James Dmitry Salganov** s. 127 C. Watson in attendance for Staff Panel: TBA

September 4-10, September 12-14, September 19-24, and September 26 – October 5, 2012 10:00 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: 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

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

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

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

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

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

s. 127

C. Price in attendance for Staff

Panel: CP

TBA **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: TBA

TBA **MBS Group (Canada) Ltd., Balbir Ahluwalia and Mohinder Ahluwalia**

s. 37, 127 and 127.1

C. Rossi in attendance for staff

Panel: TBA

TBA **2196768 Ontario Ltd carrying on business as Rare Investments, Ramadhar Dookhie, Adil Sunderji and Evgueni Todorov**

s. 127

D. Campbell in attendance for Staff

Panel: TBA

TBA **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: TBA

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

s. 127

M. Vaillancourt in attendance for Staff

Panel: TBA

TBA **Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)**

s. 127 and 127.1

D. Ferris in attendance for Staff

Panel: VK/MCH

TBA **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: TBA

TBA **Systematech Solutions Inc., April Vuong and Hao Quach**

s. 127

S. Schumacher 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

ADJOURNED SINE DIE

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

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

1.1.2 CSA Staff Notice 13-315 (Revised) – Securities Regulatory Authority Closed Dates 2012

CANADIAN SECURITIES ADMINISTRATORS' STAFF NOTICE 13-315 (REVISED)
SECURITIES REGULATORY AUTHORITY CLOSED DATES 2012*

We have a review system for prospectuses (including long form, short form and mutual fund prospectuses), prospectus amendments, pre-filings, and waiver applications. It is described in National Policy 11-202 – *Process for Prospectus Reviews in Multiple Jurisdictions* (NP 11-202).

Under NP 11-202, a filer that receives a receipt from the principal regulator will be deemed to have a receipt in each passport jurisdiction where the prospectus was filed. However, the principal regulator's receipt will only evidence that the OSC has issued a receipt if the OSC is open on the date of the principal regulator's receipt and has indicated that it is "clear for final". If the OSC is not open on the date of the principal regulator's receipt, the principal regulator will issue a second receipt that evidences that the OSC has issued a receipt on the next day that the OSC is open.

A dealer may solicit expressions of interest in a non-principal jurisdiction only after a receipt has been issued by that jurisdiction. In addition, an issuer may distribute its securities in the non-principal jurisdiction only at that time.

The following is a list of the closed dates of the securities regulatory authorities for 2012. These dates should be noted by issuers in structuring their affairs.

1. Saturdays and Sundays (all)
2. Monday January 2, 2012 (all)
3. Tuesday January 3 (QC)
4. Monday February 20 (AB, SK, MB, ON, PE)
5. Friday February 24 (YT)
6. Monday March 19 (NL)
7. Friday April 6 (all)
8. Monday April 9 (all except AB, SK, ON, NL)
9. Monday April 23 (NL)
10. Monday May 21 (all)
11. Thursday June 21 (NT)
12. Monday June 25 (QC, NL)
13. Friday June 29 (SK)
14. Monday July 2 (all)
15. Monday July 9 (NL, NU)
16. Wednesday August 1 (NL**)
17. Monday August 6 (all except QC, NL, PE, YT)
18. Friday August 17 (PE)
19. Monday August 20 (YT)
20. Monday September 3 (all)
21. Monday October 8 (all)
22. Monday November 12 (all except AB, ON, QC)
23. Monday December 24 (QC, NT)
24. Monday December 24 after 12:00 p.m. (AB, MB, NB, NS, PE, YT); after 1:00 p.m. (BC)
25. Tuesday December 25 (all)

26. Wednesday December 26 (all)

27. Monday December 31 (QC, NT)

28. Monday December 31 after 12:00 p.m. (NB); after 1:00 p.m. (BC)

29. Tuesday January 1, **2013** (all)

30. Wednesday January 2, **2013** (QC)

* Bracketed information indicates those jurisdictions that are closed on the particular date.

** Weather permitting, otherwise observed on the first following acceptable weather day, such determination made on morning of holiday.

January 6, 2012

1.1.3 OSC Staff Notice 11-739 (Revised) – Policy Reformulation Table of Concordance and List of New Instruments

OSC STAFF NOTICE 11-739 (REVISED)

POLICY REFORMULATION TABLE OF CONCORDANCE AND LIST OF NEW INSTRUMENTS

The following revisions have been made to the Table of Concordance and List of New Instruments. A full version of the Table of Concordance and List of New Instruments as of December 30, 2011 has been posted to the OSC Website at www.osc.gov.on.ca.

Table of Concordance

Item Key
The third digit of each instrument represents the following: 1-National/Multilateral Instrument; 2-National/Multilateral Policy; 3-CSA Notice; 4-CSA Concept Release; 5-Local Rule; 6-Local Policy; 7-Local Notice; 8-Implementing Instrument; 9-Miscellaneous

Reformulation

Instrument	Title	Status
	None	

New Instruments

Instrument	Title	Status
11-739	Policy Reformulation Table of Concordance and List of New Instruments (Revised)	***Published October 7, 2011***
15-704	Request for Comments on Proposed Enforcement Initiatives	***Published October 21, 2011***
21-501	Deferral of Information Transparency Requirements for Government Debt Securities in National Instrument 21-101 – Marketplace Operation	***Commission approval published October 28, 2011***
81-716	2011 Summary Report for Investment Fund Issuers	***Published November 4, 2011***
45-401	Review of Minimum Amount and Accredited Investor Exemptions – Public Consultation	***Published November 11, 2011***
11-737	Securities Advisory Committee – Vacancies (Revised)	***Published November 11, 2011***
51-102	Notice of Ministerial Approval of Amendments to Form 51-102F6 – Statement of Executive Compensation and Consequential Amendments	***Published November 18, 2011***
11-201	Commission approval of amendments to National Policy 11-201 – Delivery of Documents by Electronic Means	***Published November 18, 2011***
41-101	Scholarship Plan Prospectus Form – Changes to Proposed Amendments to National Instrument 41-101 General Prospectus Requirements and Form 41-101F2 Information Requirement in an Investment Fund Prospectus, Proposed Form 41-101F3 Information Requirement in a Scholarship Plan Prospectus	***Published for comment November 25, 2011***
91-403	Derivatives: Surveillance and Enforcement	***Published for comment November 25, 2011***

New Instruments

41-101	Pre-Marketing and Marketing Amendments to NI 41-101 General Prospectus Requirements	***Published for comment November 25, 2011***
41-201	Amendments to National Policy 41-201 Income Trusts and Other Indirect Offerings (tied to pre-marketing and marketing amendments)	***Published for comment November 25, 2011***
44-101	Amendments to National Instrument 44-101 Short Form Prospectus Distributions (tied to pre-marketing and marketing amendments)	***Published for comment November 25, 2011***
44-102CP	Amendments to 44-102CP to National Instrument 44-102 Shelf Distributions (tied to pre-marketing and marketing amendments)	***Published for comment November 25, 2011***
47-201	Amendments to National Policy 47-201 Trading Securities Using the Internet and Other Electronic Means (tied to pre-marketing and marketing amendments)	***Published for comment November 25, 2011***
31-103	Amendments to NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations	***Commission approval published November 25, 2011***
21-501	Deferral of Information Transparency Requirements for Government Debt Securities in National Instrument 21-101 Marketplace Operation	***Minister's approval published December 16, 2011***
15-705	Notice of Extension of Time for Public Comment on Proposed Enforcement Initiatives and Continuation of Public Consultation through a Policy Hearing	***Published December 20, 2011***
51-327	Revised CSA Staff Notice 51-327 – Guidance on Oil and Gas Disclosure	***Published December 29, 2011***

For further information, contact:
Darlene Watson
Project Coordinator
Ontario Securities Commission
416-593-8148

January 6, 2012

1.2 Notices of Hearing

1.2.1 North American Financial Group Inc. – ss. 127, 127.1

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

AND

IN THE MATTER OF
NORTH AMERICAN FINANCIAL GROUP INC.,
NORTH AMERICAN CAPITAL INC.,
ALEXANDER FLAVIO ARCONTI
AND LUIGINO ARCONTI

NOTICE OF HEARING
(Sections 127 and 127.1)

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 127 and 127.1 of the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission at 20 Queen Street West, 17th Floor Hearing Room on January 16, 2012 at 10:00 a.m., or as soon thereafter as the hearing can be held, to consider:

(i) whether, in the opinion of the Commission, it is in the public interest, pursuant to sections 127 and 127.1 of the Act to order that:

(a) trading in any securities by the Respondents cease permanently or for such period as is specified by the Commission;

(b) the acquisition of any securities by the Respondents is prohibited permanently or for such other period as is specified by the Commission;

(c) any exemptions contained in Ontario securities law do not apply to the Respondents permanently or for such period as is specified by the Commission;

(d) the Respondents be reprimanded;

(e) Alexander Flavio Arconti and Luigino Arconti (the "Individual Respondents') resign one or more positions that they hold as a director or officer of any issuer, registrant or investment fund manager;

(f) the Individual Respondents be prohibited from becoming or acting as a director or officer of any issuer, registrant or investment fund manager permanently or for such other period as is specified by the Commission;

(g) the Respondents be prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter permanently or for such other period as is specified by the Commission;

(h) the Respondents each pay an administrative penalty of not more than $1 million for each failure by that Respondent to comply with Ontario securities law;

(i) each of the Respondents disgorge to the Commission any amounts obtained as a result of non-compliance by that Respondent with Ontario securities law; and

(j) the Respondents be ordered to pay the costs of the Commission investigation and the hearing;

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

BY REASON OF the allegations as set out in the Statement of Allegations of Staff of the Commission dated December 28, 2011 and such additional allegations as counsel may advise and the Commission may permit;

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

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

DATED at Toronto this 28th day of December, 2011

"John Stevenson"

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

AND

IN THE MATTER OF
NORTH AMERICAN FINANCIAL GROUP INC.,
NORTH AMERICAN CAPITAL INC.,
ALEXANDER FLAVIO ARCONTI
AND LUIGINO ARCONTI

STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION

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

I. OVERVIEW

1. During the period July 2005 to September 2010, North American Financial Group Inc. ("NAFG") raised funds by issuing non-prospectus qualified securities to investors. As at November 30, 2010, approximately 100 investors, many of whom were elderly, had over $5.7 million invested in NAFG.

2. During the period July 2009 to April 2010, North American Capital Inc. ("NAC") issued shares to approximately 11 investors. The total proceeds of approximately $1,042,000 from the sale of NAC securities were transferred to NAFG.

3. NAFG is a finance company in the business of the acquisition and servicing of subprime car leases in respect of cars that were acquired through 970910 Ontario Inc. (operating as Prestige Motors) ("Prestige Motors"), a used car dealership. NAC was organized to finance car leases, which leasing was conducted through NAFG.

4. From at least September 2007 to September 2010, NAFG and/or NAC securities were sold by Carter Securities Inc. ("Carter"), a company incorporated in Ontario in February 2007. Carter's registration as an Exempt Market Dealer ("EMD") was suspended on September 22, 2010 by a decision of the Director, following an opportunity to be heard ("OTBH") regarding its registration. The Director found that Carter was not suitable for registration, that it failed to comply with Ontario securities law and that Carter's ongoing registration was objectionable (the "Director's Decision").

5. Alexander Flavio Arconti ("Flavio Arconti") and Luigino Arconti ("Gino Arconti") are brothers and were the directing minds of NAFG, NAC, Carter and Prestige Motors. Flavio Arconti and Gino Arconti were not named parties in the OTBH and the resulting Director's Decision.

6. As officers and directors of Carter, Flavio Arconti and Gino Arconti authorized, permitted and/or acquiesced in Carter's non-compliance with Ontario securities law as found by the Director and, thereby, did not comply with Ontario securities law.

7. Each of the Respondents also directly or indirectly engaged or participated in acts, practices or courses of conduct relating to NAFG and NAC securities that they knew or reasonably ought to have known perpetrated a fraud on persons contrary to the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act").

8. In addition, after the individual Respondents' registration was automatically suspended under section 29(2) of the Act on September 22, 2010 as a result of Carter's suspension (the "Automatic Suspension"), Gino Arconti continued to engage in and/or hold himself out as engaging in the business of trading in securities contrary to section 25(1) of the Act and contrary to the public interest.

II. THE RESPONDENTS

9. NAFG was incorporated in Ontario on July 30, 1996. NAFG is not a reporting issuer and is not registered under the Act.

10. NAC was incorporated in Ontario on November 25, 2008. NAC is not a reporting issuer and is not registered under the Act.

11. Flavio Arconti is a resident of Vaughan, Ontario and Gino Arconti is a resident of Richmond Hill, Ontario.

12. During the time of the conduct referred to herein, Flavio Arconti and Gino Arconti jointly owned NAFG, NAC, Carter and Prestige Motors and were the actual and/or *de facto* officers and directors of each of NAFG, NAC, Carter and Prestige Motors.

13. Flavio Arconti and Gino Arconti were registrants from September 17, 2007 to September 22, 2010.

14. In particular, beginning on September 17, 2007, when Carter was registered as a Limited Market Dealer, Flavio Arconti was registered as an Officer and Director (Trading Resident), Shareholder and Designated Compliance Officer of Carter and Gino Arconti was registered as an Officer and Director (Trading Resident) and Shareholder of Carter.

15. Following Carter's change in designation (by operation of law) to an EMD on September 28, 2009 until the Automatic Suspension, Flavio Arconti was registered as the Chief Compliance Officer, Ultimate Designated Person and Dealing Representative of Carter and Gino Arconti was registered as a Dealing Representative of Carter.

III. BACKGROUND AND PARTICULARS TO ALLEGATIONS

A. The Director's Decision

16. During the period July 2005 to September 2010, NAFG entered into loan agreements with investors at fixed annual rates of return of 12% to 15%, typically paid to investors on a monthly basis.

17. Each loan agreement constituted evidence of indebtedness and was thereby a "security" under the Act.

18. During the period July 2009 to April 2010, NAC issued shares with a 10% to 12% dividend rate.

19. During the period September 2007 to September 2010, Carter sold securities issued by NAFG and NAC to its clients relying on the accredited investor exemption under National Instrument 45-106 Prospectus and Registration Exemptions.

20. Following an OTBH held on August 4 and 26, 2010, Carter's registration was suspended by the Director's Decision.

21. On October 22, 2010, Carter filed a request for a review of the Director's Decision. Since that time, Carter has not taken any steps to proceed with its request for a review.

B. Suitability

22. Upon finding that Carter did not disclose to its clients investing in NAFG, an interest free loan of approximately $2 million by NAFG to Prestige Motors and the severe financial difficulties being faced by NAFG, the Director found that Carter did not take reasonable steps to ensure that the purchase of NAFG securities was suitable to its clients and concluded that Carter did not meet its registration and suitability obligations under section 13.3 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations ("NI 31-103").

23. As actual and/or *de facto* officers and directors of Carter, Flavio Arconti and Gino Arconti authorized, permitted and/or acquiesced in Carter's non-compliance with section 13.3 of NI 31-103 and, pursuant to section 129.2 of the Act, Flavio Arconti and Gino Arconti did not comply with section 13.3 of NI 31-103.

C. Failing to deal with clients fairly, honestly and in good faith

24. The Director also found that Carter breached section 2.1 of OSC Rule 31-505 Conditions of Registration ("OSC Rule 31-505") which requires registrants to deal fairly, honestly and in good faith with its clients, by failing to disclose to its clients:

    (a) an interest free loan of approximately $2 million by NAFG to Prestige Motors; and

    (b) the severe financial difficulties being faced by NAFG.

25. As actual and/or *de facto* officers and directors of Carter, Flavio Arconti and Gino Arconti authorized, permitted and/or acquiesced in Carter's non-compliance with section 2.1 of OSC Rule 31-505 and pursuant to section 129.2 of the Act, Flavio Arconti and Gino Arconti did not comply with section 2.1 of OSC Rule 31-505.

D. Fraudulent Conduct

26. During the period January 1, 2009 to September 24, 2010, each of the Respondents directly or indirectly engaged or participated in acts, practices or courses of conduct relating to the securities of NAFG and NAC that each of them knew or reasonably ought to have known perpetrated a fraud on persons, contrary to section 126.1(b) of the Act and contrary to the public interest.

27. In particular, during this period, the Respondents offered and sold securities to investors promising interest rates of 12% to 15% in the case of NAFG and a 10% to 12% dividend rate in the case of NAC.

28. The Respondents made representations to investors and/or potential investors that expressed or implied that NAFG was a profitable and/or successful business.

29. In fact, during this period, the Respondents used new NAFG and/or NAC investor money either in whole or in part to pay NAFG and NAC investors their returns and their principal upon redemption.

30. At no time, did the Respondents advise investors in NAC or NAFG that investor funds would be used either in whole or in part to pay interest, dividends or principal to other NAC or NAFG investors.

31. On October 15, 2010, less than one month after the Director's Decision suspending Carter's registration, NAFG filed a Notice of Intention to make a proposal under the *Bankruptcy and Insolvency Act* (the "BIA") on the basis that it was an insolvent person pursuant to section 50.4(1) of the BIA.

E. Trading without Registration after the Automatic Suspension

32. After the Automatic Suspension, Gino Arconti continued to engage in and/or hold himself out as engaging in the business of trading in securities.

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

33. Staff allege that the following conduct engaged in by the Respondents constituted breaches of Ontario securities law and/or was contrary to the public interest:

    (a) Flavio Arconti and Gino Arconti, as actual and/or *de facto* officers and/or directors of Carter, authorized, permitted and/or acquiesced in the non-compliance with Ontario securities law by Carter, as found by the Director and thereby were also not in compliance with section 13.3 of NI 31-103 and section 2.1 of OSC Rule 31-505 pursuant to section 129.2 of the Act;

    (b) Each of the Respondents directly or indirectly engaged or participated in acts, practices or courses of conduct relating to the securities of NAFG and NAC that they knew or reasonably ought to have known perpetrated a fraud on persons contrary to section 126.1(b) of the Act and contrary to the public interest;

    (c) Flavio Arconti and Gino Arconti, as actual and/or *de facto* officers and/or directors of NAFG and NAC, authorized, permitted or acquiesced in the breach of section 126.1(b) of the Act by NAFG and NAC and thereby also breached section 126.1(b) of the Act pursuant to section 129.2 of the Act; and

    (d) Gino Arconti engaged in and/or held himself out as engaging in the business of trading in securities without registration contrary to section 25(1) of the Act and contrary to the public interest.

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

DATED at Toronto this 28th day of December, 2011

1.4 Notices from the Office of the Secretary

1.4.1 Bruce Carlos Mitchell

FOR IMMEDIATE RELEASE
December 21, 2011

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

AND

IN THE MATTER OF
BRUCE CARLOS MITCHELL

TORONTO – The Commission issued an Order in the above named matter which provides that the hearing is adjourned to January 31, 2012 at 3:00 p.m.

A copy of the Order dated December 19, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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

1.4.2 Systematech Solutions Inc. et al.

FOR IMMEDIATE RELEASE
December 22, 2011

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

AND

IN THE MATTER OF
SYSTEMATECH SOLUTIONS INC.,
APRIL VUONG AND HAO QUACH

TORONTO – The Commission issued an order in the above named matter which provides that pursuant to subsection 127(7) of the Act that the Temporary Order is extended until January 31, 2012; and the hearing to consider the extension of the Temporary Order is adjourned to January 30, 2012 at 1:30 pm. or to such other date or time as set by the Office of the Secretary and agreed to by the parties.

A copy of the Order dated December 22, 2011 is available at **www.osc.gov.on.ca**.

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1.4.3 York Rio Resources Inc. et al.

FOR IMMEDIATE RELEASE
December 23, 2011

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

AND

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

TORONTO – The Commission issued its Reasons for Decision on a Motion in the above named matter.

A copy of the Reasons for Decision on a Motion dated December 22, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.4.4 Coventree Inc. et al.

FOR IMMEDIATE RELEASE
December 23, 2011

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

AND

IN THE MATTER OF
COVENTREE INC.,
GEOFFREY CORNISH AND DEAN TAI

TORONTO – The Commission issued its Reasons for Decision on Sanctions and Costs following the Sanctions Hearing held on October 26 and 27, 2011 and the Order issued on November 8, 2011 in the above named matter.

A copy of the Reasons for Decision on Sanctions and Costs dated December 23, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.4.5 North American Financial Group Inc. et al.

FOR IMMEDIATE RELEASE
December 29, 2011

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

AND

IN THE MATTER OF
NORTH AMERICAN FINANCIAL GROUP INC.,
NORTH AMERICAN CAPITAL INC.,
ALEXANDER FLAVIO ARCONTI,
AND LUIGINO ARCONTI

TORONTO – The Office of the Secretary issued a Notice of Hearing on December 28, 2011 setting the matter down to be heard on January 16, 2012 at 10:00 a.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated December 28, 2011 and Statement of Allegations of Staff of the Ontario Securities Commission dated December 28, 2011 are available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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

1.4.6 American Heritage Stock Transfer Inc. et al.

FOR IMMEDIATE RELEASE
January 3, 2012

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

AND

IN THE MATTER OF
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

TORONTO – The Commission issued an Order in the above named matter which provides that (1) The Temporary Order is extended until January 27, 2012, or until further order of the Commission; and (2) This matter shall return before the Commission on January 26, 2012, at 10:00 a.m. or on such other date or time as specified by the Secretary's Office and agreed to by the parties.

A copy of the Order dated December 21, 2011 is available at **www.osc.gov.on.ca**.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1.4.7 Simply Wealth Financial Group Inc. et al.

FOR IMMEDIATE RELEASE
January 4, 2012

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

AND

IN THE MATTER OF
SIMPLY WEALTH FINANCIAL GROUP INC.,
NAIDA ALLARDE, BERNARDO GIANGROSSO,
K&S GLOBAL WEALTH CREATIVE STRATEGIES
INC., KEVIN PERSAUD, MAXINE LOBBAN AND
WAYNE LOBBAN

TORONTO – Take notice that the hearing on the merits in this matter is adjourned to Friday, January 13, 2012 at 10:00 a.m. The hearing dates of January 5 to 10, 2012 have been vacated.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 First Nations Finance Authority

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Securities Act(Ontario), s. 53 – Application for relief from prospectus requirement in respect of certain distributions of debt securities of filer - debt securities are analogous to debt securities of or guaranteed by any municipal corporation in Canada, or debt securities secured by or payable out of rates or taxes levied under the law of a jurisdiction of Canada on property in the jurisdiction or on certain other revenues - Filer's structure and obligations are analogous to a municipal finance authority and other municipal corporations - Filer's borrowing program provides comparable protections and rights for debt securityholders to those found in municipal borrowing programs - Filer will only issue debt securities - Filer will provide prospective purchasers of debt securities with a comprehensive disclosure document - Relief granted, subject to conditions.

Applicable Legislative Provisions

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

November 30, 2011

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

AND

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

AND

IN THE MATTER OF
FIRST NATIONS FINANCE AUTHORITY
(the Filer)

DECISION

Background

1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the prospectus requirements of the Legislation do not apply to distributions of debt securities of the Filer (the Exemption Sought).

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

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

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

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

Interpretation

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

Representations

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

1. the Government of Canada introduced the *First Nations Fiscal and Statistical Management Act* (the Federal Act) in order to promote the inherent right of self-government for aboriginals;

2. the Federal Act provides First Nations with access to capital markets available to other governments, strengthens the real property tax systems of First Nations, and provides greater representation for taxpayers by providing assistance to those First Nations that choose to exercise real property taxation jurisdiction on reserve lands;

3. the Federal Act came into force on April 1, 2006;

4. the Filer was established as a statutory corporation when the Federal Act came into force;

5. in accordance with paragraph 74 (b) and section 142 of the Federal Act, the government of Canada made the Financing Secured by Other Revenues Regulations, which came into force on September 29, 2011 (the Regulation);

6. the Filer does not have any share capital, nor is it considered a “reporting issuer” (as defined in the Legislation) in any of the Jurisdictions;

7. from time to time, the Filer will issue debt "securities" as defined in Section 57 of the Federal Act (the Securities) to promote economic and social development through the application of real property tax revenues and other enumerated forms of revenue as provided for in the Federal Act and the Regulation to support borrowing on capital markets for the development of public infrastructure and other purposes set out in the Regulation that is otherwise available to other governmental bodies in Canada;

8. the Federal Act and the Regulation establish a structure for First Nation borrowing from the Filer where: (i) property taxes; and/or (ii) certain classes of other revenue described in the Regulation, including, certain tax revenues and fees imposed by a First Nation, royalties payable to a First Nation with respect to land and oil and gas, revenues from leases and other instruments authorizing the use of reserve land, revenues payable under contract to a First Nation, transfer payments received from a government in Canada, and certain interest earned on deposits, investments, or loans (Other Revenues), will be used to repay incurred debt; the structure is modeled on, and is substantially similar to, the British Columbia municipal model, as operated by the Municipal Finance Authority of British Columbia under the Municipal Finance Authority Act (British Columbia);

9. independent regulatory functions are provided by the First Nations Financial Management Board (the FMB), and additionally, in the case of First Nations supporting their borrowing with property tax revenues (Property Tax Borrowers), the First Nations Tax Commission (the FNTC); the FMB, and the FNTC with respect to property tax, fulfill a role substantially similar to the role of the Inspector of Municipalities under the Local Government Act (British Columbia) in respect of the regulation of municipalities in British Columbia; in order to become a Borrowing Member, the FMB must approve the financial management laws of such First Nations and certify under section 50(3) of the Federal Act that the financial performance and financial management systems of the First Nation are in compliance with practices and standards established by the FMB under subsection 55(1) of the Federal Act; the Federal Act also provides the FMB with the power to intervene in exceptional circumstances by way of co-management or third-party management arrangements;

10. under the Federal Act and the Regulation:

    (a) in the case of Property Tax Borrowers the FNTC must approve: (i) First Nation property tax revenue laws before they are enacted; and (ii) borrowing laws of the First Nation authorizing borrowing by the First Nation from the Filer; and

    (b) the Filer shall not make a long-term loan to a borrowing member unless: (i) in the case of Property Tax Borrowers, the FNTC has approved the borrowing laws of the borrowing member and the loan is to be paid out of the property tax revenues of the borrowing member in priority to other creditors of the borrowing member; or (ii) in the case of a First Nation supporting its borrowing with Other

Revenues, such borrowing member is in compliance with section 79 of the Federal Act, as amended by section 17 of the Regulation and has directed payees, who are required to make payments comprising Other Revenues to it, to make such payments into a secured revenues trust account, which will be maintained by an independent third party trustee, which will deliver any funds then due and payable by such First Nations to the Filer, in priority to releasing such funds to the applicable First Nation;

11. under the Federal Act and Regulations, a First Nation applies to the Filer to become a borrowing member; the Filer only accepts the First Nation as a borrowing member if the FMB has issued a certificate to the First Nation under section 50(3) of the Federal Act; before a certificate is issued, the FMB may review the First Nation's financial management system or financial performance for compliance with standards established by the FMB under section 55 of the Federal Act and the regulations made under the Federal Act;

12. under the Federal Act and the Regulation, the Filer must establish:

    (a) a sinking fund to fulfill its repayment obligations to the holders of each Security issued by the Filer;

    (b) two separate debt reserve funds, one for each of the Property Tax derived funds and the Other Revenues derived funds to make payments or sinking fund contributions for which insufficient moneys are available from borrowing members; and

    (c) a Credit Enhancement Fund for the enhancement of the Filer's credit rating, which may also be used to temporally offset any shortfalls in the debt reserve funds;

13. the Filer will engage a rating agency to conduct a formal credit rating for the Filer prior to its first issuance of Securities under this order;

14. the Filer will provide a bond circular to each prospective purchaser of Securities before that purchaser's first purchase of Securities that sets out:

    (a) the terms and conditions of the Securities;

    (b) the use of proceeds;

    (c) a summary description of the Filer and its business;

    (d) risk factors applicable to an investment in the Securities;

    (e) the procedure to be followed to subscribe for Securities;

    (f) the tax consequences of an investment in the Securities by a Canadian purchaser resident in Canada; and

    (g) the most recent annual and interim financial statements for the Filer;

15. on August 19, 2008, the securities regulatory authority or regulator in each jurisdiction of Canada granted the Filer an order exempting the Filer from the prospectus requirements of the legislation (Previous Order); and

16. upon the making of this order, the Filer will no longer rely on the Previous Order.

Decision

4 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 this decision will terminate five years after the date of this decision.

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

2.1.2 Synchronica Inc.

Headnote

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

Applicable Legislative Provisions

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

December 21, 2011

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, ONTARIO and QUEBEC
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
SYNCHRONICA INC.
(the Filer)

DECISION

Background

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

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions for a co-ordinated review application:

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

(b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

Representations

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

1. The Filer is a corporation incorporated under the *Canada Business Corporations Act*.

2. The Filer's head and registered office is located at180 Jardin Drive, Suite 6, Concord, Ontario L4K 1X8.

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

4. The Filer first became a reporting issuer in the Provinces of Ontario, British Columbia, Alberta and Québec as a result of a merger with iseemedia Inc. (a reporting issuer) on April 11, 2005, with the Ontario Securities Commission as the principal regulator. The amalgamated company was named iseemedia Inc.

5. In September 2010, approximately 85% of the common shares of the Filer were acquired by Synchronica plc, a company incorporated under the laws of England and Wales, by way of a take-over bid, and later through an amalgamation transaction the Filer became a wholly-owned subsidiary of Synchronica plc.

6. The Filer's shares were subsequently delisted from the TSX Venture Exchange following the amalgamation transaction, which was completed on January 6, 2011. There is currently no public market on which the Filer's securities are listed or quoted for exchange, or traded. Therefore, no securities of the Filer are traded on a "marketplace", as such term is defined in National Instrument 21-101 *Marketplace Operation*.

7. As of the date of this application and since January 6, 2011, there is one (1) common share of the Filer issued and outstanding, and it is held by the sole shareholder, Synchronica plc.

8. The outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total in Canada.

9. The Filer is applying for a decision that it is not a reporting issuer in all of the jurisdictions in Canada in which it is currently a reporting issuer.

10. The Filer filed a Voluntary Surrender of Reporting Issuer Status with the British Columbia Securities Commission under BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* on November 25, 2011. The British Columbia Securities Commission has confirmed the Filer's non-

reporting status in British Columbia effective December 5, 2011.

11. The Filer is not in default of any of its obligations under the Legislation as a reporting issuer, except for the Filer's failure to file its annual financial report and its management's discussion & analysis for the year ended June 30, 2011 as required under National Instrument 51-102 *Continuous Disclosure Obligations*, and related officers' certificates as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*.

12. The Filer is not eligible to use the simplified procedure under CSA Staff Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer* in order to apply for the Exemptive Relief Sought because it is in default of certain filing obligations under the Legislation as described in paragraph 11 above.

13. The Filer has no intention to proceed with an offering of its securities in a jurisdiction of Canada by way of private placement or public offering.

14. Upon the granting of the Exemptive Relief Sought, the Filer will no longer be a reporting issuer or the equivalent in any jurisdiction in Canada.

Decision

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

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

"Sarah B. Kavanagh"
Commissioner
Ontario Securities Commission

"Christopher Portner"
Commissioner
Ontario Securities Commission

2.1.3 Counsel Portfolio Services Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from section 2.6 and 6.1 of NI 81-102 to allow mutual funds to short sell up to 20% of net assets, subject to certain conditions.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.6(a), 2.6(c), 6.1(1), 19.1.

December 12, 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 JURISDICTIONS

AND

IN THE MATTER OF
COUNSEL PORTFOLIO SERVICES INC.
("COUNSEL" or 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**") granting an exemption relieving the mutual funds of which Counsel is, or in the future becomes, the manager (the "**Funds**") from:

(a) the requirement contained in subsection 2.6(a) of National Instrument 81-102 *Mutual Funds* ("**NI 81-102**") prohibiting a mutual fund from providing a security interest over a mutual fund's assets;

(b) the requirement contained in subsection 2.6(c) of NI 81-102 prohibiting a mutual fund from selling securities short; and

(c) the requirement contained in subsection 6.1(1) of NI 81-102 prohibiting a mutual fund from depositing any part of a mutual fund's assets with an entity other than that mutual fund's custodian;

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

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

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

(b) Counsel 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 (the **Other Jurisdictions**).

Interpretation

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

Representations

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

1. The Filer is a corporation governed by the laws of Ontario and 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.

2. Each Fund is, or will be, an open-end mutual fund trust or a class of shares of a mutual fund corporation established under the laws of Ontario, managed by The Filer. Each Fund currently is, or will be subject to NI 81-102 and a reporting issuer in all of the provinces and territories of Canada, except Quebec.

3. Neither the Filer nor any of the Funds of which the Filer is currently the manager is in default of securities legislation in Ontario or any of the Other Jurisdictions.

4. The investment practices of each Fund will comply in all respects with the requirements of Part 2 of NI 81-102, except to the extent that the Fund has received permission from the applicable securities regulatory authority to deviate therefrom.

5. The Filer proposes that each Fund be authorized to engage in a limited, prudent and disciplined amount of short selling. The Filer is of the view that the Funds could benefit from the implementation and execution of a controlled and limited short selling strategy. This strategy would complement the Funds' primary discipline of buying securities with the expectation that they will appreciate in market value.

6. Short sales will be made consistent with each Fund's investment objectives and investment strategies.

7. In order to effect a short sale, a Fund will borrow securities from its custodian, sub-custodian or a dealer (in each case, the "**Borrowing Agent**"), which Borrowing Agent may be acting either as principal for its own account or as agent for other lenders of securities.

8. The simplified prospectus and annual information form of a Fund will disclose the proposed use of short selling by a Fund, the specific risks related to short selling and details of this exemptive relief prior to the implementation of the short selling strategy by the Fund.

9. Each Fund will implement the following requirements and controls when conducting a short sale:

    a. securities will be sold short for cash, with the Fund assuming the obligation to return to the Borrowing Agent the securities borrowed to effect the short sale;

    b. the short sale will be effected through market facilities through which the securities sold short are normally bought and sold;

    c. the Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;

    d. the securities sold short shall not be any of the following:

        (i) a security that the Fund is not otherwise permitted to purchase at the time of the short sale transaction;

        (ii) a security of an investment fund unless the security is an index participation unit;

    e. the securities sold short will not be "illiquid assets" as such term is defined in NI 81-102, and will be securities that are either:

        (a) listed and posted for trading on a stock exchange; and

            (i) the issuer of the security has a market capitalization of not less than CDN $100 million, or the equivalent thereof, at the time the short sale is effected; or

            (ii) the Fund's portfolio advisor has pre-arranged to borrow the securities for the purpose of such sale; or

        (b) bond, debentures or other evidences of indebtedness of, or guaranteed by, any issuer;

f. at the time the securities of a particular issuer are sold short:

(i) the Fund will have borrowed or arranged to borrow from a Borrowing Agent the securities that are to be sold under the short sale transaction;

(ii) the aggregate market value of all securities of that issuer sold short by the Fund will not exceed 5% of the total net assets of the Fund; and

(iii) the aggregate market value of all securities sold short by the Fund will not exceed 20% of the net asset value of the Fund;

g. the Fund will deposit Fund assets with the Borrowing Agent as security in connection with the short sale transaction ("**Collateral**");

h. the Fund will hold cash cover, including Collateral, in an amount that is at least 150% of the aggregate market value of all securities sold short by the Fund on a daily marked to market basis;

i. a Fund will not use the cash from a short sale transaction to enter into a long position in a security other than a security that is cash cover;

j. where the Borrowing Agent is a dealer,

(i) if a Fund deposits Collateral, the aggregate amount of Collateral held by the Borrowing Agent may not exceed 10% of the net asset value of the Fund at the time of deposit;

(ii) a Fund may not deposit Collateral with a dealer in Canada unless the dealer is registered in a jurisdiction of Canada and is a member of IIROC; and

(iii) a Fund may not deposit Collateral with a dealer outside Canada unless that dealer (a) is a member of a stock exchange that requires the dealer to be subjected to a regulatory audit; and (b) has a net worth determined from its most recent audited financial statements that have been made public, in excess of the equivalent of CDN $50 million;

k. the Fund will maintain appropriate internal controls regarding short sales prior to conducting any short sales, including written policies and procedures and risk management controls; and

l. the Fund will keep proper books and records of all short sales and Fund assets deposited with Borrowing Agents as security.

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) short sales are made consistent with each Fund's investment objectives and investment strategies;

(b) the Requested Relief does not apply to a Fund that is classified as a money market fund;

(c) the Fund maintains appropriate internal controls regarding its short sales including written policies and procedures, risk management controls and proper books and records;

(d) securities are sold short for cash, with the Fund assuming the obligation to return to the Borrowing Agent the securities borrowed to effect the short sale;

(e) the short sales are effected through market facilities through which the securities sold short are normally bought and sold;

(f) the Fund receives cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;

(g) the securities sold short are not any of the following:

a. a security that the Fund is not otherwise permitted to purchase at the time of the short sale transaction;

b. an illiquid asset; or

c. a security of an investment fund unless the security is an index participation unit;

(h) at the time the securities of a particular issuer are sold short:

a. the Fund has borrowed or arranged to borrow from a Borrowing Agent the securities that are to be sold under the short sale transaction;

b. the aggregate market value of all securities of that issuer sold short by the Fund does not exceed 5% of the total net assets of the Fund on a daily marked to market basis; and

c. the aggregate market value of all securities sold short by the Fund does not exceed 20% of the total net assets of the Fund on a daily marked to market basis;

(i) the Fund deposits Fund assets with the Borrowing Agent as security in connection with the short sale transaction ("**Collateral**");

(j) the Fund holds cash cover, including Collateral, in an amount that is at least 150% of the aggregate market value of all securities sold short by the Fund on a daily marked to market basis;

(k) a Fund does not use the cash from a short sale transaction to enter into a long position in a security other than a security that is cash cover;

(l) where the Borrowing Agent is a dealer,

a. if a Fund deposits Collateral, the aggregate amount of Collateral held by the Borrowing Agent does not exceed 10% of the total net assets of the Fund, taken at market value at the time of deposit;

b. a Fund does not deposit Collateral with a dealer in Canada unless the dealer is registered in a jurisdiction of Canada and is a member of IIROC; and

c. a Fund does not deposit Collateral with a dealer outside Canada unless that dealer (a) is a member of a stock exchange that requires the dealer to be subjected to a regulatory audit; and (b) has a net worth determined from its most recent audited financial statements that have been made public, in excess of the equivalent of CDN $50 million;

(m) the Fund keeps proper books and records of all short sales and Fund assets deposited with Borrowing Agents as security;

(n) the security interest provided by the Fund over any Collateral is made in accordance with industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;

(o) prior to conducting any short sales, the Fund discloses in its simplified prospectus a description of (i) short selling, (ii) how the Fund intends to engage in short selling, (iii) the risks associated with short selling, and (iv) in the Investment Strategy section of the simplified prospectus, the Fund's strategy and this exemptive relief;

(p) prior to conducting any short sales, the Fund discloses in its annual information form the following information:

a. that there are written policies and procedures in place that set out the objectives and goals for short selling and the risk management procedures applicable to short selling;

b. who is responsible for setting and reviewing the policies and procedures referred to in the preceding paragraph, how often the policies and procedures are reviewed, and the extent and nature of the involvement of the board of directors of The Filer in the risk management process;

c. whether there are trading limits or other controls on short selling in place and who is responsible for authorizing the trading and placing limits or other controls on the trading;

d. whether there are individuals or groups that monitor the risks independent of those who trade; and

e. whether risk measurement procedures or simulations are used to test the portfolio under stress conditions;

(q) prior to conducting any short sales, (i) the Fund provides to its securityholders not less than 60 days' written notice that discloses both the Fund's intent to begin short selling transactions and the disclosure required in the Fund's simplified prospectus and annual information form as outlined in paragraphs (o) and (p) above, or (ii) the Fund's initial simplified prospectus and annual information form and each renewal thereof has included such disclosure; and

(r) the Requested Relief terminates upon the coming into force of any legislation or rule of the Decision Makers dealing with matters referred to in subsections 2.6(a), 2.6(c) and 6.1(1) of NI 81-102.

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

2.1.4 Manulife Finance Holdings Limited

Headnote

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

Ontario Statutes

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

December 21, 2011

Manulife Finance Holdings Limited
Corporate Law
200 Bloor Street East
Toronto, Ontario M4W 1E5

Attention: Michael C. Ward, Vice President and Corporate Secretary, Manulife Finance Holdings Limited

Dear Sirs/Mesdames:

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

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

As the Applicant has represented to the Decision Makers that,

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

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

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

4. the Applicant is not in default of any of its obligations under the Legislation as a reporting issuer,

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

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

2.1.5 Nylcap Canada II Genpar Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from take-over bid requirements in connection with purchases made pursuant to a liquidity option granted at the time of the initial distribution – filers not reporting issuers but not limited to less than 50 security holders – terms of option fully disclosed at time of initial distributions – relief granted subject to conditions.

Applicable Legislative Provisions

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

December 20, 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
NYLCAP CANADA II GENPAR INC. (NCG),
NYLCAP SELECT MANAGER CANADA FUND II, L.P.
(the Fund),
NEWBURY EQUITY PARTNERS II L.P. (NEP)
(together, the Filers)

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**) that sections 95 through 100 inclusive of the *Securities Act* (Ontario) (the **Take-Over Bid Provisions**) shall not apply to purchases of limited partnership units (the **Units**) of the Fund by Newbury Equity Partners II L.P. pursuant to the proposed Liquidity Option (as defined below) of the Funds (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 Filers have provided notice that section 4.7(1) of MI 11-102 is being relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador (the **Non-Principal Jurisdictions**) for relief from sections 2.17 through 2.34 inclusive and 3.1 through 3.4 inclusive of MI 62-104 *Takeover Bids and Issuer Bids*, being the equivalent of the Take-Over Bid Provisions in the securities legislation of the Non-Principal Jurisdictions.

Interpretation

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

Representations

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

1. NCG is a corporation incorporated under the *Business Corporations Act* (New Brunswick).

2. The Fund is a limited partnership formed under the laws of the Province of Ontario.

3. The Fund will offer Units by private placement to accredited investors across Canada.

4. The investment objective of the Fund is to invest directly or indirectly as a limited partner in NYLCAP Select Manager Fund II, L.P., a foreign-based private equity fund of funds (the **Bottom Fund**). The Fund is to be a limited partner of the Bottom Fund.

5. The Fund is not and does not anticipate becoming a reporting issuer and there will be no published market for the Units.

6. The minimum investment in the Fund will be USD$250,000, which is to be paid as and when called for by NCG as the general partner of the Fund.

7. NEP is a private investment fund formed under the laws of Delaware that acquires limited partnership interests in established leveraged buyout, venture capital and mezzanine funds, primarily in secondary transactions. NEP is not in the business of creating a market for restricted securities.

8. As an added benefit for limited partners of the Fund (**Limited Partners**), whose Units will be restricted securities and would otherwise be highly illiquid, Limited Partners will be provided with a liquidity option pursuant to which NEP will agree to purchase Units from Limited Partners starting on the second anniversary of the initial closing of the Fund and continuing for approximately twelve years, subject to extension by agreement of NEP and NCG (the **Liquidity Option**).

9. The existence and terms of the Liquidity Option will be disclosed in the offering memorandum of the Fund (the **OM**).

10. The principal terms of the Liquidity Option are as follows:

(a) Limited Partners wishing to have the benefit of the Liquidity Option will be required to "opt in" to the Liquidity Option by checking the appropriate box on their subscription agreement and paying the Liquidity Fee (as defined below).

Fee:

(b) In consideration for providing the Liquidity Option, each participating Limited Partner will be required to pay to the Fund, which in turn, will pay to NEP, an annual fee (the **Liquidity Fee**) in respect of such Limited Partner equal to: the product of (x) such Limited Partner's commitment, subject to reduction of the portion of the commitment to be applied in the calculation as set out below, multiplied by (y) 0.10%. The aggregate annual Liquidity Fee payable by the Fund to NEP is the aggregate of such annual Liquidity Fees payable by all participating Limited Partners. Once a participating Limited Partner sells its Units to NEP, or defaults in its obligation to pay the Liquidity Fee, its investment will no longer be included in calculating the aggregate annual Liquidity Fee payable by the Fund. The obligation of a participating Limited Partner to pay the Liquidity Fee is an additional obligation of the Limited Partner, who will also be obligated to pay the full amount of the Limited Partner's investment (that is initially, US$1,000 per Unit).

(c) The Liquidity Fee will be payable commencing on the date that a subscriber becomes a Limited Partner in the Fund, and shall be calculated and payable on such date and each one-year anniversary thereafter.

(d) Any Limited Partner that does not elect to participate in the Liquidity Option at closing will not have the opportunity thereafter to do so without obtaining NEP's and NCG's consent.

(e) The Liquidity Fee will be reduced as follows: (i) on the fifth anniversary of the final closing of the Fund (the Final Closing), the Liquidity Fee will reduced by an amount equal to 10% of the commitment of such participating Limited Partner, and (ii) on each anniversary thereafter, up to and including the eleventh anniversary of the Final Closing, the Liquidity Fee will be further reduced by an amount equal to 10% of such commitment.

(f) Any participating Limited Partner that defaults in paying the Liquidity Fee when due in a timely manner will automatically lose its right to sell its Units to NEP pursuant to the Liquidity Option and surrender any amounts already paid by it with respect to the Liquidity Fee.

Term:

(g) A participating Limited Partner may require NEP to purchase such Limited Partner's Units at any time commencing on the earlier of (i) the second anniversary of the Final Closing and (ii) any such time when the purchase price is greater than zero. The obligation of NEP to make such purchase will terminate on the earlier of the twelfth anniversary of the Final Closing and January 1, 2023.

Purchase Price:

(h) At the request of any Limited Partner electing in its subscription documents to the Fund to participate in the opportunity to take advantage of this Liquidity Option, NEP will provide a written offer to purchase such Limited Partner's Units at a US dollar price equal to 90% of a Limited Partner's Exposure, less its Remaining Commitment. "Exposure" means, in respect of a Unit, the net asset value (NAV) of the Unit plus such Limited Partner's Remaining Commitment. "Remaining Commitment" means the Limited Partner's original capital commitment to the Fund less capital contributions drawn down by the Fund. In the one year periods from the eighth, ninth, tenth and eleventh anniversaries of the Final Closing, the purchase price will be calculated as set forth above, except that rather than applying the 90% amount, 85%, 80%, 75% and 70% will be applied respectively. The purchase price paid for the Units will be adjusted upward on a dollar-for-dollar basis to account for any capital contributions made by the selling Limited Partner between the signing of the definitive sale agreement and the closing of the sale, and reduced downward on a dollar-for-dollar basis for any distributions made by the Fund to the selling Limited Partner between the

signing of the definitive sale agreement and the closing of the sale.

Obligation to Purchase:

(i) NEP's obligation to purchase Units of the Fund will be capped at an aggregate purchase price of US$50 million. To reduce the likelihood that the Units subject to the Liquidity Option would exceed NEP's obligation to purchase Units, the Fund will not accept elections to participate in the Liquidity Option for more Units than the number of Units having an aggregate NAV of US$50 million.

(j) In the event that Limited Partners subscribing for Units having an aggregate NAV of more than US$50 million elect in their subscription documents to participate in the Liquidity Option, a prorated fraction of the Units of each electing Limited Partner will be accepted into the Liquidity Option at the initial closings of the Fund, such that the aggregate NAV of the Units subject to the Liquidity Option will initially equal US$50 million. If at the initial closings Limited Partners electing to participate in the Liquidity Option hold Units with an aggregate NAV of less than US$50 million of Units and one or more subsequent closings of the Fund occur, Limited Partners who subscribe for Units at a subsequent closing may elect in their subscription documents to participate in the Liquidity Option to the extent that the aggregate NAV of Units subject to the Liquidity Option is less than US$50 million, and participation in the Liquidity Option at any subsequent closing would be prorated as to that remaining availability only among those Limited Partners whose subscriptions are accepted at the particular subsequent closings. Notwithstanding any pro rata entitlement to exercise under the Liquidity Option, NEP's obligation will be to only purchase Units having an aggregate purchase price of US$50 million which may affect the number of Units that NEP is obligated to purchase depending on any increase or decrease in NAV of the Units.

(k) The Fund will notify NEP if Limited Partners holding Units having an aggregate NAV of more than US$50 million elect in their subscription documents to participate in the Liquidity Option with a view to the possibility of the Liquidity Option being extended by NEP above an aggregate purchase price of US$50 million, but there is no assurance that there would be any such extension.

(l) The Liquidity Option is the obligation of NEP. Neither the Fund, NCG, nor any Person, other than NEP, is under any obligation in connection with the Liquidity Option and none of them is responsible for, or has any obligations to the Limited Partners electing to participate in the Liquidity Option in the event of the failure of NEP to provide such liquidity. Neither the Fund, NCG, nor any other Person makes any representation or warranty with respect to the creditworthiness of NEP and/or its ability to fulfill its obligations to provide such liquidity to the Limited Partners.

Expenses:

(m) A Limited Partner will be responsible for its own expenses incurred in connection with a sale to NEP pursuant to the Liquidity Option.

Timing:

(n) The closing of the sale of Units on the exercise of the Liquidity Option will not occur until NAV is finally determined, which could be as long as 190 days following the execution of the purchase and sale agreement, a form of which has been approved by NCG and NEP.

11. Participation in the Liquidity Option is voluntary. The entitlement to participate in the Liquidity Option will be offered to all Limited Partners whose subscriptions are accepted at the initial closings of the Fund on equal terms. As the Liquidity Option is of limited size, the availability of the entitlement to participate in Liquidity Option for Limited Partners whose subscriptions are accepted at subsequent closings will depend on the extent to which Limited Partners whose subscriptions were accepted at the prior closings for the Fund elected to participate in the Liquidity Option; however, the then-remaining availability of the Liquidity Option will be offered to all Limited Partners whose subscriptions are accepted at the subsequent closing for the Fund on equal terms.

12. At such time as there remains 25% of NEP's obligation to purchase Units under the Liquidity Option, NCG will deliver a notice to each participating Limited Partner setting out the Units' NAV and the amount of capacity remaining for purchase under the Liquidity Option.

13. In the event of more than one closing in respect of the sale of Units of the Fund, prospective Limited

Partners will be provided with notice of the Units' NAV and the amount of capacity remaining for purchase under the Liquidity Option as at the time of each subsequent closing. In addition, in the event of more than one closing in respect of the sale of the Units of the Fund, the OM will be supplemented with disclosure outlining the availability of the Liquidity Option as at the latest practicable date prior to the distribution to potential investors in the Fund.

14. NEP has indicated that it intends to hold the purchased Units until dissolution of the Fund. Consequently, as a result of such purchase, NEP will be obligated as a Limited Partner to make capital contributions to and be entitled to receive distributions from the Fund with respect to such purchased Units.

15. While there is no direct relationship between NEP and the Fund, an affiliate of the Bottom Fund's investment manager is an investor in NEP. Notwithstanding this relationship, the terms of the Liquidity Option reflect arms' length negotiations and bona fide terms and conditions.

16. The exercise of the Liquidity Option by a number of Limited Partners could result in NEP acquiring 20% or more of the outstanding Units of the Fund and as a result the making available of the Liquidity Option would be a take-over bid for the purposes of the Take-Over Bid Provisions.

17. Legislation in the Jurisdiction provides an exemption from the Take-Over Bid Provisions with respect to non-reporting issuers if:

    (a) the offeree issuer is not a reporting issuer,

    (b) there is not a published market in respect of the securities that are the subject of the bid, and

    (c) the number of holders of securities of that class is not more than fifty, exclusive of holders who are in the employment of the offeree issuer or any affiliate of the offeree issuer, and exclusive of holders who were formerly in the employment of the offeree issuer or an affiliate of the offeree issuer and who while in employment were, and have continued after that employment to be, security holders of the offeree issuer.

While the Fund will not be a reporting issuer and there will be no published market in respect of the Units, as there is no restriction on the number of Limited Partners in the Fund, there is no assurance that the Fund will have fewer than fifty security holders, and for this reason the Non-Reporting Issuer Exemption will likely not be available in respect of the Liquidity Option.

Decision

The principal regulator is satisfied that the test contained in the Legislation that provides the principal regulator with the jurisdiction to make the decision has been met.

The decision of the principal regulator under the Legislation is that the Requested Relief is granted provided that:

(a) the principal terms of the Liquidity Option are as described above and such terms are not amended or extended other than as contemplated in paragraphs 8 and 10(k) above,

(b) the features of the Liquidity Option will be fully disclosed in the OM of the Fund,

(c) there continues to be no published market for Units,

(d) the Fund is not and does not become a reporting issuer, and

(e) each Limited Partner is an accredited investor at the time of its purchase of Units.

“Judith Robertson”
Commissioner

“Vern Krishna”
Commissioner

2.1.6 Dusa Pharmaceuticals, Inc.

Headnote

Confidentiality – Application by an issuer for a decision that a draft version of a Form 8-K inadvertently filed on SEDAR pursuant to section 4.2 of National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers be held in confidence for an indefinite period by the Commission, to the extent permitted by law – Issuer subsequently filed and made public on SEDAR the correct final version of the Form 8-K.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 140(1), 140(2).

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

AND

IN THE MATTER OF
DUSA PHARMACEUTICALS, INC.
(the Filer)

DECISION

Background

The Ontario Securities Commission (the **Commission**) has received an application from the Filer for a decision under subsection 140(2) of the Act that a draft version of a Form 8-K dated September 6, 2011 (the **Draft Form 8-K**) and filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**) on September 6, 2011 pursuant to section 4.2 of National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (**NI 71-102**) be held in confidence for an indefinite period, to the extent permitted by law (the Exemption Sought).

The Filer further requests (the **Confidentiality Sought**) that:

(i) the application, except for the exhibit comprising the Draft Form 8-K (the **Exemption Sought Document**), and this decision document issued in respect thereof be held in confidence until the earlier of (i) the date the Filer advises the principal regulator that there is no longer any need for the application and this decision to remain confidential; and (b) the date that is 30 days after the date of this decision; and

(ii) the Exemption Sought Document be held in confidence for an indefinite period, to the extent permitted by law.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and NI 71-102 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 Jersey corporation, having its principal office in Wilmington, Massachusetts. It filed its certificate of incorporation on February 21, 1991.

2. The Filer is a reporting issuer in Ontario and is an SEC foreign issuer. The Filer's common shares are not listed in Canada. The common shares of the Filer are listed on the NASDAQ Global Market. No other shares of the Filer are listed publicly.

3. The Filer is not, to its knowledge, on the list of defaulting reporting issuers.

4. On September 6, 2011, the Filer filed with the SEC a Form 8-K (the **Final Form 8-K**) under the 1934 Act disclosing that it had terminated its Marketing, Distribution and Supply Agreement with Daewoong Pharmaceuticals, Co., LTD, and DNC Daewoong Derma & Plastic Surgery Network Company.

5. The Filer intended to file the Final Form 8-K pursuant to section 4.2 of NI 71-102 in order to satisfy requirements relating to disclosure of material changes. However, the Filer inadvertently filed the Draft Form 8-K The Filer learned of this error a few hours after the filing of the Draft Form 8-K.

6. On September 6, 2011, the Filer filed on SEDAR the Final Form 8-K in which certain portions containing intimate financial, personal or other information have been omitted (the **Omitted Information**).

7. The Omitted Information does not contain information in relation to the Filer or the securities of the Filer that would be material to an investor.

8. The Filer acknowledges that making the Draft Form 8-K private on SEDAR does not guarantee that the Draft Form 8-K is not available elsewhere in the public domain.

Decision

The Commission is satisfied that the Omitted Information discloses intimate financial, personal or other information and that the desirability of avoiding disclosure thereof in the interests of any person or company affected outweighs the desirability of adhering to the principle that material filed

with the Commission be available to the public for inspection.

The decision of the Commission is that the Exemption sought is granted.

The further decision of the Commission is that the Confidentiality Sought is granted.

Signed this 22nd day of November, 2011.

"Vern Krishna"
Commissioner

"Judith Robertson"
Commissioner

2.1.7 Adeptron Technologies Corporation and Artaflex Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief applications in Multiple Jurisdictions – National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency (NI 52-107) – the Filer requests relief from the requirement under paragraph 4.3(a) of NI 52-107 that audited annual financial statements of reverse takeover acquirer be required to be accompanied by an unmodified auditor's report – auditor's report qualified because records destroyed due to water leak at reverse takeover acquirer's offices – relief granted subject to conditions.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles, Auditing Standards and Reporting Currency, ss. 4.3(a), 5.1(2).

December 16, 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
ADEPTRON TECHNOLOGIES CORPORATION
(THE FILER)

AND

ARTAFLEX INC.
(THE TARGET COMPANY)

DECISION

Background

The principal regulator in the Jurisdiction (the "**Decision Maker**") has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") requesting relief from:

(a) the requirement under Section 4.3(a) of National Instrument 52-107 – *Acceptable Accounting Principles and Auditing Standards* ("**NI 52-107**") to have an unmodified auditor's opinion in respect of the annual financial statements for the Target Company for the (i) annual financial statements for the seven month period ended July 31, 2009 and (ii) the annual financial statements for the twelve

month period ended December 31, 2008, being the third and fourth most recent completed financial years of the Target Company (collectively, the "**Qualified Financial Statements**") required to be included in the Filer's management information circular (the "**Information Circular**") for its shareholders meeting (the "**Meeting**") required to approve a proposed business combination between the Filer and the Target Company (the "**Transaction**") (the "**Unqualified Report Exemption Sought**"); and

(b) the requirement under subsection 4.2(1) of NI 52-107 for the Target Company financial statements for the financial periods ending July 31, 2010, and July 31, 2011, included in the Information Circular be prepared in accordance with Canadian GAAP – Part V (the "IFRS Exemption Sought", and with the Unqualified Report Exemption Sought, the "Exemption Sought").

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

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

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in the Provinces of British Columbia, Alberta and Quebec.

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 has selected the Ontario Securities Commission as Principal Regulator for this application since the Filer's head office is located in the Province of Ontario.

2. The Filer was organized by amalgamation, under the *Business Corporations Act* (Alberta) on January 1, 2003. Prior to the amalgamation, the Filer was known as Electronics Manufacturing Group Inc. The Filer is in the process of continuing into Ontario.

3. The Filer's common shares trade on the TSXV under the trading symbol "ATQ".

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

5. The Filer plans to deliver the Information Circular to its shareholders on or about December 22, 2011. The Filer plans to hold the Meeting on or about January 27, 2011. Subject to the approval of the Filer's shareholders at the Meeting, the Filer and the Target Company plan to complete the Transaction on or about February 2, 2011.

6. The Transaction is "reverse takeover" (as defined in Policy 5.2 of the TSXV). Further, the Transaction constitutes a "reverse takeover" as defined in NI 51-102.

7. Section 14.2 of Form 51-102F5 requires that a management information circular delivered to shareholders to approve a "reverse takeover" transaction (involving the exchange of securities) to contain disclosure described in a form of prospectus (including financial statements) that the acquired company would be eligible to use immediately prior to the delivery of the management information circular for such transaction. However, Section 14.5 of Form 51-102F5 states that an information circular delivered for a "reverse takeover" transaction in accordance with TSXV policies will satisfy Section 14.2 of Form 51-102F5. The Filer intends to prepare and file the Information Circular pursuant to TSXV Policy 5.2.

8. Subsection 4.10(2) of NI 51-102 requires an issuer that has completed a reverse takeover to file, within a specific period of time, the financial statements for the reverse takeover acquirer that would have been required to be included in the form of a prospectus that the reserve takeover acquirer was eligible to use prior to the reverse takeover for a distribution of securities in the jurisdiction, to the extent that it has not already included such statements in an information circular or similar document previously filed. The form of prospectus that the Target Company is eligible to use is a long form prospectus prepared in accordance with the requirements of National Instrument 41-101 *General Prospectus Requirements* ("**NI 41-101**") and Form 41-101F1 *Information Required in a Prospectus* ("**Form 41-101F1**").

9. The Target Company financial statements required to be included in the Information Circular under TSXV Policy 5.2 are the same as the financial statements required to be included in a long form prospectus under Form 41-101F1. Therefore, the Target Company financial statements required to be included in the Information Circular under TSXV Policy 5.2 satisfies the continuous disclosure requirements under Subsection 4.10(2) of NI 51-102 described above.

10. The Target Company has changed its financial year end in 2009 from December 31 to July 31. As

such, the most recent three financial years for the Target Company are as follows:

(a) twelve months ended July 31, 2011;

(b) twelve months ended July 31, 2010;

(c) seven months ended July 31, 2009 (transition year); and

(d) twelve months ended December 31, 2008.

11. Subsection 32.2(4) of Form 41-101F1 states that if a transition year is less than nine months in length, the transition year is deemed not to be a financial year for the purposes of the requirement to provide financial statements under NI 41-101. However, subsection 32.2(5) of Form NI 41-101F1 provides that, despite subsection 32.2(4), all financial statements of the issuer for a transition year must be included in a prospectus to satisfy the requirements under NI 41-101. As such, the Filer plans to include annual financial statements of the Target Company for both its third most recently completed financial year ended on July 31, 2009 and its fourth most recently completed financial year ended December 31, 2008, representing all of the financial statement of the Target Company for its transition year.

12. The Filer is proposing to include the following Target Company financial statements in the Information Circular filed in connection with the Transaction (the financial statements in paragraphs (c) and (d) being the Qualified Financial Statements):

(a) Audited annual statements in accordance with IFRS for the twelve month period ended July 31, 2011;

(b) Audited annual statements in accordance with IFRS for the twelve month period ended July 31, 2010;

(c) Audited annual statements in accordance with Canadian GAAP (transition year) for the seven month period ended July 31, 2009 *with an auditor's qualification with respect to inventories, cost of sales, income taxes and net loss*; and

(d) Audited annual financial statements in accordance with Canadian GAAP for the twelve months ended December 31, 2008 *with an auditor's qualification with respect to inventories, cost of sales, income taxes and net loss*.

13. Under subsection 4.2(2) of NI 41-101, any financial statements included in a long form prospectus filed in the form of Form 41-101F1 must be audited in accordance with NI 52-107 unless an exception in section 32.5 or subsection 35.1(3) of Form 41-101F1 applies. No exceptions in section 32.5 or subsection 35(1)(3) of Form 41-101F1 applies to the Qualified Financial Statements. Therefore, the Qualified Financial Statements must be audited in accordance with NI 52-107.

14. Paragraph 4.3(a) of NI 52-107 requires, among other things, financial statements that are required by securities legislation to be audited be accompanied by an auditor's report that expresses an unmodified opinion. The Target Company's auditor's report on the Qualified Financial Statements does not satisfy this requirement in paragraph 4.3(a) of NI 52-107.

15. The basis for the Target Company's auditors' qualification with respect to their report on the Qualified Financial Statements will read substantially as follows:

"Since we were appointed as auditors subsequent to July 31, 2009 we did not observe the counting of physical inventories at December 31, 2008 and January 1, 2008 and due a water leak in the branch office in 2010 that destroyed certain inventory records, we were unable to confirm or verify by alternative means inventories included in the financial statements as at December 31, 2008 and January 1, 2008. Since inventories enter into the determination of results of operations and cash flows, we were unable to determine whether adjustments might have been necessary to the amounts shown in the balance sheet for inventories at December 31, 2008, cost of sales, income taxes and net loss reported in the statements of operations and the components of cash flows from operating activities reported in the statements of cash flows for the seven month period ended July 31, 2009 and year ended December 31, 2008."

16. The current auditors of the Target Company did not act as auditors to the Target Company during the financial period included in the Qualified Financial Statements. Prior to the auditor's report accompanying these Qualified Financial Statements, the Target Company did not obtain an auditor's report by a predecessor auditor covering this financial period.

17. In 2009, the Target Company experienced a change of management and elected a new board of directors which resulted in a new business approach to the Target Company.

18. Certain of the Target Company's accounting records have been destroyed and cannot be reconstructed. In 2010, the Target Company suffered a water leak at its offices that resulted in the destruction and loss of certain financial data

with respect to the financial periods covered in the Qualified Financial Statements. In particular, the Target Company lost financial records concerning fiscal 2008 and 2009 packing slips, weigh bills and sales postings and 2008 GST returns.

19. The audit of the Qualified Financial Statements will be subject to qualifications with respect to inventories, cost of sales, income taxes and net loss because the Target Company's current auditors are unable to provide an unqualified audit report due to the destruction and loss of certain financial records described in the above paragraph and cannot satisfy themselves through alternative means.

20. Part 5 of NI 52-107 provides that the regulator or securities regulatory authority may grant an exemption from NI 52-107, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

Decision

The Decision Maker is satisfied that the decision meets the test set out in the Legislation for the Decision Make to make the decision.

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

(a) the Information Circular includes the Target Company's audited annual financial statements set out in representation 12, above;

(b) the Information Circular includes the Target Company's auditor's qualification set out in representation 15, above;

(c) the Information Circular includes disclosure of the reason underlying the Target Company's auditor's qualification set out in representation 18, above;

(d) the Target Company's audited annual financial statements included in the Information Circular otherwise satisfies all applicable requirements under NI 52-107;

(e) the Target Company's financial statements for the financial periods ending July 31, 2010, and July 31, 2011, included in the Information Circular are prepared in accordance with IFRS;

(f) the Filer delivers the Information Circular to its shareholders by January 31, 2012; and

(g) the Filer and the Target Company complete the Transaction by February 29, 2012.

"Cameron McInnis"
Chief Accountant
Ontario Securities Commission

2.1.8 HSBC Investment Funds (Canada) Inc.

Headnote

MI 11-102 Passport System – Process for Exemptive Relief Applications in Multiple Jurisdictions – A mutual fund dealer selling model portfolios of mutual funds is exempt from registration as an adviser with respect to discretionary Strategic and Tactical Rebalancing activities carried out by the affiliated adviser to the model portfolios of mutual funds, subject to certain conditions.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System.
Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 25(3)(a), 74(1).

December 23, 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
HSBC INVESTMENT FUNDS (CANADA) 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**) for an exemption relieving the Filer from the adviser registration requirement (the **Relief Sought**) in connection with the Strategic and Tactical Rebalancing Activities (as defined below) carried out by HSBC Global Asset Management (Canada) Limited (**AMCA**) in connection with the Product (as defined and described below).

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

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

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

Interpretation

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

Representations

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

(1) the Filer is registered in each of the provinces of Canada, except Prince Edward Island, as a dealer in the category of mutual fund dealer and is a member of the Mutual Fund Dealers Association of Canada (the "**MFDA**");

(2) the Filer is not in default of securities legislation in any jurisdiction;

(3) AMCA is a corporation continued under the laws of Canada, with its head office in Vancouver, British Columbia; AMCA is currently registered under applicable securities legislation in British Columbia as an investment fund manager and is registered in each of the provinces of Canada, except Prince Edward Island, as an adviser in the category of portfolio manager and as a dealer in the category of exempt market dealer;

(4) AMCA and the Filer are affiliated entities;

(5) the Filer's registered dealing representatives propose to offer investments in the "HSBC World Selection Portfolio" service (the "**Product**") to their clients;

(6) the Product consists of a number of model portfolios, which together occupy successive portions of the investing spectrum from conservative, income-maintenance investing to aggressive growth investing. Each model portfolio is comprised of mutual funds. The model portfolios will be principally comprised of units of the HSBC Pooled Funds and HSBC Mutual Funds, each being a family of mutual funds managed by AMCA;

(7) any of the HSBC Pooled Funds or HSBC Mutual Funds that is used in connection with the Product will be qualified under a simplified prospectus that has been filed in one or more of the Jurisdictions; similarly, any other mutual fund that is used in connection with the Product (collectively with the HSBC Pooled Funds and HSBC Mutual Funds, the "**Funds**") will be qualified under a simplified prospectus that has been filed in one or more of the Jurisdictions;

(8) if a client is interested in the Product, the client completes a risk rated profile form questionnaire (the "**Form**") that produces a score and recommends a suitable model portfolio; the Form is used by the Filer as a "know your client" form, to obtain information that enables the Filer to consider the client's financial circumstances, investment knowledge, investment objectives, time horizon and risk tolerance, and thereby assist in determining an appropriate model portfolio for the client; based on the score of the Form and information provided in the Form, the Filer recommends one of the model portfolios as suitable for the client; the client can either select the recommended or an alternative model portfolio;

(9) the client receives a description of the model portfolio selected by the client (the "**Selected Model Portfolio**") in the Form; the description provides information on the Selected Model Portfolio's Asset Classes (as defined below), Permitted Ranges (as defined below) and Benchmark Percentages (as defined below); the client also receives the simplified prospectus for the Funds which provides information about all of the Funds that may be used to comprise the Selected Model Portfolio; the client then completes an account application and enters into an account agreement ("**Account Agreement**") with the Filer; the account application must be approved by the applicable Branch Manager of the Filer before the account is opened;

(10) the client agrees to pay the Filer a quarterly fee outlined in the Account Agreement; fees could be changed from time to time, provided clients are given at least 60 days' advance written notice; fees will be calculated based on the net asset value of assets held in each client's account, subject to a minimum amount;

(11) the Filer pays AMCA a management fee pursuant to an advisory agreement between the Filer and AMCA (the "**Advisory Agreement**"), no management fees will be charged by AMCA directly to the Funds or to the clients in relation to the series or class of units of the Funds that are available under the Product; no sales charges or commissions will be payable by the client in respect of any Auto Rebalancing Activities (as defined below) or Strategic and Tactical Rebalancing Activities (as defined below), and each Fund will pay its own operating expenses; as a result, there will be no duplication of any fees between the Filer and AMCA; investors in the Funds who acquire units of the Funds outside of the Product will not bear expenses attributable to the Product; the Filer will at all times be ultimately responsible to the client for the Auto Rebalancing Activities (defined below) and the Strategic and Tactical Rebalancing Activities (defined below) undertaken by AMCA;

(12) the Account Agreement authorizes the Filer to retain AMCA, pursuant to the Advisory Agreement, to invest client monies in accordance with the terms of the Selected Model Portfolio; clients will receive express disclosure that AMCA will be providing discretionary investment management services in connection with the Auto Rebalancing Activities (as defined below) and Strategic and Tactical Rebalancing Activities (as defined below);

(13) pursuant to the Advisory Agreement, AMCA undertakes to develop and manage the model portfolios; each model portfolio is comprised of different asset classes (the "**Asset Classes**") which are determined by AMCA in its sole discretion; AMCA allocates each Asset Class a permitted range ("**Permitted Range**"), being a minimum and maximum percentage of the model portfolio that can be allocated to investments of a particular Asset Class; AMCA can change the Permitted Range or the Asset Classes of a model portfolio, including adding a new Asset Class, or both, if the client is provided at least 60 days' advance written notice of the change; AMCA's actions will be carried out with a view to ensuring that the model portfolio continues to abide by the stated objectives;

(14) AMCA manages the model portfolios on a discretionary basis; in addition to determining the Asset Classes for each model portfolio, AMCA also determines the benchmark percentage ("**Benchmark Percentage**") for each Asset Class, representing the target percentage within the Permitted Range, and adjusts that percentage at its discretion; AMCA also uses its discretion in choosing which Fund or Funds will be used for each Asset Class, provided the investment objective and strategies of any Funds are consistent with the Asset Class; AMCA's actions will be carried out with a view to ensuring that the Selected Model Portfolio continues to abide by the stated objectives;

(15) the client's account will be periodically rebalanced through a series of purchase and redemption trades effected by AMCA; if the percentage weighting of at least one of the Asset Classes in the Selected Model Portfolio exceeds or falls below the Permitted Range, AMCA will effect trades on behalf of all clients invested in the Selected Model Portfolio to bring the Asset Classes of the Selected Model Portfolio within its target range; additionally, a client account may be rebalanced if the percentage weighting of at least one Fund in a client account exceeds or falls below the Permitted Range; AMCA will effect trades on behalf of that client account to bring the Funds in the client account back to their target range (and within the Permitted Range for the Asset Class); these trades are referred to herein as the "**Auto Rebalancing Activities**";

(16) in addition to the Auto Rebalancing Activities described above that are effected by AMCA, AMCA will review all of the model portfolios on a periodic basis, currently at least annually, to ensure the model portfolios are consistent with their stated objectives and to make any changes to the Benchmark Percentage, the Funds and their weight in the model portfolios; AMCA will also review all of the model portfolios on a monthly basis and may change the weightings of the Funds within the model portfolios to take advantage of market conditions and trends; all changes effected by AMCA as described above will be done on a fully discretionary basis and in a manner consistent with the stated objectives of the model portfolios; in connection with its responsibilities under the Product, AMCA will carry out the trades in the Funds that are necessary and incidental in connection with modifying the model portfolios; these activities are referred to herein as the "**Strategic and Tactical Rebalancing Activities**";

(17) the trades carried out by AMCA as described above will be reflected in the Filer's records and subject to oversight by the MFDA;

(18) MFDA Investor Protection Corporation coverage will apply to the investments in the Funds held in the clients' accounts with the Filer on the same terms as other mutual fund investments;

(19) the client is provided with a simplified prospectus or other offering document required by securities legislation for the Funds prior to investing in any of the model portfolios; after investing in the Selected Model Portfolio, the client is provided with details of the Funds held in their account on a quarterly basis in the account statements; the account statement will also include information about how a client can obtain a copy of the current simplified prospectus or other offering document required by securities legislation for the Funds if the client requires further details;

(20) the Filer will carry out trades in units of the Funds for a client in connection with the investment of monies (an Investment) by the client in the Funds comprising the Selected Model Portfolio at the time of Investment; AMCA will carry out trades in units of the Funds for a client of the Filer that are necessary and incidental to its Auto Rebalancing Activities and Strategic and Tactical Rebalancing Activities, other than trades relating to an Investment; all trades will be reflected in the client's account on the day following the trade, and will also be reflected in the trade blotter to be shared by the Filer and AMCA in connection with the Product;

(21) AMCA is responsible for ensuring that the client monies are invested in accordance with the terms of the Selected Model Portfolio; notwithstanding that there is no direct relationship between the client and AMCA, the client will be entitled to treat AMCA as if AMCA were a party to the Account Agreement with respect to the responsibilities in this regard.

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 Relief Sought is granted, provided that:

(a) the Asset Classes and Permitted Ranges cannot be changed without providing at least 60 days' advance written notice to the client; and

(b) the Filer ensures that the Account Agreement or other materials delivered to the client with respect to the Selected Model Portfolio fully describe the Product and applicable model portfolio including (but not limited to):

(i) that AMCA manages the investment portfolios of the model portfolios pursuant to the Advisory Agreement;

(ii) that the Filer and AMCA are affiliated entities;

(iii) that while AMCA manages the model portfolio, it is not responsible for determining or confirming the suitability of a model portfolio for the client, and AMCA has no direct relationship with the client and will not provide the client with direct access to investment management services;

(iv) that the Asset Classes comprising a model portfolio will be listed along with the Permitted Range for each Asset Class;

(v) that the Asset Classes and Permitted Ranges cannot be changed without providing the client at least 60 days' advance written notice;

(vi) that AMCA will in its discretion adjust the Benchmark Percentage of an Asset Class within the Permitted Range;

(vii) that AMCA will in its discretion choose the Funds in which each Asset Class will invest and their weightings, and each Asset Class of a model portfolio will be invested in units of Funds that have investment objectives and strategies that are consistent with the Asset Class;

(viii) that AMCA will carry out the trades in units of the Funds for clients that are necessary and incidental to its Auto Rebalancing Activities and Strategic and Tactical Rebalancing Activities, other than trades related to an Investment. All trades will be reflected in the client's account on the day following the trade, and will also be reflected in the trade blotter to be shared by the Filer and AMCA in connection with the Product;

(ix) full disclosure of the compensation paid to AMCA and the Filer, including:

(A) the Filer pays AMCA a management fee pursuant to the Advisory Agreement, no management fees will be charged by AMCA directly to the Funds in relation to the series or class of units of the Funds that are available under the Product or to the clients, no sales charges or commissions will be payable by the client in connection with any Auto Rebalancing or Strategic or Tactical Rebalancing Activities, and each Fund pays its own operating expenses;

(B) the client will pay the Filer a quarterly fee in accordance with the fees outlined in the Account Agreement, which fees will be based on the net asset value of the client's account and which fees could only be changed from time to time provided the client is given at least 60 days' advance written notice.

"Christopher Portner"
Commissioner
Ontario Securities Commission

"Judith Robertson"
Commissioner
Ontario Securities Commission

2.1.9 TD Asset Management Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from conflict of interest trading prohibition in paragraph 13.5(2)(b) of NI 31-103 to permit in specie subscriptions and redemptions by separately managed accounts and mutual funds in mutual funds – Portfolio manager of managed accounts is also portfolio manager of mutual funds and is, therefore, a "responsible person" – Relief subject to certain conditions.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements and Exemptions, ss. 13.5, 15.1.

December 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
TD ASSET MANAGEMENT INC.

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from TD Asset Management Inc. and any affiliate of TD Asset Management Inc. (collectively, the **Filer**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) granting an exemption from Section 13.5(2)(b) of National Instrument 31-103 *Registration Requirements and Exemptions* (**NI 31-103**) that prohibits an adviser from knowingly causing an investment portfolio managed by it (including an investment fund for which it acts as an adviser) to purchase or sell the securities of any issuer from or to the investment portfolio of a responsible person, an associate of a responsible person, or any investment fund for which a responsible person acts as an adviser, to permit the following purchases and redemptions (each purchase and redemption, an ***In Specie* Transaction**):

(i) the purchase by a fully managed account managed by the Filer (each, a **Managed Account** and, collectively, the **Managed Accounts**) of securities of any existing or future mutual funds managed by the Filer, to which National Instrument 81-102 *Mutual Funds* (**NI 81-102**) applies, for which the Filer has not previously received an exemption in respect of *In Specie* Transactions; existing TD Private Funds; or any future TD Private Funds (each, a **Fund** and, collectively, the **Funds**) and the redemption of securities held by a Managed Account in a Fund, and as payment:

(A) for such purchase, in whole or in part, by the Managed Account making good delivery of portfolio securities to the Fund; and

(B) for such redemption, in whole or in part, by the Fund making good delivery of portfolio securities to the Managed Account

(collectively, 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 the 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 all of the provinces and territories of Canada other than the Jurisdiction (the **Passport Jurisdictions**).

Interpretation

Terms defined in NI 31-103, National Instrument 14-101 *Definitions*, NI 81-102, National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**) or the securities legislation of the Jurisdiction or the Passport Jurisdictions have the same meaning in this Decision Document.

Representations

This decision is based on the following representations by the Filer:

The Filer

1. The Filer is, or will be, registered as a portfolio manager in Ontario and each of the Passport Jurisdictions.

2. The Filer is, or will be, registered as an investment fund manager, in respect of any Fund managed by it, in Ontario and in any other Passport Jurisdiction where such registration is required.

3. The Filer is, or will be, the investment fund manager and/or portfolio manager of each of the Funds.

4. The Filer is, or will be, the portfolio manager of each of the Managed Accounts.

The Funds

5. Each of the Funds is, or will be, an open-end mutual fund trust or mutual fund corporation to which NI 81-102 applies.

6. Each of the Funds is, or will be, a reporting issuer in Ontario and in each of the Passport Jurisdictions. Each of the Funds is, or will be, initially, qualified for distribution pursuant to a simplified prospectus and annual information form prepared and filed in accordance with securities legislation. However, following its initial qualification, a Fund may offer its securities only pursuant to a prospectus exemption.

7. A Fund may be an associate of the Filer that is a responsible person in respect of a Managed Account, or an investment fund for which the Filer acts as an adviser.

8. The Emerald Pooled Funds and the Emerald Treasury Management Pooled Funds received an exemption in respect of *In Specie* Transactions in a decision document dated May 28, 2008.

Managed Accounts

9. Each client of the Filer has executed, or will execute, an investment management agreement for a fully managed account (the **Client**) with the Filer whereby the Filer has been appointed, or will be appointed, as portfolio manager for the investment portfolio of the Client with full discretionary authority. The investment management agreement or other documentation contains, or will contain, the authorization of the Client, on behalf of the Managed Account, to engage in *In Specie* Transaction with the Funds.

In Specie Transactions

10. The Filer wishes to be able to enter into *In Specie* Transactions in accordance with the investment objectives of the applicable Managed Accounts. Absent the Exemption Sought, the Filer would be prohibited by subsection 13.5(2)(b) of NI 31-103 from engaging in *In Specie* Transactions.

11. In all *In Specie* Transactions, the Filer will value the portfolio securities to be delivered using the same values that are used to calculate the net asset value for the purpose of the issue price or redemption price of the securities of the Fund.

12. The Filer has established, or will establish, an independent review committee (**IRC**) in respect of each Fund in accordance with the requirements of NI 81-107.

13. *In Specie* Transactions involving a Fund will be referred to the IRC of the Fund under Section 5.1 of NI 81-107 for approval on behalf of the Fund.

14. The IRC will not provide its approval in respect of *In Specie* Transactions unless it has made the determination set out in Section 5.2(2) of NI 81-107.

15. If the IRC of a Fund becomes aware of an instance where the Filer, as investment fund manager or portfolio manager of the Fund, did not comply with the terms of the Exemption Sought or a condition imposed by the IRC in its approval, the IRC will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction in which the Fund is organized.

16. At the time of an *In Specie* Transaction, the Filer will have in place policies and procedures to enable the Funds to engage in *In Specie* Transactions with Managed Accounts.

17. The Filer considers that effecting *In Specie* Transactions will be beneficial to the Funds and Managed Accounts in that they will reduce transaction costs on the acquisition or disposition of securities for the applicable Fund or Managed Account and there will be reduced market disruption associated with the transactions.

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) in connection with an *In Specie* Transaction where a Managed Account acquires securities of a Fund:

  (i) the Filer obtains the prior written consent of the Client before it engages in any *In Specie* Transactions and such consent has not been revoked;

  (ii) the securities delivered by the Managed Account to the Fund are acceptable to the Filer as portfolio manager of the Fund and consistent with the investment objective of the Fund;

  (iii) the value of the securities delivered by the Managed Account to the Fund is at least equal to the issue price of the securities of the Fund for which they are payment, valued as if the securities were portfolio assets of that Fund;

  (iv) the account statement next prepared for the Managed Account will include a note describing the securities delivered by the Managed Account to the Fund and the value assigned to such securities; and

(v) the Fund will keep written records of an *In Specie* Transaction in a financial year of the Fund, reflecting details of the securities delivered by the Managed Account to the Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;

(b) in connection with an *In Specie* Transaction where a Managed Account redeems securities of a Fund:

(i) the Filer obtains the prior written consent of the Client before it engages in any *In Specie* Transactions and such consent has not been revoked;

(ii) the securities delivered by the Fund to the Managed Account are acceptable to the Filer as portfolio manager of the Managed Account, and are consistent with the Managed Account's investment objective;

(iii) the value of the securities delivered by the Fund to the Managed Account is equal to the amount at which those securities were valued in calculating the net asset value per security used to establish the redemption price;

(iv) the holder of the Managed Account has not provided notice to terminate its Managed Account with the Filer;

(v) the account statement next prepared for the Managed Account will include a note describing the securities delivered by the Fund to the Managed Account and the value assigned to such securities; and

(vi) the Fund will keep written records of an *In Specie* Transaction in a financial year of the Fund, reflecting details of the securities delivered by the Fund to the Managed Account and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place; and

(c) the Filer does not receive any compensation in respect of any *In Specie* Transaction and, in respect of any delivery of securities further to an *In Specie* Transaction, the only charges paid by the Managed Account are the commission charged by the dealer executing the trade and/or any administrative charges levied by the custodian.

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

2.1.10 Intact Investment Management Inc.

Headnote

MI 11-102 and NP 11-203 – Relief granted from paragraph 13.5(2)(b) of NI 31-103 to permit trades between investment portfolios of affiliates and limited partnership, all subsidiaries of same parent – inter-entity trades will comply with conditions of subsection 6.1(2) of NI 81-107 except for requirements to have an Independent Review Committee and obtain its approval of trades.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations. ss. 13.5(2)(b), 15.1.
National Instrument 81-107 Independent Review Committee for Investment Funds, ss. 6.1(2), 6.1(4).

December 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
INTACT INVESTMENT MANAGEMENT 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**) for an exemption pursuant to Section 15.1 of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) from the investment restriction contained in Section 13.5(2)(b) of NI 31-103 in order to permit the Filer to purchase or sell securities to or from the investment portfolio of IFC, the Affiliates, Future Affiliates and the LP (as these terms are defined below) for which the Filer acts as an adviser (the **Exemption Sought**).

Under the Process for Exemptive Relief Applications:

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

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

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.

"Current Market Price of the Security" means,

(i) if the security is an exchange-traded security or a foreign exchange-traded security,

A. the closing sale price on the day prior to the transaction as reported on the exchange upon which the security is listed or the quotation trade reporting system upon which the security is quoted, or

B. if there are no reported transactions for the day prior to the transaction, the average of the highest current bid and lowest current ask for the security as displayed on the exchange upon which the security is listed or the quotation trade reporting system upon which the security is quoted, or

C. if the closing sale price on the day prior to the transaction is outside of the closing bid and closing ask, the average of the highest current bid and lowest current ask for the security as displayed on the exchange upon which the security is listed or the quotation trade reporting system upon which the security is quoted; or

(ii) for all other securities, the average of the current values determined on the basis of reasonable inquiry; and

"Market Integrity Requirements" means

(i) if the security is an exchange-traded security, the purchase or sale

A. is printed on a marketplace that executes trades of the security; and

B. complies with the market conduct and display requirements of the marketplace, its regulation services provider and securities regulatory authorities; or

(ii) if the security is a foreign exchange-traded security, the purchase or sale complies with the requirements that govern transparency and trading of foreign exchange traded securities on the foreign exchange or foreign quotation and trade reporting system; or

(iii) for all other securities, the purchase or sale is through a dealer, if the purchase or sale is required to be reported by a registered dealer under applicable securities legislation.

Representations

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

1. The Filer is a corporation incorporated under the *Canada Business Corporations Act*, and is registered under NI 31-103 in Ontario, Quebec, British Columbia and Alberta as an adviser in the category of portfolio manager.

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

3. The Filer is a wholly-owned subsidiary of Intact Financial Corporation (**IFC**).

4. IFC is a holding company incorporated under the *Canada Business Corporations Act* and is a reporting issuer in all provinces and territories of Canada. IFC's registered and principal business office is located in Toronto, Ontario.

5. The Filer and IFC are not in default of securities legislation in any of the provinces and territories of Canada.

6. IFC conducts insurance business activities primarily through its subsidiaries, Intact Insurance Company (an insurance company organized under the laws of Canada), Novex Insurance Company (an insurance company organized under the laws of Canada), The Nordic Insurance Company of Canada (an insurance company organized under the laws of Canada), Trafalgar Insurance Company of Canada (an insurance company organized under the laws of Canada), Belair Insurance Company Inc. (an insurance company organized under the laws of Québec), I.B. Reinsurance Inc.(an insurance company organized under the laws of Barbados), 866295 Alberta Ltd. (an insurance brokerage holding company organized under the laws of Alberta), Intact General Insurance Inc. (an insurance company organized under the laws of Canada), AXA Farm Insurance Inc. (an insurance company organized under the laws of Québec), AXA General Insurance (an insurance company organized under the laws of Canada), AXA Insurance (Canada) (an insurance company organized under the laws of Canada), AXA Insurance Inc. (an insurance company organized under the laws of Québec) and AXA Pacific Insurance Company (an insurance company organized under the laws of Canada) (collectively, the **Affiliates**), and any insurance companies that will be created or acquired by IFC and will be a subsidiary of IFC (the **Future Affiliates**).

7. Except for 866295 Alberta Ltd., the Affiliates and Future Affiliates are or will be regulated insurance companies affiliated with IFC and are or may be limited partners of Intact Investment Limited Partnership (the LP) of which the General Partner is Intact Investment General Partner Inc. Each of the Affiliates and the Future Affiliates are or will be, direct or indirect wholly-owned subsidiaries of IFC.

8. The Filer is the investment manager of the investment portfolios owned by IFC, the LP, the Affiliates and the Future Affiliates pursuant to an Advisor Agreement between the Filer and IFC dated January 1, 1999 (the **Advisor Agreement**).

9. The Advisor Agreement provides that IFC shall pay to the Filer, as full compensation for services rendered, a quarterly fee based on assets under management.

10. As at September 30, 2011, the IFC investment portfolio amounted to approximately $11.8 billion, which consisted of $0.2 billion of cash and Government of Canada T-Bills, $7.6 billion of debt securities, $1.7 billion of preferred equity, $1.9 billion of common equity and $0.4 billion of broker loans.

11. Each of the Affiliates, Future Affiliates and the LP are not and will not be reporting issuers and do not intend to become reporting issuers in Canada. IFC is the only reporting issuer within the structure of the group and there are no current intentions to change this structure.

12. The Filer wishes to purchase or sell securities to or from the investment portfolio of IFC, the Affiliates, Future Affiliates or the LP for which the Filer is the portfolio manager (the **Inter-Entity Trades**).

13. Section 13.5 of NI 31-103 prohibits the Filer from Inter-Entity Trades (the **Investment Restriction**) because the Filer is a responsible person and IFC, the Affiliates and the Future Affiliates are deemed to be responsible persons since they may have access to investment decisions made by the Filer. In addition, the LP is deemed to be a responsible person since the LP is an investment fund for which a responsible person, the Filer, acts as an advisor.

14. The objective of the Inter-Entity Trade is to minimize transaction costs, optimize the investment strategies of IFC, the LP, the Affiliates and the Future Affiliates, and to ensure effective risk management by minimizing market risk due to price fluctuations and market volatility.

15. The Inter-Entity Trades do not give rise to any conflicts of interest because the Inter-Entity Trades will be made within the same corporate family for the ultimate benefit of IFC.

16. Since the Filer applies the same investment objectives and strategies with regard to the investment portfolios of each of IFC, the LP, the Affiliates and the Future Affiliates, the Inter-Entity Trades will be made in the best interests of each party to such trades.

17. The Inter-Entity Trades will be made at the fair market price of the securities and no fees or costs will be paid by or to any parties beyond costs normally associated with such transactions when conducted at arms length.

18. Each of IFC, the Affiliates, Future Affiliates and the LP have entered into an investment management agreement or other documentation with the Filer that permits the Inter-Entity Trades.

19. The Inter-Entity trades will be made directly or indirectly for the exclusive and mutual benefit of IFC, the LP, the Affiliates and the Future Affiliates and in compliance with applicable insurance legislation.

20. The Filer has established written policies and procedures relating to Inter-Entity Trades with IFC, the LP, the Affiliates and the Future Affiliates.

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:

1. Each of the Affiliates, Future Affiliates and the LP are not reporting issuers in Canada;

2. The Inter-Entity Trades are consistent with the investment objectives and strategies of the investment portfolios of each of IFC, the Affiliates, Future Affiliates, and the LP;

3. The investment management agreement or other documentation in respect of the investment portfolios of each of IFC, the Affiliates, Future Affiliates, and the LP permits Inter-Entity Trades;

4. At the time of the Inter-Entity Trade,

   (a) the bid and ask price of the security is readily available;

   (b) the Inter-Entity Trade is executed at the Current Market Price of the Security;

   (c) the Inter-Entity Trade is subject to Market Integrity Requirements; and

   (d) the Filer keeps written records of each Inter-Entity Trade including,

      (i) a record of each purchase and sale of securities,

      (ii) the parties to the trade, and

      (iii) the terms of the purchase or sale

   for five years after the end of the fiscal year in which the trade occurred, the most recent two years in a reasonably accessible place;

5. Each Inter-Entity Trade represents the business judgment of the Filer uninfluenced by considerations other than the best interests of the investment portfolios of each of IFC, the Affiliates, Future Affiliates, and the LP as the case may be;

6. Each Inter-Entity Trade is in compliance with the Filer's written policies and procedures relating to Inter-Entity Trades;

7. Each Inter-Entity Trade achieves a fair and reasonable result for the investment portfolios of each of IFC, the Affiliates, Future Affiliates, and the LP; and

8. No fees or costs will be paid by or to any parties for any Inter-Entity Trade made between the investment portfolios of each of IFC, the Affiliates, Future Affiliates, and the LP beyond costs normally associated with such transactions when conducted at arms length.

"Marrianne Bridge"
Deputy Director
Compliance and Registrant Regulation

2.1.11 Afexa Life Sciences Inc. – s. 1(10)

Headnote

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

Ontario Statutes

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

December 25, 2011

Stikeman Elliott LLP
1155 René-Lévesque Blvd. West
40 Floor
Montreal, QC H3B 3V2

Attention: Laurence L'abbé

Dear Sir:

Re: Afexa Life Sciences Inc. (the Applicant) – Application for a decision under the securities legislation of Alberta and Ontario (the Jurisdictions) that the Applicant is not a reporting issuer

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

As the Applicant has represented to the Decision Makers that:

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

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

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

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

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

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

2.1.12 Brookfield Renewable Power Inc. – s. 1(10)

Headnote

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

Applicable Legislative Provisions

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

December 23, 2011

Torys LLP
79 Wellington St. W., Suite 3000
Box 270, TD Centre
Toronto, ON M5K 1N2

Dear Sirs/Mesdames:

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

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

As the Applicant has represented to the Decision Makers that:

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

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

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

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

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

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

2.1.13 SMART Technologies Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Section 104(2)(c) – Issuer bid – relief from issuer bid requirements in sections 93 to 99.1 of the Act – issuer conducting a normal course issuer bid through the facilities of the TSX and NASDAQ – relief granted, provided that purchases are subject to a maximum aggregate limit mirroring the TSX NCIB rules.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 93 to 99.1, 101.2, 104(2)(c).

Citation: SMART Technologies Inc., Re, 2011 ABASC 513

October 5, 2011

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

AND

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

AND

IN THE MATTER OF
SMART TECHNOLOGIES INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Makers**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the requirements contained in the Legislation relating to issuer bids (the **Issuer Bid Requirements**) shall not apply to purchases of class A subordinate voting shares of the Filer (**Class A Shares**) made by the Filer through the facilities of the NASDAQ Stock Market (**NASDAQ**) pursuant to the Share Repurchase Program (as defined below) and any Future Share Repurchase Programs (as defined below) (the **Exemption Sought**).

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

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

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

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

Interpretation

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

Representations

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

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

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

3. The Filer is a reporting issuer in each of the provinces and territories of Canada and the Filer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.

4. The Filer is a registrant with the Securities and Exchange Commission in the United States (the **SEC**) and is subject to the requirements of the United States *Securities Exchange Act of 1934* (the **1934 Act**).

5. As at August 18, 2011, the Filer had 44,308,596 Class A Shares issued and outstanding.

6. The Class A Shares are listed for trading on the Toronto Stock Exchange (**TSX**) and NASDAQ.

7. In a news release dated August 19, 2011, the Filer announced that its board of directors had approved a share repurchase program (the **Share Repurchase Program**) and normal course issuer bid under which it was authorized, subject to the receipt of regulatory approval from Canadian securities regulatory authorities, to purchase for cancellation through the facilities of the TSX and NASDAQ up to 4,000,000 Class A Shares, or approximately 9% of its public float of 41,612,849 Class A Shares.

8. The by-laws, rules, regulations and policies of the TSX relating to normal course issuer bids (the **TSX NCIB Rules**) allow normal course issuer bid purchases of up to 10% of the public float (as

defined in the TSX NCIB Rules) of the class of securities subject to such a bid to be made through the facilities of the TSX over the course of any 12-month period (the **10% Limit**).

9. Issuer bid purchases made through the facilities of the TSX in compliance with the TSX NCIB Rules are exempt from the Issuer Bid Requirements pursuant to the "designated exchange exemption" contained in the Legislation (the **Designated Exchange Exemption**), while purchases through the facilities of NASDAQ are not exempt pursuant to such exemption, because NASDAQ is not recognized as a "designated exchange" for the purpose of the Designated Exchange Exemption.

10. Issuer bid purchases made through the facilities of NASDAQ are exempt from the Issuer Bid Requirements under the "other published markets exemption" contained in the Legislation (the **Other Published Markets Exemption**), which limits the purchases that may be made by the Filer in a 12-month period to 5% of the securities of the particular class outstanding at the commencement of that period (the **5% Limit**).

11. The Share Repurchase Program will be effected in accordance with the 1934 Act and the rules of the SEC made pursuant thereto, including the safe harbour provided by Rule 10b-18 under the 1934 Act (collectively, **Applicable US Securities Laws**), which, among other things, restrict the number of shares that may be purchased on a single day, subject to certain exceptions for block purchases, based on the average daily trading volumes of the Class A Shares on NASDAQ.

12. Purchases by the Filer through the facilities of NASDAQ of up to 10% of the public float of Class A Shares would be permitted under the rules of NASDAQ and under Applicable US Securities Laws.

13. The Legislation contains no exemption from the Issuer Bid Requirements that would permit the Filer to make purchases through NASDAQ in excess of the 5% Limit.

14. The Filer may from time to time file a renewal or new notice of intention with the TSX to make purchases of Class A Shares in excess of the 5% Limit through the facilities of both the TSX and NASDAQ pursuant to the TSX NCIB Rules (**Future Share Repurchase Programs**).

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) purchases of Class A Shares made by the Filer through the facilities of NASDAQ are part of a normal course issuer bid that (apart from the use of NASDAQ facilities) complies with the TSX NCIB Rules; and

(b) the Filer does not acquire Class A Shares in reliance on the Other Published Markets Exemption if the aggregate number of Class A Shares purchased by the Filer and any person or company acting jointly or in concert with the Filer, in reliance on this decision, the Designated Exchange Exemption and the Other Published Markets Exemption within any period of 12 months, exceeds 5% of the outstanding Class A Shares on the first day of such 12-month period.

For the Commission:

“Glenda Campbell, QC”
Vice-Chair

”Stephen Murison”
Vice-Chair

2.1.14 Sears Holdings Corporation

Headnote

NP 11-203 – relief from prospectus requirements to allow U.S. parent company to spin off shares of its U.S. subsidiary to investors by way of distribution *in specie* – distribution not covered by legislative exemptions – U.S. parent company is a public company in the U.S. but is not a reporting issuer in Canada – U.S. parent company has a *de minimis* presence in Canada. Following distribution, U.S. subsidiary will not be a reporting issuer in Canada – no investment decision required from Canadian shareholders in order to receive shares from distribution.

Applicable Legislative Provisions

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

December 16, 2011

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
EACH OF THE PROVINCES AND
TERRITORIES OF CANADA
(together, the "Jurisdictions")

AND

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

AND

IN THE MATTER OF
SEARS HOLDINGS CORPORATION
(the "Filer" or "Sears Holdings")

DECISION

Background

The principal regulator in the Province of Ontario and the securities regulatory authority or regulator in each of the other Jurisdictions has received an application from the Filer (the "**Application**") for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for relief from the prospectus requirements contained in the Legislation in connection with the proposed distribution by the Filer, on a *pro rata* basis and by way of a dividend *in specie*, to the Filer's shareholders, including any who are resident in Canada, of all of the outstanding shares held by the Filer (such shares, the "**OSH Shares**") in its indirect majority-owned subsidiary Orchard Supply Hardware Stores Corporation ("**OSH**") immediately prior to the distribution (such requested relief, 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 the 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 the other provinces and territories of Canada.

Interpretation

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

Representations

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

1. Sears Holdings, formed in 2004, is a publicly-traded Delaware corporation. It is a holding company that owns or has interests in various direct and indirect subsidiary entities, including OSH. The principal executive offices of Sears Holdings are located in Hoffman Estates, Illinois.

2. Shares of Sears Holdings' common stock ("**Sears Common Shares**") are listed and traded on the NASDAQ Global Select Market under the symbol "SHLD". The Sears Common Shares are not listed or traded on any Canadian stock exchange, and Sears Holdings currently has no intention of listing them or having them traded on any Canadian stock exchange.

3. Sears Holdings is not a reporting issuer under the securities laws of any province or territory of Canada, and Sears Holdings currently has no intention of becoming a reporting issuer under such laws.

4. As of June 6, 2011, 18 holders of record of Sears Common Shares were resident in Canada, which constituted in the aggregate approximately 0.11% of the approximately 16,094 holders of record of Sears Common Shares worldwide. As of that date, persons resident in Canada collectively held of record 879 Sears Common Shares, out of over 100 million Sears Common Shares outstanding worldwide. As such, the proportion of total Sears Common Shares held of record by Canadian residents is *de minimis*.

5. As of March 8, 2011, based on the number of proxy materials mailed for the 2011 annual meeting of holders of Sears Common Shares (collectively, "**Sears Shareholders**"), Sears Holdings believes that there were, as of such date, approximately 726 beneficial Sears Shareholders in Canada, or approximately 0.89% of the approximately 81,419 beneficial Sears Shareholders worldwide and that the number of Sears

Common Shares held by such beneficial shareholders in Canada is *de minimis*.

6. As a result of the information described above, Sears Holdings has concluded that the number and proportion of Sears Common Shares held by both registered and beneficial Sears Shareholders in Canada (collectively, "**Canadian Shareholders**") are *de minimis*.

7. OSH was originally formed as a farmers' purchasing cooperative in California in the 1930s and was later incorporated in Delaware (1989). It is presently an indirect majority-owned subsidiary of Sears Holdings. Based in California, OSH is a specialty retailer primarily focused on the consumer segment of the home improvement market, operating the Orchard Supply Hardware business of Sears Holdings. OSH conducts substantially all of its operations through its direct, wholly-owned subsidiary Orchard Supply Hardware LLC. OSH's principal executive offices are located in San Jose, California, and its website address is www.osh.com.

8. At the time of the Spin-Off (as defined below), OSH will have a total of four classes of capital stock authorized: (a) Class A common stock (voting), US$0.01 par value per share (the "**Class A Common Stock**"); (b) Class B common stock (voting), US$0.01 par value per share (the "**Class B Common Stock**"); (c) Class C common stock (voting), US$0.01 par value per share (the "**Class C Common Stock**"); and (d) preferred stock (non-voting), Series A, US$0.00001 par value per share (the "**Preferred Stock**").

9. It is expected that pursuing a disposition of OSH through a tax-neutral spin-off of its majority interest in OSH to all Sears Shareholders (the "**Spin-Off**") will be in the best interests of Sears Holdings and Sears Shareholders, and that separating OSH from Sears Holdings will provide, among other things, financial, operational and managerial benefits to both OSH and Sears Holdings.

10. Sears Holdings intends to accomplish the Spin-Off by means of a series of transactions which include a dividend *in specie* to Sears Shareholders. The dividend *in specie* will be satisfied by Sears Holdings distributing all of the outstanding shares of Class A Common Stock and Preferred Stock held by Sears Holdings (collectively, the "**OSH Shares**") to all Sears Shareholders of record, subject to obtaining requisite approvals and satisfaction of other conditions. No shares of any other classes of OSH stock will be distributed in the Spin-Off. Immediately following completion of the Spin-Off, Sears Holdings will not own any shares of OSH.

11. In connection with the Spin-Off, OSH filed with the U.S. Securities and Exchange Commission (the "**SEC**"), on June 23, 2011, a registration statement on Form S-1 under the U.S. Securities Act of 1933 (as subsequently amended, restated and supplemented, the "**Registration Statement**"). The final prospectus filed as part of the Registration Statement contains audited consolidated financial statements of OSH, and it will be made available to the Sears Shareholders for information purposes. The SEC declared the Registration Statement effective on December 12, 2011.

12. The distribution of the OSH Shares to the Sears Shareholders will be made on a *pro rata* basis and in book-entry form, whereby every 22.141777 Sears Common Shares outstanding as of the close of business on December 16, 2011, the record date for the Spin-Off, will entitle its holder to receive one share of Class A Common Stock and one share of Preferred Stock (except that holders of unvested shares of restricted stock of Sears Holdings will receive cash in lieu of shares). Fractional shares of Class A Common Stock or Preferred Stock will not be distributed; instead, a distribution agent will aggregate fractional shares of the Class A Common Stock and the Preferred Stock into whole shares of each security, sell such whole shares in the open market at prevailing rates and distribute the net cash from proceeds from the sales *pro rata* to each holder who would otherwise have been entitled to receive fractional shares in the distribution. The distribution is expected to be effective on December 30, 2011.

13. At the time of the distribution, the shares of Class A Common Stock will represent approximately 80% of the general voting power of OSH's outstanding capital stock (entitling holders thereof to one vote per share) and the shares of Preferred Stock will represent 100% of OSH's outstanding non-voting capital stock. It is anticipated that immediately following the Spin-Off, ESL Investments, Inc. and affiliated entities, which currently own approximately 61% of Sears Common Shares, will own approximately 61% of (a) the outstanding shares of Class A Common Stock, representing approximately 61% of Class A Common Stock voting power and approximately 49% of the general voting power of OSH's outstanding capital stock, and (b) the outstanding shares of Preferred Stock. The Class B Common Stock and Class C Common Stock, which are not included in the Spin-Off, are expected to be held at the time of the distribution as follows: (x) all shares of Class B Common Stock, representing less than 0.5% of the general voting power of OSH's outstanding capital stock, will be held by certain former employees of OSH who acquired such shares in connection with past equity investment programs of OSH, and (y) all shares of Class C Common Stock, representing approximately 20% of the general voting power of OSH's

outstanding capital stock, will be held by ACOF I LLC, a wholly-owned subsidiary of Ares Corporate Opportunities Fund, L.P., an affiliate of Ares Management LLC.

14. Sears Shareholders will not be required to pay for the OSH Shares received in the Spin-Off, or to surrender or exchange any of their Sears Common Shares in order to receive OSH Shares, or to take any other action in connection with the Spin-Off. The distribution of the OSH Shares will occur automatically without any investment decision on the part of Sears Shareholders. Their proportionate ownership interests in Sears Holdings will not change as a result of the Spin-Off and the distribution of the OSH Shares as a dividend *in specie*.

15. Upon completion of the Spin-Off, the Class A Common Stock is expected to be listed on the NASDAQ Capital Market under the symbol "OSH", and the Preferred Stock is expected to be unlisted but quoted on the OTCQB, an over-the-counter quotation system. As a result, OSH will be a publicly-traded company independent from Sears Holdings, which will not retain any ownership interest in OSH immediately following the Spin-Off.

16. The OSH Shares are not listed or traded and any stock exchange in Canada and OSH does not currently intend to list the OSH Shares or have them traded on any stock exchange in Canada. OSH is not, and does not currently intend to become, a reporting issuer in any province or territory in Canada.

17. Following the Spin-Off, the Sears Common Shares will continue to be listed and traded on the NASDAQ Global Select Market.

18. The Spin-Off will be effected in compliance with Delaware law and all applicable U.S. federal securities laws, and the Registration Statement has been declared effective by the SEC.

19. Because the Spin-Off will be accomplished by way of a dividend *in specie* to the Sears Shareholders, no shareholder approval of the transaction is required under Delaware law.

20. All materials relating to the Spin-Off and the distribution of the OSH Shares to be made available by or on behalf of Sears Holdings or OSH to registered Sears Shareholders in the United States will be made available concurrently to registered Canadian Shareholders.

21. Following the Spin-Off, Sears Holdings and OSH will concurrently provide to their respective registered shareholders in Canada the same disclosure materials that they provide to their respective registered shareholders in the United States.

22. The Canadian Shareholders who receive OSH Shares will have the benefit of the same rights and remedies under U.S. federal securities laws in respect of the disclosure documentation provided to them in connection with the Spin-Off and the distribution of OSH Shares that are available to the Sears Shareholders in the United States.

23. The proposed distribution of the OSH Shares to Canadian Shareholders would be exempt from the Requirements in accordance with subsection 2.31(2) of NI 45-106 but for the fact that OSH is not a reporting issuer in Canada.

24. In the absence of an available exemption under the Legislation, qualification by prospectus of the proposed distribution of the OSH Shares to Canadian Shareholders as part of the Spin-Off is not practicable, requiring that Canadian Shareholders be excluded from receiving OSH Shares.

Decision

The principal regulator is satisfied that the decision meets the test contained 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 first trade in OSH Shares issued pursuant to the Spin-Off will be deemed to be a distribution unless the conditions in section 2.6 or subsection 2.14(1) of National Instrument 45-102 – *Resale of Securities* are satisfied.

"Sarah B. Kavanagh"
Commissioner
Ontario Securities Commission

"Mary G. Condon"
Commissioner
Ontario Securities Commission

2.1.15 HSBC Securities (Canada) Inc. and National Bank Financial Ltd.

Headnote

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

Applicable Legislative Provisions

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

December 23, 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
HSBC SECURITIES (CANADA) INC. ("HSBC") AND
NATIONAL BANK FINANCIAL LTD. ("NBFL"),
("the Filers")

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 relief from sections 2.2, 2.3, 2.5, 3.2 and 4.2 pursuant to section 7.1 of National Instrument 33-109 *Registration Information* ("**NI 33-109**") to allow the bulk transfer (the "**Bulk Transfer**") of the registered individuals carrying on the full service retail brokerage business and related wealth management business ("**the Full Service Retail Brokerage Business**") and of some locations, to the exception of those in Quebec and New Brunswick, of HSBC to NBFL, on or about January 1, 2012 (the "**Completion Date**") in accordance with section 3.4 of the Companion Policy to NI 33-109 (the "**Exemption Sought**").

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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 by the Filers in all of the other provinces and territories of Canada, excluding Quebec and New Brunswick.

Interpretation

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

Representations

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

1. HSBC is registered as a dealer in the category of investment dealer in each of the provinces and territories of Canada, and in the category of derivatives dealer in Quebec. HSBC is also a dealer member of the Investment Industry Regulatory Organization of Canada ("**IIROC**") and has its head office in Ontario.

2. HSBC is an indirect wholly-owned subsidiary of HSBC Bank Canada ("**HSBC Bank**"), a Canadian chartered bank validly existing under the laws of Canada.

3. NBFL is registered as a dealer in the category of investment dealer in each of the provinces and territories of Canada, excluding Quebec and New Brunswick, and in the category of futures commission merchant in each of Manitoba and Ontario. NBFL is also a dealer member of IIROC and has its head office in Ontario.

4. NBFL is a wholly-owned subsidiary of National Bank Financial Inc. ("**NBFI**") and, as a result, is also an indirect wholly-owned subsidiary of National Bank of Canada ("**NBC**"), a Canadian chartered bank validly existing under the laws of Canada.

5. HSBC and NBFL are not, to the best of their knowledge, in default of any requirement of securities legislation in any province or territory of Canada.

6. Effective as of the Completion Date, it is anticipated that the Full Service Retail Brokerage Business of HSBC (including related registered individuals, permitted individuals, and offices) will be transferred manually through individual NRD submissions to NBFI if located in Quebec and

New Brunswick, and in bulk to NBFL if located in all the other jurisdictions.

7. Appropriate notifications to, and requests for non-objections/approvals from, the securities regulatory authorities, IIROC, and certain exchanges have been made by letter regarding the HSBC asset acquisition.

8. All HSBC clients to be transferred to NBFI or NBFL, as the case may be, effective as of the Completion Date have been mailed notice of the proposal that they be transferred from HSBC to the applicable registered firm and of the client's right to close their account and have their assets returned to them, or to have their account transferred to another appropriately registered firm at no cost, in accordance with the requirements in section 14.11 of NI 31-103.

9. The NRD number of each registered business location to be transferred from HSBC to NBFL effective as of the Completion Date are as set out on Schedule "A" attached hereto.

10. The Filers do not anticipate that the completion of the HSBC Asset Acquisition will result in any disruption in the ability of NBFL and/or HSBC, as the case may be, to trade on behalf of their respective clients as of the Completion Date.

11. Effective as of the Completion Date, NBFL will carry on substantially the same full service retail brokerage business in substantially the same manner and with substantially the same personnel.

12. Given the significant number of HSBC individuals to be transferred, comprising approximately 200 registered individuals, and affected business locations of HSBC, it would be unduly time-consuming to transfer manually through individual NRD submissions all affected individuals and business locations to NBFL in accordance with the requirements set out in NI 33-109. Moreover, it is imperative that the transfer of the affected individuals and business locations occur effective as of the same date (i.e., the Completion Date), in order to ensure that there is no interruption in registration.

13. The Bulk Transfer will not be contrary to the public interest and will have no negative consequence on the ability of the Filers to comply with all applicable regulatory requirements or satisfy any obligations to their respective clients.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that the Filers make acceptable arrangements with CDS Inc. for the payment of the costs associated with the Bulk Transfer, and make such arrangement in advance of the Bulk Transfer.

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

2.1.16 Jones Soda Co.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Securities Act, s. 1(10)(a)(ii) – Cease to be a reporting issuer in Ontario – The issuer's securities are traded only on a market or exchange outside of Canada – The issuer is an SEC foreign issuer, the issuer has a *de minimis* number of Canadian security holders; the issuer has no present intention of conducting a public offering of its securities to Canadian residents; the issuer is subject to the reporting requirements of the securities laws of an acceptable foreign jurisdiction and all shareholders receive the same disclosure.

Applicable Legislative Provisions

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

December 23, 2011

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

AND

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

AND

IN THE MATTER OF
JONES SODA CO.
(the Filer)

DECISION

Background

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

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

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

(b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

Representations

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

1. the Filer was incorporated under the laws of British Columbia on January 23, 1986; the Filer is a reporting issuer in the Jurisdictions;

2. the head office of the Filer is located at 1000 1st Avenue South, Suite 100, Seattle, Washington, 98134;

3. the Filer's principal operations are located in the United States and all members of the Filer's management are based in Seattle;

4. the Filer is in the business of developing, producing, marketing and distributing premium beverages with its central focus is the United States domestic market;

5. In 1997, the Filer became listed on the Canadian Venture Exchange (previously the Vancouver Stock Exchange) under the symbol "UJS";

6. on December 31, 1999, the Filer continued its corporate existence to Wyoming;

7. on August 1, 2000, the Filer merged with Jones Soda Co. to form a new company existing under the laws of the State of Washington;

8. in 2002, the Canadian Venture Exchange became the TSX Venture Exchange (TSXV);

9. on November 28, 2005 the Filer qualified for trading the NASDAQ Capital Market (the NASDAQ);

10. effective February 20, 2009, the common shares of the Filer were delisted from the TSXV;

11. the Filer is currently a "SEC foreign issuer" as that term is defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* and except for the Canadian Default (discussed below), the Filer has complied with the requirements of the Legislation applicable to SEC foreign issuers;

12. all of the outstanding securities of the Filer are currently listed on the NASDAQ and the Filer is subject to the reporting obligations of the United States Securities and Exchange Commission; no securities of the Filer are traded on a marketplace in Canada as defined in National Instrument 21-101 *Marketplace Operation* and the Filer does not currently intend to have its securities listed, traded or quoted on a marketplace in Canada;

13. the Filer has not taken any steps to indicate that there is a market for its securities in Canada since its common shares were delisted from the TSXV on February 20, 2009;

14. the Filer has one operating subsidiary located in Canada and six employees located in Canada;

15. based upon a review of its corporate records and the British Columbia Securities Commission's website, to the best of the Filer's knowledge, since December 30, 1998, the only distributions of the Filer's common shares in Canada have been to employees of the Filer and its affiliates under the employee prospectus exemption under section 2.24 of National Instrument 45-106 *Prospectus and Registration Exemptions* as part of the Filer's 1996 Stock Option Plan, its 2002 Stock Option and Restricted Stock Plan (as amended in 2006) and its 2011 Equity Incentive Plan (the Plans);

16. for the six months ended June 30, 2011, there were no compensation awards made to Canadian employees under the Plans; the Filer does not anticipate any material changes in the number of compensation awards granted to Canadian employees for the remainder of 2011; consequently, the impact of the Plans is not expected to result in a more significant shareholder base in Canada;

17. except as set out below, the Filer is not in default of any filing requirements of the NASDAQ or applicable requirements of United States federal or state securities regulatory authorities; on September 16, 2011, the Filer received a deficiency letter from The NASDAQ Stock Market indicating that, for the thirty consecutive business days ending September 15, 2011, the bid price for the Filer's common shares had closed below the minimum US$1.00 per share requirement for continued listing on the NASDAQ; the Filer has been provided an initial period of 180 calendar days, or until March 14, 2012, to regain compliance; if the Filer is unable to regain compliance by March 14, 2012, the Filer may be eligible for an additional 180 calendar day compliance period, or until September 10, 2012, to demonstrate compliance with the bid price requirement; to qualify, the Filer will be required to meet the continued listing requirement for market value of publicly held shares set forth in the applicable NASDAQ rules and will need to provide written notice to NASDAQ of its intention to cure the deficiency during the second compliance period, including by effecting a reverse stock split, if necessary; if the Filer does not qualify for the second compliance period or fails to regain compliance during the second 180 day period, then NASDAQ is expected to notify the Filer of its determination to delist the Filer's common shares, at which point the Filer would have an opportunity to appeal the delisting determination before a hearings panel;

18. the Filer is not in default of its obligations as a reporting issuer under the securities legislation of the Jurisdictions, except as follows; on March 22, 2011, the Filer received a notice from the British Columbia Securities Commission advising the Filer that its annual financial statements had not been filed in accordance with the securities legislation of the Jurisdictions because the audit report accompanying the financial statements had not been prepared by a public accounting firm registered with the Canadian Public Accountability Board (the Canadian Default) which default remains outstanding;

19. the issued and outstanding share capital of the Filer as of August 5, 2011 is 31,992,675 common shares which represent the only issued and outstanding class of securities of the Filer;

20. in support of the representations set forth in paragraphs below concerning the percentage of outstanding securities and the total number of securityholders in Canada, the Filer has made inquiries with Broadridge Financial Solutions Inc. and has inspected its list of registered shareholders; based upon these searches, the aggregate beneficial ownership of the Filer's common shares in Canada (broken down by province) is as follows:

    (a) Alberta – 83 shareholders holding 111,945 common shares;

    (b) British Columbia – 214 shareholders holding 321966 common shares;

    (c) Manitoba –14 shareholders holding 24,670 common shares;

    (d) New Brunswick – 5 shareholders holding 8,661 common shares;

    (e) Newfoundland – 1 shareholder holding 800 common shares;

    (f) Nova Scotia – 12 shareholders holding 21,189 common shares;

    (g) Ontario – 195 shareholders holding 420,361 common shares;

    (h) Prince Edward Island –5 shareholders holding 7,695 common shares;

    (i) Quebec – 48 shareholders holding 115,757 common shares; and

    (j) Saskatchewan – 16 shareholders holding 34,621 common shares;

    for a total of 593 shareholders beneficially owning an aggregate of 1,067,665 common shares;

21. on an aggregate basis, the Canadian shareholding represents 2.52% of the Filer's shareholders and 3.34% of its issued and outstanding securities worldwide;

22. of the Canadian shareholders, 11 positions hold 10,000 shares or greater, representing 280,725 shares; the remaining Canadian holders hold 2.46% of the Filer's issued and outstanding securities;

23. in the event that the Filer ceases reporting in Canada, Canadian securityholders will receive adequate disclosure under United States corporate/securities laws; the continuous disclosure requirements in the United States are very similar to the continuous disclosure requirements under Canadian securities laws, including the requirement to file quarterly and year end annual financial statements, annual information forms, press releases and material fact notices, as well as to publish certain shareholder meeting materials (such as notices and voting results); all continuous disclosure requirements for United States public companies are by way of public filings through EDGAR, the filings section of the SEC website (www.sec.gov);

24. the Filer provided advance notice to Canadian resident securityholders in a press release that it applied to the securities regulatory authorities for a decision that it is not a reporting issuer in Canada and, if that decision is made, the Filer will no longer be a reporting issuer in any jurisdiction in Canada; and

25. the Filer undertakes to concurrently deliver to its Canadian security holders, all disclosure the Filer would be required under U.S. securities law or exchange requirements to be delivered to U.S. resident security holders.

Decision

4 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.

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

2.1.17 Cell-Loc Location Technologies Inc. – s. 1(10)(b)

Headnote

Application for an order that the issuer is not a reporting issuer under applicable securities laws – requested relief granted.

Applicable Legislative Provisions

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

Citation: Cell-Loc Location Technologies Inc., Re, 2012 ABASC 4

January 4, 2012

Shea Nerland Calnan LLP
2800, 715 - 5 Avenue SW
Calgary, AB T2P 2X6

Attention: Joe Brennan

Dear Sir:

Re: Cell-Loc Location Technologies Inc. (the Applicant) – Application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador (the Jurisdictions) that the Applicant is not a reporting issuer

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

As the Applicant has represented to the Decision Makers that:

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

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

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

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

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

"Blaine Young"
Associate Director, Corporate Finance

2.1.18 Aston Hill Asset Management Inc. et al.

Headnote

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

Applicable Legislative Provisions

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

December 30, 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
ASTON HILL ASSET MANAGEMENT INC. (AHAMI),
ASTON HILL INVESTMENTS INC. (AHI),
ASTON HILL MANAGEMENT LIMITED (AHML),
MORRISON WILLIAMS CAPITAL ADVISORS INC. (MWCA) AND MORRISON WILLIAMS INVESTMENT MANAGEMENT LP (MWIM)
(the Filers)

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 relief from the requirements contained in sections 2.2, 2.3, 2.5, 3.2 and 4.2 of National Instrument 33-109 *Registration Information* (**NI 33-109**) pursuant to section 7.1 of NI 33-109 to allow the bulk transfer (the **Bulk Transfer**) of all the registered individuals and all the locations of AHI, AHML, MWCA and MWIM to AHAMI, on or about December 30, 2011, in accordance with section 3.4 of the Companion Policy to NI 33-109 (the **Exemption Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

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

(b) the Filers have provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon by each of the Filers in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia and Quebec (collectively with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

(a) AHAMI

1. AHAMI is a corporation incorporated under the *Business Corporations Act* (Ontario) and has its head office in Toronto, Ontario.

2. All of the shares of AHAMI are owned by Aston Hill Financial Inc.

3. AHAMI is registered as an exempt market dealer, investment fund manager and portfolio manager in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario and Quebec.

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

(b) AHI

5. AHI was formerly a corporation incorporated under the *Business Corporations Act* (Alberta) and has its head office in Calgary, Alberta. AHI was continued under the laws of Ontario effective December 16, 2011 in connection with the proposed amalgamation (as described below).

6. All of the shares of AHI are owned by Aston Hill Financial Inc.

7. AHI is registered as an investment fund manager and portfolio manager in Alberta, Ontario and Quebec.

8. AHI is not in default of the securities legislation of any of the Jurisdictions.

(c) AHML

9. AHML was formerly a corporation incorporated under the *Business Corporations Act* (Alberta) and has its head office in Toronto, Ontario. AHML was continued under the laws of Ontario effective December 16, 2011 in connection with the proposed amalgamation (as described below).

10. All of the shares of AHML are owned by Aston Hill Financial Inc.

11. AHML is registered as an investment fund manager in Ontario.

12. AHML is not in default of the securities legislation of any of the Jurisdictions.

(d) MWCA

13. MWCA is a corporation incorporated under the *Business Corporations Act* (Ontario) and has its head office in Toronto, Ontario.

14. All of the shares of MWCA are owned by Aston Hill Financial Inc.

15. MWCA is registered as an investment fund manager and portfolio manager in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia and Ontario.

16. MWCA is not in default of the securities legislation of any of the Jurisdictions.

(e) MWIM

17. MWIM is a limited partnership formed pursuant to the *Limited Partnerships Act* (Ontario) and has its head office in Toronto, Ontario.

18. MWIM is registered as an investment fund manager and portfolio manager in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia and Ontario.

19. MWIM is an indirect wholly owned subsidiary of Aston Hill Financial Inc.

20. MWIM is not in default of the securities legislation of any of the Jurisdictions.

The Transaction

21. Each of the Filers is a wholly owned direct or indirect subsidiary of Aston Hill Financial Inc. The beneficial ownership of, or direct or indirect control or direction over, the Filers by Aston Hill Financial Inc. will not change as a result of the amalgamation.

22. Subject to all necessary approvals, the Filers plan to amalgamate with Aston Hill MW GP Inc. (**MWGP**) and MW Holdings Inc. (**MW Holdings**) on or about December 30, 2011 (the **Effective Date**). Each of MWGP and MW Holdings is a wholly owned direct or indirect subsidiary of Aston Hill Financial Inc.

23. It is intended that the amalgamated company (**Amalco**) will be known as Aston Hill Asset Management Inc. and its head office will be in Toronto, Ontario.

24. Immediately prior to the amalgamation of AHAMI, AHI, AHML, MWCA, MWGP and MW Holdings, all of the assets and liabilities of MWIM will be transferred to AHAMI in exchange for the issuance of AHAMI common shares which will be distributed to each holder of limited partnership units of MWIM. Thereafter, MWIM will be dissolved and its general partner, MWGP, will amalgamate with the Filers.

25. Amalco will continue the business of AHAMI, AHI, AHML, MWCA and MWIM.

26. On or about December 30, 2011, as a result of the amalgamation, all of the current registrable activities of the Filers will become the responsibility of Amalco. Amalco will assume all of the existing registrations and approvals for all of the registered individuals and all of the locations of the Filers.

27. The Filers do not anticipate that there will be any disruption in the ability of the Filers to trade or advise on behalf of their respective clients either immediately before or immediately after the Bulk Transfer.

28. Amalco will be registered in the same categories of registration and in the same jurisdictions as AHAMI, AHI, AHML, MWCA and MWIM were registered immediately prior to the amalgamation. Accordingly, as a result of the amalgamation, Amalco will be registered as an exempt market dealer, investment fund manager and portfolio manager in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario and Quebec.

29. Amalco will carry on the same business of the Filers in substantially the same manner with substantially the same personnel.

30. Given the significant number of locations and number of registered individuals of AHAMI, AHI, AHML, MWCA and MWIM to be transferred to Amalco, it would be unduly time-consuming to transfer each to Amalco in accordance with the requirements of NI 33-109. Moreover, it is imperative that the transfer of the locations and

individuals occur on the same date, in order to ensure that there is no break in registration.

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

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that the Filers make acceptable arrangements with CDS Inc. for the payment of the costs associated with the Bulk Transfer, and make such payment in advance of the Bulk Transfer.

"Pat Chaukos"
Manager, Compliance and Registrant Regulation
Ontario Securities Commission

2.1.19 Gastar Exploration Ltd.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from certain continuous disclosure and reporting requirements of securities legislation – issuer would be an "SEC foreign issuer" within the meaning of National Instrument 71-102 Continuous Disclosure and Other Exemptions Relating to Foreign Issuers but for the fact that it is incorporated in Canada – a *de minimis* number of issuer's shareholders are resident Canadians - a *de minimis* number of issuer's issued and outstanding securities held by resident Canadians – no securities of the issuer are traded on a marketplace in Canada – relief granted subject to conditions, including that issuer comply with NI 71-102 as if it were an SEC foreign issuer and issuer files comparable U.S. filings.

Applicable Legislative Provisions

National Instrument 51-101 Standards of Disclosure for Oil and Gas Activities.
National Instrument 51-102 Continuous Disclosure Obligations.
National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer.
National Instrument 55-102 System for Electronic Disclosure by Insiders (SEDI).
National Instrument 55-104 Insider Reporting Requirements and Exemptions.
National Instrument 58-101 Disclosure of Corporate Governance Practices.
National Instrument 62-103 The Early Warning System and Related Take-Over Bid and Insider Reporting Issues.

Citation: Gastar Exploration Ltd., Re, 2011 ABASC 624

December 15, 2011

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

AND

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

AND

IN THE MATTER OF
GASTAR EXPLORATION LTD.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that, subject to certain conditions:

(a) the Filer be exempted from the requirements of:

(i) National Instrument 51-101 *Standards of Disclosure for Oil and Gas Activities* (**NI 51-101**) (the **Oil and Gas Relief)**;

(ii) National Instrument 51-102 *Continuous Disclosure Obligations* (the **Continuous Disclosure Relief**);

(iii) National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (the **Communication Relief**); and

(iv) National Instrument 58-101 *Disclosure of Corporate Governance Practices* (the **Corporate Governance Relief**);

(b) the insider reporting requirement does not apply to an insider of the Filer (the **Insider Reporting Relief**); and

(c) an acquiror (as such term is defined in Multilateral Instrument 62-104 *Take-Over Bids and Issuer Bids*) is exempt from the early warning requirements and acquisition announcement provisions (as such terms are defined in National Instrument 62-103 *The Early Warning System and Related Take-Over Bid and Insider Reporting Issues*) in respect of securities of the Filer (the **Early Warning Relief**);

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

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

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

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia and Manitoba; and this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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

Representations

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

1. The Filer is a corporation amalgamated and subsisting under the *Business Corporations Act* (Alberta) (**ABCA**).

2. The Filer is an independent oil and gas company engaged in the development, production, operation, exploration and acquisition of oil and gas properties. The Filer's operations are primarily in the United States.

3. The Filer is a reporting issuer or the equivalent in British Columbia, Alberta, Manitoba and Ontario and is not (to its knowledge), in default of its obligations as a reporting issuer under the securities legislation of any of the jurisdictions in which it is a reporting issuer or the equivalent.

4. The issued and outstanding capital stock of the Filer consists of common shares (**Common Shares**). The Common Shares of the Filer are listed and posted for trading on the NYSE Amex under the symbol "GST", and no securities of the Filer are traded on any marketplace (as such term is defined in National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* (**NI 71-102**)) in Canada.

5. The Common Shares are registered under section 12 of the 1934 Act and the Filer has filed with the SEC all filings required to be made with the SEC.

6. According to the records of: (i) Broadridge Financial Services, Inc. (**Broadridge**), as at June 10, 2011; and (ii) American Stock Transfer & Trust Company, LLC (**AST**), the registrar and transfer agent for the Common Shares, as at July 7, 2011:

   (a) the Filer had 604 beneficial shareholders resident in Canada (**Beneficial Canadian Shareholders**) representing approximately 4.99% of the aggregate number of beneficial shareholders of the Filer; and

   (b) such Beneficial Canadian Shareholders held 584,663 Common Shares representing approximately 0.90% of the issued and outstanding Common Shares.

7. According to the records of AST, as at July 7, 2011:

   (a) the Filer had 10 registered shareholders resident in Canada (**Registered Canadian Shareholders**) representing approximately 7.93% of the aggregate number of registered shareholders of the Filer; and

   (b) such Registered Canadian Shareholders held 50,191 Common Shares representing approximately 0.07% of the issued and outstanding Common Shares.

8. According to the records of Broadridge and AST, approximately 0.97% of the outstanding Common Shares are held, directly or indirectly, by Beneficial Canadian Shareholders and Registered Canadian Shareholders (collectively, **Canadian Shareholders**), and approximately 5.02% of the Filer's registered and beneficial shareholders are Canadian Shareholders.

9. The business of the Filer is administered principally from the United States.

10. The Filer's head and executive offices are located in the United States.

11. A majority of the directors of the Filer are residents of the United States. The Filer has maintained directors resident in Alberta, and has maintained a registered office in Alberta, for the sole purpose of satisfying the director residency requirements and the records requirements, respectively, of the ABCA.

12. All of the executive officers of the Filer are resident in the United States.

13. Less than 1% of the Filer's consolidated assets are located in Canada. The only operations of the Filer conducted in Canada are with respect to the Filer's non-operated working interests in two gas wells located in Alberta.

14. Had the Filer been incorporated or organized under the laws of a foreign jurisdiction, it would be an SEC foreign issuer within the meaning of NI 71-102.

Decision

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

The decision of the Decision Makers under the Legislation with respect to the Exemption Sought is that:

(a) the Oil and Gas Relief is granted for so long as:

(i) less than 10% of the number of registered and beneficial holders of Common Shares are residents of Canada;

(ii) less than 10% of the outstanding Common Shares are held, directly or indirectly, by residents of Canada;

(iii) residents of Canada do not comprise more than 10% of the aggregate number of registered and beneficial holders of any new class or series of securities issued by the Filer;

(iv) residents of Canada do not hold, directly or indirectly, more than 10% of the outstanding number of any new class or series of securities issued by the Filer;

(v) the Filer is not a foreign private issuer (as such term is defined under U.S. federal securities law);

(vi) the Filer is subject to and complies with the disclosure requirements of the 1933 Act, the 1934 Act and the rules and regulations of the SEC and the NYSE Amex (collectively, the **US Oil and Gas Rules**) in connection with its oil and gas activities;

(vii) the Filer files with the Decision Makers through SEDAR its disclosure (or documents containing disclosure) about its oil and gas activities prepared in accordance with the US Oil and Gas Rules as soon as practicable after such disclosure (or documents containing such disclosure) is filed pursuant to the US Oil and Gas Rules; and

(viii) the Filer issues in Canada and files with the Decision Makers a news release stating that it will provide disclosure in respect of its oil and gas activities in accordance with the US Oil and Gas Rules rather than in accordance with NI 51-101;

(b) the Continuous Disclosure Relief and the Communication Relief is granted for so long as:

(i) the conditions in paragraphs (a)(i) through (a)(v) of this Decision continue to be satisfied;

(ii) the Filer complies with the conditions of the Corporate Governance Relief; and

(iii) the Filer complies with NI 71-102 as if it were an SEC foreign issuer thereunder;

(c) the Corporate Governance Relief is granted for so long as:

(i) the conditions in paragraphs (a)(i) through (a)(v) of this Decision continue to be satisfied;

(ii) the Filer complies with the conditions of the Continuous Disclosure Relief and the Communication Relief;

(iii) the Filer complies with the disclosure and other requirements of the 1933 Act, the 1934 Act and the rules and regulations of the SEC and the NYSE Amex relating to corporate governance matters (collectively, the **US Corporate Governance Rules**); and

(iv) the Filer files with the Decision Makers through SEDAR any disclosure (or documents containing disclosure), document or instrument pertaining to its corporate governance practices that are required to be disclosed, filed or otherwise made publicly available under the US Corporate Governance Rules, as soon as practicable after such disclosure (or documents containing such disclosure), document or instrument is filed or otherwise made publicly available pursuant to the US Corporate Governance Rules;

(d) the Insider Reporting Relief is granted in respect of each insider for so long as:

(i) the conditions in paragraphs (a)(i) through (a)(v) of this Decision continue to be satisfied; and

(ii) the particular insider complies with section 4.12 of NI 71-102 as if the Filer were an SEC foreign issuer thereunder; and

(e) the Early Warning Relief is granted in respect of each acquiror for so long as:

(i) the conditions in paragraphs (a)(i) through (a)(v) of this Decision continue to be satisfied; and

(ii) the particular acquiror complies with section 4.11 of NI 71-102 as if the Filer were an SEC foreign issuer thereunder.

For the Commission:

“Glenda Campbell, QC”
Vice-Chair

“Stephen Murison”
Vice-Chair

2.1.20 Franco-Nevada LRC Holdings Corp. (formerly Lumina Royalty Corp.)

Headnote

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

Applicable Legislative Provisions

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

December 23, 2011

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

AND

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

AND

IN THE MATTER OF
FRANCO-NEVADA LRC HOLDINGS CORP.
(FORMERLY LUMINA ROYALTY CORP.)
(the Filer)

DECISION

Background

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

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

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

   (b) the decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Interpretation

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

Representations

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

   1. the Filer is a British Columbia corporation incorporated April 8, 2011 under the provisions of the *Business Corporations Act* (British Columbia) (BCBCA), changed its name to Franco-Nevada LRC Holdings Corp. effective December 1, 2011 and is governed by the BCBCA;

2. prior to December 1, 2011, the head office of the Filer was at 410 - 625 Howe Street, Vancouver, British Columbia, V6B 0A4;

3. the Filer is a reporting issuer in the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Prince Edward Island, Newfoundland and Labrador and Yukon and the Northwest Territories;

4. effective December 1, 2011, all of the Filer's outstanding securities have been acquired by Franco-Nevada Corporation by way of a plan of arrangement pursuant to the provisions of the BCBCA; as a result, the outstanding securities of the Filer are owned by fewer than 15 securityholders in each of the jurisdictions in Canada and fewer than 51 securityholders in total;

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

6. the Filer has no current intention to seek public financing by way of offering securities;

7. the Filer is not in default of any of its obligations under the Legislation as a reporting issuer;

8. the Filer did not voluntarily surrender its status as a reporting issuer in British Columbia under British Columbia Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status* because it wanted to avoid the minimum 10 day waiting period under that instrument;

9. the Filer is not eligible to use the simplified procedure under CSA Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer* because it is a reporting issuer in British Columbia; and

10. the Filer, upon granting of the Exemptive Relief Sought, will no longer be a reporting issuer or the equivalent thereof in any jurisdiction in Canada.

Decision

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

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

“Martin Eady”
Director, Corporate Finance
British Columbia Securities Commission

2.1.21 Gryphon Investment Counsel Inc. and Gryphon International Investment Corporation

Headnote

Exemption granted from conflict of interest trading prohibition in paragraph 13.5(2)(b) of NI 31-103 to permit in specie subscriptions and redemptions by separately managed accounts and pooled funds in pooled funds – Portfolio manager of managed accounts is also portfolio manager of pooled funds and is therefore a "responsible person" – Relief subject to certain conditions.

Applicable Legislative Provisions

National Instrument 31-103 Registration Requirements and Exemptions, s. 13.5.

December 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
GRYPHON INVESTMENT COUNSEL INC.
(Gryphon) AND GRYPHON INTERNATIONAL
INVESTMENT CORPORATION (Gryphon International)
(collectively, the Filers)

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**) providing an exemption (the **Requested Relief**) from Paragraph 13.5(2)(b) of National Instrument 31-103 *Registration Requirements and Exemptions* (**NI 31-103**) (the **Trading Prohibition**) that prohibits a registered adviser from knowingly causing an investment portfolio managed by it (including an investment fund for which it acts as an adviser) to purchase or sell the securities of any issuer from or to the investment portfolio of an associate of a responsible person, or any investment fund for which a responsible person acts as an adviser.

(a) to permit the following purchases and redemptions (each purchase and redemption, an **In-Specie Transaction**):

  (i) the purchase by a fully managed account managed by the Filers (each, a **Managed Account**) of securities of the Pooled Funds (defined below) and the redemption of securities held by a Managed Account in the Pooled Funds, and as payment:

    (A) for such purchase, in whole or in part, by the Managed Account making good delivery of portfolio securities to the Pooled Fund; and

    (B) for such redemption, in whole or in part, by the Pooled Fund making good delivery of portfolio securities to the Managed Account;

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

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

(b) 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 all of the provinces and territories of Canada other than Ontario (the Passport Jurisdictions).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 31-103 have the same meanings if used in this decision unless otherwise defined.

Representations

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

1. Each of the Filers is a corporation incorporated under the laws of Canada, with its head office located in Toronto, Ontario.

2. Gryphon is registered as an adviser in the appropriate categories to provide discretionary advisory services, in each case in Ontario, British Columbia, Alberta, Quebec, New Brunswick, Nova Scotia, Price Edward Island and Newfoundland and Labrador. Gryphon may in the future apply for registration as an adviser in the territories if it is requested to promote advice to persons in such territories. Gryphon is also registered as an investment fund manager in Ontario.

3. Gryphon International is registered as an adviser in the appropriate categories to provide discretionary advisory services, in each case in Ontario, British Columbia, Alberta, Quebec, New Brunswick and Nova Scotia. Gryphon International may in the future apply for registration as an adviser in other provinces or the territories if it is requested to promote advice to persons in such provinces or territories. Gryphon International is also registered as an investment fund manager in Ontario.

4. Gryphon currently acts as investment fund manager and portfolio adviser of Gryphon Balanced Fund, Gryphon EAFE Fund, Gryphon Canadian Equity Fund and Gryphon Balanced Trust (collectively, the **Gryphon Funds**). Gryphon International currently acts as investment fund manager and portfolio adviser of Gryphon EuroPac Fund and GIIC Global Fund (collectively, the **Gryphon International Funds**) (the Gryphon Funds and the Gryphon International Funds being, collectively, the **Existing Funds**). In addition, Gryphon International acts as sub-adviser to Gryphon in respect of the Gryphon EAFE Fund and in respect of international securities for clients of Gryphon with segregated accounts. The Existing Funds, together with any other pooled funds established by the Filers in the future are associates of such Filers and for which such Filers are a portfolio adviser from time to time, are collectively referred to hereafter as the **Pooled Funds**.

5. Each of the Pooled Funds is, or will be, an investment fund established as a trust, under the laws of Canada or a jurisdiction of Canada.

6. The Pooled Funds are not, and will not be, reporting issuers in any province or territory of Canada.

7. The Pooled Funds are, or will be, qualified for distribution pursuant to exemptions from the prospectus requirements in the Jurisdiction.

8. The Filer, or an affiliate of the Filer, is, or will be, the manager and/or portfolio manager for each of the Pooled Funds. The Pooled Funds are, and will be, specifically designed by the Filers to meet the needs of clients of the Filers and are, and will be, used exclusively for such clients.

9. The Filers, affiliates of the Filers seeking to rely upon this decision and each of the Funds are not, or will not be, in default of securities legislation in any jurisdiction.

10. Each of the Filers offers discretionary investment management services to clients (**Clients**, each a **Client**) pursuant to investment management agreements between the clients and the Filers. Based on the size of the assets of a client and depending on the allocation of such client's assets to a particular asset class, the Filers either manage such client's assets on a segregated accounts basis (**Separately Managed Accounts**) or on a pooled basis.

11. Pursuant to the investment management agreement with Clients, the Filers have full discretion and authority to provide portfolio management services to clients, including investing clients in Pooled Funds for which the Filers are the portfolio advisers and for changing those funds as the Filers determine in accordance with the mandate of the Clients. To the extent a Filer either currently does not have such discretion or authority or enters into an agreement with a new client, such Filer will obtain the prior specific written consent of the relevant Separately Managed Account client before

such Filer engages in any In Specie Transfer, in connection with the purchase or redemption of units of the Funds for its Separately Managed Accounts.

12. A Filer may determine that in lieu of holding securities in a Separately Managed Account, a client would be better served to be invested in one or more of the Pooled Funds. To the extent a Client holds directly an existing portfolio of securities, the Filer may determine to have such Client subscribe in specie for units of the relevant Pooled Funds. Further, future Clients of a Filer may have an existing portfolio of securities when they retain such Filer such that the Filer may similarly desire to have such Clients subscribe in specie for units of the Pooled Funds, provided these securities are appropriate for the relevant Pooled Fund.

13. In addition, due to portfolio changes for a Client, a Filer may determine, in connection with a redemption, to redeem in specie, certain portfolio securities held by a Pooled Fund, and to reinvest the Client by subscribing in specie for Fund Securities of another Pooled Fund or simply hold the portfolio securities on behalf of such Client in a Separately Managed Account. Alternatively, the Client may determine to change the Client's mandate which may require a redemption in specie of Fund Securities in connection therewith.

14. Effecting such In Specie Transactions will allow the Filers to manage each asset class more effectively and reduce transactions costs for Clients and the Pooled Funds.

15. The only cost which will be incurred by a Separately Managed Account of by a Pooled Fund for an In Specie Transaction is a nominal administrative charge levied by the custodian of such Separately Managed Account or Pooled Fund in recording the trades.

16. Each agreement in respect of a Managed Account or other documentation contains or will contain the authorization of the Client for the relevant Filer to engage in In Specie Transactions on behalf of the Managed Account.

17. The Filer will value portfolio securities under an In Specie Transaction using the same values to be used on that day to calculate the net asset value for the purpose of the issue price or redemption price of Fund Securities.

18. None of the securities which are the subject of In Specie Transfers are or will be securities of related issuers of a Filer

19. Each Pooled Fund will keep written records of the In Specie Transactions, including records of each purchase and sale of portfolio securities and the terms thereof, for a period of five years commencing after the end of the financial year in which the trade occurred, the most recent two years in a reasonably accessible place.

20. Since the Filers are the portfolio managers of the Managed Accounts and the Pooled Funds, the Filers would be considered a "responsible person" within the meaning of NI 31-103.

21. Prior to entering into an In Specie Transaction involving a Pooled Fund and a Managed Account, the proposed transaction will be reviewed to determine that the transaction represents the business judgment of the relevant Filer, uninfluenced by considerations other than the best interests of the Pooled Fund and the Managed Account.

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) in connection with an In Specie Transaction where a Managed Account acquires Fund Securities:

(i) the relevant Filer obtains the prior written consent of the Client of the Managed Account before it engages in any In Specie Transaction;

(ii) the Pooled Fund would, at the time of payment, be permitted to purchase the securities;

(iii) the securities are acceptable to the relevant Filer as portfolio manager of the Pooled Fund and consistent with the Pooled Fund's investment objective;

(iv) the value of the securities is at least equal to the issue price of the Fund Securities of the Pooled Fund for which they are used as payment, valued as if the securities were portfolio assets of that Pooled Fund;

(v) the account statement next prepared for the Managed Account describes the securities delivered to the Pooled Fund and the value assigned to such securities; and

(vi) the Pooled Fund will keep written records of each In Specie Transaction in a financial year of the Pooled Fund, reflecting details of the securities delivered to the Pooled Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;

(b) in connection with an In Specie Transaction where a Managed Account redeems Fund Securities:

(i) the relevant Filer obtains the prior written consent of the Client of the Managed Account before it engages in an In Specie Transaction and such consent has not been revoked;

(ii) the securities are acceptable to the relevant Filer as portfolio manager of the Managed Account and consistent with the Managed Account's investment objective;

(iii) the value of the securities is equal to the amount at which those securities were valued in calculating the net asset value per Fund Security used to establish the redemption price;

(iv) the account statement next prepared for the Managed Account describes the securities delivered to the Managed Account and the value assigned to such securities; and

(v) the Pooled Fund will keep written records of each In Specie Transaction in a financial year of the Pooled Fund, reflecting details of the securities delivered by the Pooled Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;

(c) each of the Filers does not receive any compensation in respect of any In Specie Transaction and, in respect of any delivery of securities further to an In Specie Transaction, the only charges paid by the Managed Account or the applicable Pooled Fund is any administrative charges levied by the custodian.

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

2.2 Orders

2.2.1 Bruce Carlos Mitchell – s. 127

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

AND

IN THE MATTER OF
BRUCE CARLOS MITCHELL

ORDER
(Section 127)

WHEREAS on November 22, 2011, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended accompanied by a Statement of Allegations dated November 22, 2011 filed by Staff of the Commission ("Staff") with respect to Bruce Carlos Mitchell ("Mitchell" or the "Respondent");

AND WHEREAS the Notice of Hearing set a hearing in this matter for December 19, 2011 at 10:00 a.m.;

AND WHEREAS a hearing was held on December 19, 2011, at which counsel for Staff and counsel for Mitchell made submissions;

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 January 31, 2012 at 3:00 p.m.

DATED this 19th day of December, 2011.

"Mary G. Condon"

2.2.2 Systematech Solutions Inc. et al. – ss. 127(1), 127(5)

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

AND

SYSTEMATECH SOLUTIONS INC.,
APRIL VUONG AND HAO QUACH

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

WHEREAS on December 15, 2011, the Ontario Securities Commission (the "Commission") issued a temporary cease trade order (the "Temporary Order") pursuant to subsections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") with respect to Systematech Solutions Inc. ("Systematech"), April Vuong ("Vuong"), and Hao Quach ("Quach"), ordering that:

1. Pursuant to clause 2 of subsection 127(1) of the Act that all trading in securities by Systematech, Vuong and Quach shall cease; and,

2. Pursuant to clause 2 of subsection 127(1) of the Act that all trading in securities of Systematech shall cease;

AND WHEREAS the investigation by Staff of the Commission ("Staff") into alleged violations of the Act by Systematech, Vuong, and Quach is ongoing;

AND WHEREAS counsel for Systematech, Vuong, and Quach has advised the Commission that Systematech, Vuong, and Quach consent to the extension of the Temporary Order until January 31, 2012;

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

AND WHEREAS by Commission order made July 14, 2011 pursuant to section 3.5(3) of the Act, any one of Howard I. Wetston, James E. A. Turner, Kevin J. Kelly, James D. Carnwath, Mary G. Condon, Paulette L. Kennedy, Vern Krishna, Christopher Portner and Edward P. Kerwin, acting alone, is authorized to make orders under section 127 of the Act;

IT IS ORDERED pursuant to subsection 127(7) of the Act that the Temporary Order is extended until January 31, 2012;

IT IS FURTHER ORDERED that the hearing to consider the extension of the Temporary Order is adjourned to January 30, 2012 at 1:30 pm. or to such other date or time as set by the Office of the Secretary and agreed to by the parties.

DATED at Toronto this 22nd day of December, 2011.

"James E. A. Turner"

2.2.3 Medifocus Inc. – s. 144

Headnote

Application by an issuer for a revocation of a cease trade order - cease trade order issued because the issuer had failed to file certain continuous disclosure materials required by Ontario securities law - defaults subsequently remedied by bringing continuous disclosure filings up-to-date - cease trade order revoked.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.

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

AND

IN THE MATTER OF
MEDIFOCUS INC.
(the Reporting Issuer)

ORDER
(Section 144)

Background

On August 4, 2011, the Director made an order under paragraph 2 of subsection 127(1) and subsection 127(5) of the Act (the Temporary Cease Trade Order) that all trading in the securities of the Reporting Issuer cease for a period of fifteen days from the date of the Temporary Cease Trade Order.

On August 16, 2011, the Director made a further order under paragraph 2 of subsection 127(1) of the Act (the Cease Trade Order) that all trading in the securities of the Reporting Issuer, whether direct or indirect, shall cease until further order by the Director.

The Temporary Cease Trade Order and the Cease Trade Order were made because the Reporting Issuer was in default of certain filing requirements under Ontario securities law as described in each such order.

The Reporting Issuer has applied to the Ontario Securities Commission under section 144 of the Act for a revocation of the Cease Trade Order.

Representations

This order is based on the following facts represented by the Reporting Issuer:

1. The Reporting Issuer is a reporting issuer under the securities legislation of each of the provinces of Ontario, Alberta, and British Columbia.

2. On June 28, 2011, the Reporting Issuer announced a proposed arm's length non-brokered private placement of its securities (the Private Placement). Subsequently, the Reporting Issuer failed to file its annual financial statements and related annual filings when due on July 29, 2011. As a result, the Temporary Cease Trade Order was issued on August 4, 2011.

3. Notwithstanding the Temporary Cease Trade Order, on August 11, 2011 the Reporting Issuer completed the previously announced Private Placement through the distribution of 1,000,000 common shares (the Common Shares) for aggregate proceeds of $300,000. The Private Placement of Shares was made to a single, arm's length subscriber (the Subscriber).

4. The Reporting Issuer contravened the Temporary Cease Trade Order by completing the Private Placement on August 11, 2011.

5. The Subscriber was aware that the Reporting Issuer's securities were subject to the Temporary Cease Trade order at the time the Private Placement was completed. The Subscriber has not traded the Shares it purchased under the Private Placement.

6. Except as described in paragraphs 3 and 4 above, the Reporting Issuer is not in default of any requirements of the Temporary Cease Trade Order, the Cease Trade Order, the Act or the rules and regulations made pursuant to the Act.

7. The Reporting Issuer has filed all outstanding continuous disclosure documents that are required to be filed under Ontario securities law.

8. The Reporting Issuer has paid all outstanding activity, participation and late filing fees that are required to be paid.

9. The Reporting Issuer's SEDAR profile and SEDI issuer profile supplement are current and accurate.

10. Upon issuance of this revocation order, the Reporting Issuer will issue a news release announcing the revocation of the Cease Trade Order. The Reporting Issuer will concurrently file the news release and a material change report regarding the revocation of the Cease Trade Order on SEDAR.

11. The Reporting Issuer is also subject to a similar cease trade order issued by the British Columbia Securities Commission (BCSC) as a result of the failure to make the filings described in the Temporary Cease Trade Order and Cease Trade Order. The Reporting Issuer has applied to the BCSC to have the cease trade order issued by the BCSC revoked.

Order

The Director is of the opinion that it would not be prejudicial to the public interest to revoke the Cease Trade Order.

It is ordered under section 144 of the Act that the Cease Trade Order is revoked.

Dated: December 21, 2011.

"Jo-Anne Matear"
Manager, Corporate Finance

2.2.4 Transcend Global Pte. Ltd. – s. 80 of the CFA

Headnote

Section 80 of the *Commodity Futures Act* (Ontario) – Foreign adviser exempted from the adviser registration requirement in section 22(1)(b) of the CFA where such adviser acts as an adviser in respect of commodity futures contracts or commodity futures options (commodities) for certain individual and institutional investors in Ontario who meet the definition of "permitted client" in NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* – Commodities are primarily traded on commodity futures exchanges outside of Canada and primarily cleared outside of Canada.

Terms and conditions on exemption correspond to the relevant terms and conditions on the comparable exemption from the adviser registration requirement available to international advisers in respect of securities set out in section 8.26 of NI 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* – Exemption also subject to a "sunset clause" condition.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am.
Commodity Futures Act, R.S.O. 1990, c. C.20. as am., ss. 1(1), 22(1)(b), 80

Instruments Cited

National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, ss. 1.1, 8.26

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

AND

IN THE MATTER OF
TRANSCEND GLOBAL PTE. LTD.

ORDER
(Section 80 of the CFA)

UPON the application (the **Application**) of Transcend Global Pte. Ltd. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) pursuant to section 80 of the CFA that the Applicant and any individuals engaging in, or holding themselves out as engaging in, the business of advising others on the Applicant's behalf (the **Representatives**) be exempt, for a period of five years, from the adviser registration requirement in paragraph 22(1)(b) of the CFA, subject to certain terms and conditions;

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

AND WHEREAS for the purposes of this Order:

"CFA Adviser Registration Requirement" means the requirement in the CFA that prohibits a person or company from acting as an adviser unless the person or company is registered in the appropriate category of registration under the CFA;

"Contract" has the meaning ascribed to that term in subsection 1(1) of the CFA;

"Foreign Contract" means a Contract that is primarily traded on one or more organized exchanges that are located outside of Canada and primarily cleared through one or more clearing corporations that are located outside of Canada;

"International Adviser Exemption" means the exemption set out in section 8.26 of NI 31-103 from the OSA Adviser Registration Requirement;

"NI 31-103" means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, as amended;

"OSA" means the *Securities Act*, R.S.O. 1990, c, S.5, as amended;

"OSA Adviser Registration Requirement" means the requirement in the OSA that prohibits a person or company from acting as an adviser unless the person or company is registered in the appropriate category of registration under the OSA;

"Permitted Client" means a client in Ontario that is a "permitted client" as that term is defined in section 1.1 of NI 31-103, except that it excludes a person or company registered under the securities or commodities legislation of a jurisdiction of Canada as an adviser or dealer;

"Qualified Investor" has the meaning ascribed to that term in paragraph 5(3) to the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations (RG10) in Singapore; and

"Singapore MAS" means the Monetary Authority of Singapore, the central bank and financial regulatory authority in Singapore.

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a corporation incorporated under the laws of the Republic of Singapore. The head office of the Applicant is located in Singapore.

2. The Applicant is currently listed with the Singapore MAS as an "Exempt Fund Manager", pursuant to which it is exempt from holding a Capital Markets Services License to carry on business in "fund management", which encompasses the management of a portfolio of securities or futures contracts (including futures options transactions) or foreign exchange trading or leveraged foreign exchange trading, to not more than 30 "Qualified Investors" worldwide under Paragraph 5(1)(d) of the Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations 2002 (RG 10) (Singapore).

3. The Applicant is not registered in any capacity under the CFA or the OSA.

4. In Ontario, individuals and institutional investors that are Permitted Clients seek to engage the Applicant as a discretionary portfolio manager for purposes of implementing certain specialized investment strategies.

5. The Applicant seeks to act as a discretionary portfolio manager on behalf of prospective individual and institutional investors that are Permitted Clients. The proposed advisory services would include the use of specialized investment strategies employing Foreign Contracts.

6. Were the proposed advisory services limited to securities, the Applicant could rely on the International Adviser Exemption and carry out such activities on behalf of Permitted Clients on a basis that would be exempt from the OSA Adviser Registration Requirement.

7. There is currently no exemption from the CFA Adviser Registration Requirement that is equivalent to the International Adviser Exemption. Consequently, in order to advise Permitted Clients in Ontario as to trading in Foreign Contracts, the Applicant would be required to satisfy the CFA Adviser Registration Requirement and would have to apply for registration in Ontario as an adviser under the CFA in the category of commodity trading manager.

8. The Applicant submits that it would not be prejudicial to the public interest for the Commission to grant the requested relief because:

   (a) the Applicant will only advise Permitted Clients as to trading in Foreign Contracts and will not advise the Permitted Clients as to trading in Contracts that are not Foreign Contracts, unless providing such advice is incidental to its providing advice on Foreign Contracts;

   (b) Permitted Clients seek to access certain specialized portfolio management services provided by the Applicant, particularly with respect to Foreign Contracts;

   (c) the Applicant meets the prescribed conditions to rely on the International Adviser Exemption in connection with the provision of advice to Permitted Clients with respect to foreign securities; and

   (d) the Applicant would provide advice to Permitted Clients as to trading in Foreign Contracts on terms and conditions that are analogous to the prescribed terms and conditions of the International Adviser Exemption.

AND UPON being satisfied that it would not be prejudicial to the public interest for the Commission to grant the exemption requested on the basis of the terms and conditions proposed;

IT IS ORDERED pursuant to section 80 of the CFA that the Applicant and its Representatives are exempt, for a period of five years, from the adviser registration requirement in paragraph 22(1)(b) of the CFA in respect of providing advice to Permitted Clients as to trading in Foreign Contracts, provided that:

1. the Applicant provides advice to Permitted Clients only as to trading in Foreign Contracts and does not advise those Permitted Clients as to trading in Contracts that are not Foreign Contracts, unless providing such advice is incidental to its providing advice on Foreign Contracts;

2. the Applicant's head office or principal place of business remains in the Republic of Singapore;

3. the Applicant is registered, or operates under an exemption from registration, under the applicable securities or commodity futures legislation in the Republic of Singapore that permits it to carry on the activities in Singapore that registration as an adviser under the CFA Adviser Registration Requirement would permit it to carry on in Ontario in respect of up to 30 clients worldwide;

4. the Applicant continues to comply with the prescribed conditions of the International Adviser Exemption with respect to securities-related advice and with equivalent conditions with respect to foreign commodities-related advice;

5. the Applicant continues to engage in the business of an adviser, as defined in the CFA, in the Republic of Singapore;

6. as at the end of the Applicant's most recently completed financial year, not more than 10% of the aggregate consolidated gross revenue of the Applicant, its affiliates and its affiliated partnerships is derived from the portfolio management activities (which, for greater certainty, includes both securities-related and commodity futures-related activities) of the Applicant, its affiliates and its affiliated partnerships in Canada;

7. before advising a Canadian Permitted Client with respect to Foreign Contracts, the Applicant notifies the Canadian Permitted Client of all of the following:

   (i) the Applicant is not registered in the local jurisdiction to provide the advice described under paragraph 1 of this Order;

   (ii) the foreign jurisdiction in which the Applicant's head office or principal place of business is located;

   (iii) all or substantially all of the Applicant's assets may be situated outside of Canada;

   (iv) there may be difficulty enforcing legal rights against the Applicant because of the above; and

   (v) the name and address of the Applicant's agent for service of process in Ontario;

8. the Applicant has submitted to the Commission a completed Submission to jurisdiction and appointment of agent for service in the form attached as Appendix "A";

9. the Applicant notifies the Commission of any regulatory action initiated with respect to the Applicant by completing and filing Appendix "B" within 10 days of the commencement of such action; and

10. by December 1 of each year, the Applicant notifies the Commission if it is relying on the exemption from registration granted pursuant to this order.

Dated this 20 of December, 2011.

"Sarah B. Kavanagh"
Commissioner
Ontario Securities Commission

"Christopher Portner"
Commissioner
Ontario Securities Commission

APPENDIX A

SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE INTERNATIONAL DEALER OR INTERNATIONAL ADVISER EXEMPTED FROM REGISTRATION UNDER THE *COMMODITY FUTURES ACT, ONTARIO*

1. Name of person or company ("International Firm"):

2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:

3. Jurisdiction of incorporation of the International Firm:

4. Head office address of the International Firm:

5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.

   Name:

   E-mail address:

   Phone:

   Fax:

6. The International Firm is relying on an exemption order under section 38 or section 80 of the *Commodity Futures Act* (Ontario) that is similar to the following exemption in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "Relief Order"):

   ☐ Section 8.18 [*international dealer*]

   ☐ Section 8.26 [*international adviser*]

   ☐ Other [specify]:

7. Name of agent for service of process (the "Agent for Service"):

8. Address for service of process on the Agent for Service:

9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "Proceeding") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defense in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.

10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.

11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator

    a. a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated; and

    b. an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service.

12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Dated: _____

_____
(Signature of the International Firm or authorized signatory)

_____
(Name of signatory)

_____
(Title of signatory)

Acceptance

The undersigned accepts the appointment as Agent for Service of _____ [*Insert name of International Firm*] under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: _____

_____
(Signature of the Agent for Service or authorized signatory)

_____
(Name of signatory)

_____
(Title of signatory)

APPENDIX B

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

Yes _____ No _____

If yes, provide the following information for each settlement agreement:

Name of entity
Regulator/organization
Date of settlement (yyyy/mm/dd)
Details of settlement
Jurisdiction

2. Has any financial services regulator ,securities or derivatives exchange, SRO or similar organization:

	Yes	No
(a) Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?		
(b) Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?		
(c) Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?		
(d) Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?		
(e) Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?		
(f) Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?		
(g) Issued an order (other than en exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?		

If yes, provide the following information for each action:

Name of Entity	
Type of Action	
Regulator/organization	
Date of action (yyyy/mm/dd)	Reason for action
Jurisdiction	

3. Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliate is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

Name of entity
Reason or purpose of investigation
Regulator/organization
Date investigation commenced (yyyy/mm/dd)
Jurisdiction

Name of firm
Name of firm's authorized signing officer or partner
Title of firm's authorized signing officer or partner
Signature
Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

Name of witness
Title of witness
Signature
Date (yyyy/mm/dd)

2.2.5 Canadian National Railway Company – s. 104(2(c)

Headnote

Clause 104(2)(c) – Issuer bid – relief from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act – issuer proposes to purchase, at a discounted purchase price, up to 5,650,000 of its shares from one of its shareholders and/or such shareholder's affiliates – due to discounted purchase price, proposed purchases cannot be made through TSX trading system – but for the fact that the proposed purchases cannot be made through the TSX trading system, the issuer could otherwise acquire the subject shares in reliance upon the issuer bid exemption available under section 101.2 of the Securities Act and in accordance with the TSX rules governing normal course issuer bid purchases – no adverse economic impact on or prejudice to issuer or public shareholders – proposed purchases exempt from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act, subject to conditions, including that the issuer not purchase more than one-third of the maximum number of shares to be purchased under its normal course issuer bid by way of off-exchange block purchases.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 94 to 94.8, 97 to 98.7, 104(2)(c).

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

AND

IN THE MATTER OF
CANADIAN NATIONAL RAILWAY COMPANY

ORDER
(Clause 104(2)(c))

UPON the application (the "**Application**") of Canadian National Railway Company (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements of sections 94 to 94.8 and 97 to 98.7 of the Act (the "**Issuer Bid Requirements**") in respect of the proposed purchases by the Issuer of up to 5,650,000 (collectively, the "**Subject Shares**") of its common shares (the "**Common Shares**") in one or more trades from Royal Bank of Canada (the "**Selling Shareholder**");

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

AND UPON the Issuer (and the Selling Shareholder in respect of paragraphs 5, 6, 7, 8, 10, 21, and 22 as they relate to the Selling Shareholder) having represented to the Commission that:

1. The Issuer is a corporation governed by the *Canada Business Corporations Act*.

2. The head office and registered office of the Issuer are at 935 de La Gauchetière Street West, Montréal, Quebec H3B 2M9.

3. The Issuer is a reporting issuer in each of the provinces and territories of Canada and the Common Shares of the Issuer are listed for trading on the Toronto Stock Exchange ("**TSX**") and the New York Stock Exchange under the symbol "CNR" and "CNI", respectively. The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.

4. The authorized common share capital of the Issuer consists of an unlimited number of Common Shares, of which approximately 444,822,777 were issued and outstanding as of October 14, 2011.

5. The corporate headquarters of the Selling Shareholder are located in the Province of Ontario.

6. The Selling Shareholder has advised the Issuer that it does not directly or indirectly own more than 5% of the issued and outstanding Common Shares.

7. The Selling Shareholder has advised the Issuer that it is the beneficial owner of at least 5,650,000 Common Shares and that the Subject Shares were not acquired in anticipation of resale pursuant to private agreements under an issuer bid exemption order issued by a securities regulatory authority ("**Off-Exchange Block Purchases**").

8. The Selling Shareholder is at arm's length to the Issuer and is not an "insider" of the Issuer or "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the Act. The Selling Shareholder is an "accredited investor" within the meaning of National Instrument 45-106 *Prospectus and Registration Exemptions*.

9. Pursuant to a Notice of Intention to Make a Normal Course Issuer Bid dated October 25, 2011 (the "**Notice**") filed with the TSX, the Issuer announced on October 25, 2011 a normal course issuer bid (its "**Normal Course Issuer Bid**") for up to 17,000,000 Common Shares. The Normal Course Issuer Bid will be conducted through the facilities of the TSX and the New York Stock Exchange or alternative trading systems, if eligible, or by such other means as may be permitted by the TSX or a securities regulatory authority in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the "**TSX NCIB Rules**").

10. The Issuer and the Selling Shareholder intend to enter into one or more agreements of purchase and sale (each, an "**Agreement**") pursuant to which the Issuer will agree to acquire the Subject Shares from the Selling Shareholder by one or more purchases each occurring before the end of March, 2012 (each such purchase, a "**Proposed Purchase**") for a purchase price (the "**Purchase Price**") negotiated at arm's length between the Issuer and the Selling Shareholder. The Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Issuer's Common Shares at the time of each Proposed Purchase.

11. The Subject Shares acquired under each Proposed Purchase will constitute a "block" as that term is defined in section 628 of the TSX NCIB Rules.

12. The purchase of the Subject Shares by the Issuer pursuant to each Agreement will constitute an "issuer bid" for purposes of the Act, to which the applicable Issuer Bid Requirements would apply.

13. Because the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Issuer's Common Shares at the time of each Proposed Purchase, each Proposed Purchase cannot be made through the TSX trading system and, therefore, will not occur "through the facilities" of the TSX. As a result, the Issuer will be unable to acquire the Subject Shares from the Selling Shareholder in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to section 101.2(1) of the Act.

14. But for the fact that the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Issuer's Common Shares at the time of each Proposed Purchase, the Issuer could otherwise acquire the Subject Shares as a "block purchase" (a "**Block Purchase**") in accordance with the block purchase exception in section 629(l)7 of the TSX NCIB Rules and the exemption from the Issuer Bid Requirements that is available pursuant to section 101.2(1) of the Act.

15. The Notice filed with the TSX by the Issuer contemplates that purchases under the bid may be made by such other means as may be permitted by the TSX, including by private agreements pursuant to an issuer bid exemption order issued by a securities regulatory authority.

16. For each Proposed Purchase, the Issuer will be able to acquire the Subject Shares from the Selling Shareholder without the Issuer being subject to the dealer registration requirements of the Act.

17. Management is of the view that the Issuer will be able to purchase the Subject Shares at a lower price than the price at which it would be able to purchase the Shares under the bid through the facilities of the TSX and management is of the view that this is an appropriate use of the Issuer's funds.

18. The purchase of the Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer's securityholders and it will not materially affect the control of the Issuer. The Proposed Purchases will be carried out with a minimum of cost to the Issuer.

19. To the best of the Issuer's knowledge, as of the date of this application, the "public float" for the Common Shares represented more than 89% of all issued and outstanding Common Shares for purposes of the TSX NCIB Rules.

20. The market for the Common Shares is a "liquid market" within the meaning of section 1.2 of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions*.

21. Other than the Purchase Price, no additional fee or other consideration will be paid in connection with the Proposed Purchases.

22. At the time that each Agreement is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer, nor the Selling Shareholder will be aware of any "material change" or "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed.

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

IT IS ORDERED pursuant to clause 104(2)(c) of the Act that the Issuer be exempt from the Issuer Bid Requirements in connection with each Proposed Purchase, provided that:

(a) the Proposed Purchases will be taken into account by the Issuer when calculating the maximum annual aggregate limit that is imposed upon the Issuer's Normal Course Issuer Bid in accordance with the TSX NCIB Rules;

(b) the Issuer will refrain from conducting a Block Purchase in accordance with the TSX NCIB Rules during the calendar week that it completes each Proposed Purchase and may not make any further purchases under its Normal Course Issuer Bid for the remainder of the calendar day on which it completes each Proposed Purchase;

(c) the Purchase Price will not be higher than the last "independent trade" (as that term is used in paragraph 629(l)1 of the TSX NCIB Rules) of a board lot of Common Shares immediately prior to the execution of each Proposed Purchase;

(d) the Issuer will otherwise acquire any additional Common Shares pursuant to its Normal Course Issuer Bid in accordance with the TSX NCIB Rules, including by means of open market transactions and by other means as may be permitted by the TSX, including private agreements under an issuer bid exemption issued by a securities regulatory authority;

(e) immediately following each Proposed Purchase of the Subject Shares from the Selling Shareholder, the Issuer will report the purchase of the Subject Shares to the TSX;

(f) At the time that each Agreement is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer, nor the Selling Shareholder will be aware of any "material change" or "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed;

(g) the Issuer will issue a press release in advance of the Proposed Purchases; and

(h) the Issuer does not purchase, pursuant to Off-Exchange Block Purchases, more than one-third of the maximum number of Shares the Issuer can purchase under its Normal Course Issuer Bid.

Dated this 1st day of November, 2011.

“Vern Krishna”
Commissioner

“Christopher Portner”
Commissioner

2.2.6 BCE Inc. – s. 104(2)(c)

Headnote

Clause 104(2)(c) – Issuer bid – relief from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act – Issuer proposes to purchase, at a discounted purchase price, up to 2,100,000 of its common shares from one of its shareholders and/or such shareholder's affiliates – due to discounted purchase price, proposed purchases cannot be made through TSX trading system – but for the fact that the proposed purchases cannot be made through the TSX trading system, the Issuer could otherwise acquire the subject shares in reliance upon the issuer bid exemption available under section 101.2 of the Securities Act and in accordance with the TSX rules governing normal course issuer bid purchases – no adverse economic impact on or prejudice to issuer or public shareholders – proposed purchases exempt from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act, subject to conditions, including that the issuer not purchase more than one-third of the maximum number of shares to be purchased under its normal course issuer bid by way of off-exchange block purchases.

Statutes Cited

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

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

AND

IN THE MATTER OF
BCE INC.

ORDER
(Clause 104(2)(c))

UPON the application (the "**Application**") of BCE Inc. (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements of sections 94 to 94.8 and 97 to 98.7 of the Act (the "**Issuer Bid Requirements**") in respect of the proposed purchases by the Issuer of up to 2,100,000 (collectively, the "**Subject Shares**") of its common shares (the "**Common Shares**") in one or more trades from Royal Bank of Canada and/or its affiliates (collectively, the "**Selling Shareholder**");

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

AND UPON the Issuer (and the Selling Shareholder in respect of paragraphs 5, 6, 7, 8, 11, 22 and 23 as they relate to the Selling Shareholder) having represented to the Commission that:

1. The Issuer is a corporation governed by the *Canada Business Corporations Act*.

2. The head office and registered office of the Issuer are located at 1 Carrefour Alexander-Graham-Bell, Building A, 8th Floor, Verdun, Québec H3E 3B3.

3. The Issuer is a reporting issuer in each of the provinces of Canada (the "**Jurisdictions**") and the Common Shares of the Issuer are listed for trading on the Toronto Stock Exchange ("**TSX**") and the New York Stock Exchange ("**NYSE**") under the symbol "BCE". The Issuer is not in default of any requirement of the securities legislation in the Jurisdictions.

4. The authorized common share capital of the Issuer consists of an unlimited number of Common Shares, of which approximately 778,943,093 were issued and outstanding as of December 2, 2011.

5. The corporate headquarters of the Selling Shareholder are located in the Province of Ontario.

6. The Selling Shareholder has advised the Issuer that it does not directly or indirectly own more than 5% of the issued and outstanding Common Shares.

7. The Selling Shareholder has advised the Issuer that it is the beneficial owner of at least 2,100,000 Common Shares and that the Subject Shares were not acquired in anticipation of resale pursuant to private agreements under an issuer bid exemption order issued by a securities regulatory authority ("**Off-Exchange Block Purchases**").

8. The Selling Shareholder is at arm's length to the Issuer and is not an "insider" of the Issuer or "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the Act. The Selling Shareholder is an "accredited investor" within the meaning of National Instrument 45-106 *Prospectus and Registration Exemptions*.

9. Pursuant to a Notice of Intention to Make a Normal Course Issuer Bid dated December 8, 2011 (the "**Notice**") filed with the TSX, the Issuer announced on December 8, 2011 a normal course issuer bid (its "**Normal Course Issuer Bid**") for up to 6,500,000 Common Shares (subject to a maximum aggregate purchase price of $250 million) in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the "**TSX NCIB Rules**").

10. In accordance with the Notice, the Normal Course Issuer Bid will be conducted through the facilities of the TSX and purchases may also be made on the NYSE or alternative trading systems, if eligible, or by such other means as may be permitted by the TSX and/or the NYSE, including pre-arranged crosses, exempt offers, private agreements under an issuer bid exemption order issued by a securities regulatory authority and/or block purchases in accordance with section 629(l)7 of the TSX NCIB Rules.

11. The Issuer and the Selling Shareholder intend to enter into one or more agreements of purchase and sale (each, an "**Agreement**") pursuant to which the Issuer will agree to acquire the Subject Shares from the Selling Shareholder by one or more purchases each occurring prior to March 31, 2012 (each such purchase, a "**Proposed Purchase**") for purchase prices (each, a "**Purchase Price**") that will be negotiated at arm's length between the Issuer and the Selling Shareholder. The Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Issuer's Common Shares at the time of each Proposed Purchase.

12. The Subject Shares acquired under each Proposed Purchase will constitute a "block" as that term is defined in section 628 of the TSX NCIB Rules.

13. The purchase of the Subject Shares by the Issuer pursuant to each Agreement will constitute an "issuer bid" for purposes of the Act, to which the applicable Issuer Bid Requirements would apply.

14. Because the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Issuer's Common Shares at the time of each Proposed Purchase, each Proposed Purchase cannot be made through the TSX trading system and, therefore, will not occur "through the facilities" of the TSX. As a result, the Issuer will be unable to acquire the Subject Shares from the Selling Shareholder in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to section 101.2(1) of the Act.

15. But for the fact that the Purchase Price will be at a discount to the prevailing market price and below the bid-ask price for the Issuer's Common Shares at the time of each Proposed Purchase, the Issuer could otherwise acquire the Subject Shares as a "block purchase" (a "**Block Purchase**") in accordance with the block purchase exception in section 629(l)7 of the TSX NCIB Rules and the exemption from the Issuer Bid Requirements that is available pursuant to section 101.2(1) of the Act.

16. The sale of any of the Subject Shares to the Issuer will not be a "distribution" (as defined in the Act).

17. For each Proposed Purchase, the Issuer will be able to acquire the Subject Shares from the Selling Shareholder without the Issuer being subject to the dealer registration requirements of the Act.

18. Management of the Issuer is of the view that the Issuer will be able to purchase the Subject Shares at a lower price than the price at which it would be able to purchase the Subject Shares under the Normal Course Issuer Bid, through the facilities of the TSX, and management is of the view that this is an appropriate use of funds to increase shareholder value, including offsetting share dilution from the exercise of stock options.

19. The purchase of the Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer's securityholders and it will not materially affect the control of the Issuer. To the knowledge of the Issuer, the Proposed Purchases will not prejudice the ability of other securityholders of the Issuer to otherwise sell Common Shares in the open market at the prevailing market price. The Proposed Purchases will be carried out with a minimum of cost to the Issuer.

20. To the best of the Issuer's knowledge, as of the date of the Application, the "public float" for the Common Shares represented more than 99% of all issued and outstanding Common Shares for purposes of the TSX NCIB Rules.

21. The market for the Common Shares is a "liquid market" within the meaning of section 1.2 of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions*.

22. Other than the Purchase Price, no additional fee or other consideration will be paid in connection with the Proposed Purchases.

23. At the time that the Agreement is entered into by the Issuer and the Selling Shareholder, neither the Issuer, nor the Selling Shareholder will be aware of any "material change" or "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed.

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

(a) I**T IS ORDERED** pursuant to clause 104(2)(c) of the Act that the Issuer be exempt from the Issuer Bid Requirements in connection will be taken into account by the Issuer when calculating the maximum annual aggregate limit that is imposed upon the Issuer's Normal Course Issuer Bid in accordance with the TSX NCIB Rules;

(b) the Issuer will refrain from conducting a Block Purchase in accordance with the TSX NCIB Rules during the calendar week that it completes each Proposed Purchase and may not make any further purchases under its Normal Course Issuer Bid for the remainder of the calendar day on which it completes each Proposed Purchase;

(c) the Purchase Price will not be higher than the last "independent trade" (as that term is used in paragraph 629(l)1 of the TSX NCIB Rules) of a board lot of Common Shares immediately prior to the execution of each Proposed Purchase;

(d) the Issuer will otherwise acquire any additional Common Shares pursuant to its Normal Course Issuer Bid in accordance with the Notice and TSX NCIB Rules, as applicable;

(e) immediately following each Proposed Purchase of the Subject Shares from the Selling Shareholder, the Issuer will report the purchase of the Subject Shares to the TSX;

(f) at the time that the Agreement is entered into by the Issuer and the Selling Shareholder, neither the Issuer, nor the Selling Shareholder will be aware of any "material change" or "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed;

(g) the Issuer will issue a press release in connection with the Proposed Purchases; and

(h) the Issuer does not purchase, pursuant to Off-Exchange Block Purchases, more than one-third of the maximum number of Common Shares that the Issuer can purchase under its Normal Course Issuer Bid.

Dated this 16th day of December, 2011.

“Christopher Portner”
Commissioner

“Sarah B. Kavanagh”
Commissioner

2.2.7 American Heritage Stock Transfer Inc. et al. – s. 127(8)

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

AND

IN THE MATTER OF
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

TEMPORARY ORDER
Section 127(8)

WHEREAS on April 1, 2011, the Ontario Securities Commission (the "Commission") issued an order pursuant to sections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") (the "Temporary Order") that immediately and for a period of 15 days from the date thereof:

a. trading in the securities of BFM Industries Inc. ("BFM") shall cease;

b. all trading by and in the securities of American Heritage Stock Transfer, Inc. ("AHST Nevada") shall cease;

c. all trading by and in the securities of American Heritage Stock Transfer Inc. ("AHST Ontario") shall cease;

d. all trading by and in the securities of Denver Gardner Inc. ("Denver Gardner") shall cease;

e. all trading by Sandy Winick ("Winick") shall cease;

f. all trading by Andrea Lee McCarthy ("McCarthy") shall cease;

g. all trading by Kolt Curry ("Curry") shall cease; and

h. all trading by Laura Mateyak ("Mateyak") shall cease;

AND WHEREAS the Temporary Order also provided that any exemptions contained in Ontario securities law do not apply to any of the Respondents;

AND WHEREAS on April 4, 2011, the Commission issued a Notice of Hearing (the "Notice of Hearing") to consider the extension of the Temporary Order, to be held on April 14, 2011, at 10:00 a.m.;

AND WHEREAS on April 14, 2011, the Temporary Order was extended until April 28, 2011;

AND WHEREAS on April 27, 2011, the Temporary Order was extended until September 9, 2011;

AND WHEREAS on September 8, 2011, the Temporary Order was extended until November 24, 2011;

AND WHEREAS on November 23, 2011, the Temporary Order was extended until December 22, 2011;

AND WHEREAS on December 20, 2011, Staff of the Commission ("Staff") filed the Affidavit of Daniella Kozovski;

AND WHEREAS on December 21, 2011, a hearing was held before the Commission and Staff and counsel for McCarthy appeared;

AND WHEREAS BFM did not appear, although properly served with the Notice of Hearing;

AND WHEREAS Denver Gardner and Winick did not appear and Staff advised it had been unable to serve Denver Gardner and Winick with the Notice of the Hearing;

AND WHEREAS counsel for McCarthy indicated her consent to the continuation of the Temporary Order;

AND WHEREAS Staff advised the Commission that counsel for the respondents Curry, Mateyak and AHST Ontario took no position on the continuation of the Temporary Order;

AND WHEREAS Staff advised the Commission that the Respondent Curry took no position on the continuation of the Temporary Order as against AHST Nevada, of which he is a director;

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

IT IS HEREBY ORDERED that:

(1) The Temporary Order is extended until January 27, 2012, or until further order of the Commission; and

(2) This matter shall return before the Commission on January 26, 2012, at 10:00 a.m. or on such other date or time as specified by the Secretary's Office and agreed to by the parties.

DATED at Toronto this 21st day of December, 2011.

"Christopher Portner"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 York Rio Resources Inc. et al. – s. 127 of the Act and Rule 3 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
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

REASONS FOR DECISION ON A MOTION
(Section 127 of the Securities Act,
Rule 3 of the Ontario Securities Commission Rules of Procedure)

Hearing:	August 22, 2011 November 1, 2011		
Reasons:	December 22, 2011		
Panel:	Vern Krishna, Q.C.	–	Commissioner and Chair of the Panel
	Edward P. Kerwin	–	Commissioner
Appearances:	Hugh Craig Cameron Watson	–	For Staff of the Commission
	Victor York	–	Self-represented
	George Schwartz	–	Self-represented

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REASONS FOR DECISION ON A MOTION

I. INTRODUCTION

[1] George Schwartz ("**Schwartz**"), a respondent in this proceeding, moves for an order for the exclusion and sealing of his compelled evidence, and the compelled evidence of others relating to him, because he claims that it was obtained after the establishment of penal liability under section 122 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") became the predominant purpose of Staff's investigation of him. Schwartz submits that he is entitled to the protection against self-incrimination provided by section 7 of the *Canadian Charter of Rights and Freedoms* (the "**Charter**"), in accordance with the decision of the Supreme Court of Canada in *R. v. Jarvis*, [2002] 3 S.C.R. 757 ("***Jarvis***"), and, therefore, the compelled evidence is inadmissible against him in this proceeding.

A. The York Rio Proceeding

[2] The York Rio Proceeding arises out of a Notice of Hearing issued by the Ontario Securities Commission (the "**Commission**"), dated March 2, 2010, in relation to a Statement of Allegations issued by Staff of the Commission ("**Staff**") against York Rio Resources Inc. ("**York Rio**"), Brilliante Brasilcan Resources Corp. ("**Brilliante**"), Victor York ("**York**"), Robert Runic ("**Runic**"), Schwartz, Peter Robinson ("**Robinson**"), Adam Sherman ("**Sherman**"), Ryan Demchuk ("**Demchuk**"), Matthew Oliver ("**Oliver**"), Gordon Valde ("**Valde**") and Scott Bassingdale ("**Bassingdale**"). On November 5, 2010, the Commission approved a settlement agreement between Staff and Robinson (*Re Robinson* (2010), 33 O.S.C.B. 10434). On June 6, 2011, the Commission approved a settlement agreement between Staff and Sherman (*Re Sherman* (2011), 34 O.S.C.B. 6560). York Rio, Brilliante, York, Runic, Schwartz, Demchuk, Oliver, Valde and Bassingdale are referred to collectively in these reasons as the "**York Rio Respondents**".

[3] Staff alleges that the York Rio Respondents engaged in a fraudulent "boiler room" operation involving the illegal distribution of York Rio securities from May 10, 2004 to October 21, 2008 and Brilliante securities from January 17, 2007 to October 21, 2008 (the "**Material Times**"). Staff alleges that the York Rio Respondents contravened subsections 25(1)(a), 53(1), 38(3) and 126.1(b) of the Act, contrary to the public interest. Staff also alleges that Schwartz, by trading in York Rio securities, breached the Commission's cease trade order made against him in relation to another matter, *Re Euston Capital Corp. and Schwartz* (2006), 29 O.S.C.B. 3920, which was extended from time to time and remained in effect during the Material Times, contrary to subsection 122(1)(c) of the Act and contrary to the public interest.

[4] The hearing on the merits in the York Rio Proceeding (the "**Merits Hearing**") commenced on March 21, 2011 and has continued for 33 days. Staff closed its case on August 11, 2011. Schwartz purportedly closed his case on August 19, 2011. York presented his case by calling two witnesses on September 21 and 28, 2011. On November 1, 2011, Schwartz cross-examined one of the two witnesses, William Farrage ("**Farrage**"), claiming he was a joint witness, which Staff opposed. None of the other York Rio Respondents appeared at the Merits Hearing, although Robinson and Sherman were called as witnesses by Staff. Following the close of evidence, Staff filed and served its written submissions on November 25, 2011. Schwartz and York served and filed their written submissions on December 9, 2011. We heard closing submissions on December 19 and 21, 2011.

B. The Search Warrant Motions

[5] On October 21, 2008, Staff conducted a search of offices located at 1315 Finch Avenue, West, Suite 501, Toronto (the "**Premises**"), pursuant to a search warrant that was issued under section 158 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33 (the "**POA**") on October 16, 2008 (the "Search Warrant").

[6] In a previous motion brought on March 28, 2011 (the "**Schwartz Warrant Motion**"), Schwartz argued that the seizure of the materials related to York Rio during the course of execution of the Search Warrant (the "**York Rio Materials**") was not authorized by the Search Warrant, which authorized a search of the Premises for things and materials related to CD Capital Ltd. ("**CD Capital**"), operating as Brilliante, York, Brian Aidelman ("**Aidelman**"), Jason Georgiadis ("**Georgiadis**") and Richard Taylor ("**Taylor**") (collectively, the "**Brilliante Respondents**"). The Search Warrant identified a long list of "things to be searched for" pertaining to the Brilliante Respondents at the Premises. It was based on the Information to Obtain a Warrant ("**ITO**") prepared by Staff Investigator Wayne Vanderlaan ("**Vanderlaan**"). The ITO did not identify things and materials pertaining to York Rio as "things to be searched for" at the Premises. Schwartz submitted that at the time Vanderlaan swore the ITO, he had reason to believe that things and materials relating to York Rio would be found at the Premises but deliberately omitted this from the ITO. Schwartz submitted that the seizure of York Rio Materials was illegal, unfair and contrary to the public interest. He submitted that the Merits Hearing should be terminated, or alternatively, that the York Rio Materials should be excluded from the evidence.

[7] York brought a motion seeking the same remedies as the Schwartz Warrant Motion on very similar grounds, which we heard on May 3, 2011 (the "**York Warrant Motion**") (the Schwartz Warrant Motion and the York Warrant Motion together will be referred to in these Reasons as the "**Search Warrant Motions**").

[8] We gave oral rulings and issued orders dismissing the Search Warrant Motions on April 5, 2011 ((2011), 34 O.S.C.B. 6545) and May 5, 2011 ((2011), 34 O.S.C.B. 5455). Written reasons for our decisions were issued on June 1, 2011 ((2011), 34 O.S.C.B. 6545).

C. The Compelled Evidence and its Admission at the Merits Hearing

[9] On October 14, 2008, the Commission issued an order under subsection 11(1)(a) of the Act, authorizing Vanderlaan and other members of Commission Staff to investigate Schwartz and others in relation to York Rio (the "**Investigation Order**"). On March 18, 2009, Vanderlaan summonsed Schwartz to attend at the Commission for compelled examination on April 28, 2009 pursuant to section 13 of the Act (the "**Summons**").

[10] Pursuant to the Summons, Schwartz attended at the Commission without counsel on May 19, 2009, but stated at the outset of the examination that he believed that the purpose of the examination was to obtain incriminating evidence against him and that he would very likely be charged under section 122 of the Act. He stated that the examination violated his right to silence and to protection against self-incrimination. The examination was put over to June 15, 2009 to allow him to retain counsel.

[11] On June 15, 2009, Schwartz appeared without counsel. He restated his view that the examination was requested in the context of a section 122 proceeding and refused to answer questions without a declaration that Staff would not bring criminal charges against him. Staff advised that the investigation "to this point" was administrative or regulatory, but that Staff was not willing to rule out quasi-criminal proceedings being taken depending on information obtained during the investigation. Staff also advised Schwartz that section 18 of the Act provides an absolute prohibition on the use of his compelled testimony against him in any quasi-criminal proceedings under section 122 of the Act. The examination was put over to June 29, 2009.

[12] Schwartz did not attend on June 29, 2009.

[13] On July 29, 2009, Schwartz appeared, again without counsel. He restated his view that the examination was requested in the context of a section 122 proceeding but agreed, if compelled, to answer the questions of Staff, subject to the protections offered under section 14 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended (the "**SPPA**") and subsection 9(2) of the *Evidence Act*, R.S.O. 1990, c. E.23, as amended (the "**Evidence Act (Ontario)**"). The examination proceeded and was completed that day.

[14] During the Merits Hearing, Vanderlaan read in numerous excerpts from the transcript of Schwartz's compelled examination of July 29, 2009 as part of Staff's case. Vanderlaan also read in numerous excerpts from transcripts of the compelled examinations of York and other York Rio Respondents. Staff counsel stated that Staff would not rely on the compelled testimony of any one of the York Rio Respondents solely to make out the allegations against another York Rio Respondent.

[15] Following the close of Staff's case, Schwartz testified voluntarily at the Merits Hearing and was cross-examined by Staff.

D. The Exclusion of Evidence Motion

[16] On June 16, 2011, the sixteenth day of the Merits Hearing, Schwartz filed and served a request that a time and date be scheduled for the hearing of a motion, pursuant to Rule 3.1 of the Commission's *Rules of Procedure* (2010), 33 O.S.C.B. 8017 (the "**Rules**"), for an order for the exclusion from the evidence admitted at the Merits Hearing of his compelled evidence and any other compelled evidence obtained by Staff in the investigation of him, and an order that the compelled evidence admitted at the Merits Hearing be sealed by the Commission, to ensure it is not disclosed to any police force (the "**Motion**"). York took no part in the Motion.

[17] When the Panel enquired as to the status of the Motion on July 20, 2011, the eighteenth day of the Merits Hearing, Schwartz advised that he could not proceed until he had finished cross-examining Vanderlaan. Vanderlaan's testimony, including cross-examination on whether the investigation was administrative or criminal in nature, was completed on July 27, 2011, the twenty-second day of the Merits Hearing.

[18] On August 10, 2011, after the twenty-fourth day of the Merits Hearing, Schwartz filed and served another request that a time and date be scheduled for the hearing of the Motion.

[19] At the outset of the sitting of the Merits Hearing on August 11, 2011, we scheduled August 22, 2011 for the hearing of the Motion (the "**Motion Hearing**") and directed Schwartz to file his Notice of Motion by Friday, August 12, 2011, in accordance with Rule 3.2 of the Rules. On the morning of August 12, 2011, Schwartz advised that he would not be able to file and serve his

Notice of Motion that day, but could do so by Monday, August 15, 2011. As Schwartz and Staff (the "**Parties**") agreed that the requested extension would not require an adjournment of the Motion Hearing, we granted Schwartz's request, in accordance with subrule 1.6(2) of the Rules.

[20] On August 15, 2011, Schwartz filed and served motion materials, including an affidavit of Schwartz and a memorandum of fact and law. Staff filed and served brief written submissions on the Motion on August 18, 2011.

[21] The Motion was heard on August 22, 2011. Staff counsel cross-examined Schwartz on his affidavit, and both Schwartz and Staff presented oral argument. We reserved our decision.

[22] When the Merits Hearing resumed on September 21, 2011, we invited the Parties to provide additional written submissions on *R. v. Wilder* (2001), 53 O.R. (3d) 519, a decision of the Ontario Court of Appeal ("***Wilder***"), by September 28, 2011 (Schwartz) and September 30, 2011 (Staff). Schwartz filed and served his supplementary submissions in respect of the *Wilder* decision (titled "**Amendment to a Motion**") on September 27, 2011. When the Merits Hearing resumed on September 28, 2011, Staff asked whether there would be any time set aside for oral argument in respect of the *Wilder* decision, and suggested that this could be scheduled for November 1, 2011 (the day set aside for the cross-examination of Farrage, a witness called by York). Although the Panel had only invited written submissions on the *Wilder* decision, the Motion having been previously argued in full, we gave York an opportunity to telephone Schwartz from the hearing room to ask whether Schwartz intended to supplement his written submissions on the *Wilder* decision with oral argument. Schwartz stated, through York, that he did not wish to do so. The next day (September 29, 2011), Schwartz sent an email to the Panel through the Office of the Secretary and copied to Staff, stating that he had "by error thought the oral submission [*sic*] were to be made this Friday, which is a religious holiday to me. I did not know until a subsequent discussion with Mr. York that they in fact were scheduled for November 1". He asked for "15 or 20 minutes on November 1" to make his oral submissions. The Panel, having considered the matter, granted the request the next day by email from the Office of the Secretary, allowing Schwartz 15 minutes on November 1, 2011 to offer any additional comments that he wished to make about the *Wilder* decision and giving Staff a brief opportunity to reply. Also on September 30, 2011, Staff filed its written submissions with respect to *Wilder*. On November 1, 2011, following the completion of Farrage's testimony, Schwartz gave oral submissions and Staff made a brief response on the *Wilder* decision in respect of the Motion.

[23] Having considered the evidence and submissions presented by the Parties, including their written and oral submissions with respect to the *Wilder* decision ("**Supplementary Submissions**"), we dismissed the Motion by order issued on November 8, 2011. Our reasons for dismissing the Motion are set forth below.

II. SUBMISSIONS OF THE PARTIES

A. Schwartz

[24] Schwartz submits that Staff could not legally compel him to give evidence against himself in this investigation because the investigation was predominantly penal (criminal or quasi-criminal) in purpose from an early stage, possibly as early as October 14, 2008, when the Investigation Order was issued, and certainly by July 29, 2009, when his compelled examination took place. His submissions rely heavily on the *Jarvis* decision.

[25] *Jarvis* concerned an income tax audit that led to a criminal investigation and ultimately to charges of tax evasion. In February and March 1994, acting upon a tip that the taxpayer had not reported income from the sale of his late wife's artworks on his 1990 and 1991 income tax returns, a Canada Customs and Revenue Agency ("**CCRA**") auditor obtained certain information and documents from the taxpayer and his accountant as well as certain art galleries that had bought artwork from the taxpayer. On April 11, 1994, the auditor and her supervisor met with the taxpayer (the "**Interview**"). He provided further information and records and signed a bank authorization. On May 4, 1994, based on the additional information and records provided during the Interview, the auditor referred the file to the Special Investigations Section of CCRA, which began an investigation to determine whether a charge of tax evasion should be laid. In June 1994, after a review of the file, including the information and records provided during the Interview, the investigator determined that reasonable and probable grounds existed to seek a search warrant. In November 1994, a search warrant was issued under section 487 of the *Criminal Code*, R.S.C. 1985, c. C-46, as amended (the "**Criminal Code**"). Additional bank records were summonsed in early 1995. The taxpayer was charged under section 239 of the *Income Tax Act* (Canada), R.S.O. 1985, c. 1, as amended (the "**ITA**").

[26] At the Provincial Court of Alberta – Criminal Division, the trial judge held that the audit had become an investigation by March 16, 1994, by which time the auditor had arranged for her supervisor to attend the Interview. Since the auditor did not caution the taxpayer at the Interview on April 11, 1994, the statements and documents he provided at the Interview were obtained in violation of his rights under section 7 of the Charter. The remedy was to remove reference to that information from the ITO. The trial judge concluded that what remained did not provide "reasonable grounds" and as a result, the searches violated the taxpayer's rights under section 8 of the Charter. The evidence was excluded from the trial pursuant to subsection 24(2) of the Charter, as were the bank records that had been obtained pursuant to the audit powers in the ITA after March 16, 1994. The trial judge granted a motion for a directed verdict of acquittal.

[27] On appeal to the Court of Queen's Bench of Alberta, the summary conviction appeal judge ordered a new trial, holding that only the taxpayer's statements during the Interview should have been excluded from the ITO and that the search warrant had been validly issued and there was no violation of the taxpayer's section 8 rights. However, he upheld the exclusion of the bank records obtained by use of the audit powers after March 16, 1994.

[28] The Court of Appeal of Alberta dismissed a further appeal and affirmed the order for a new trial.

[29] On further appeal, the Supreme Court of Canada considered whether CCRA's audit functions (including powers of inspection and examination) could be distinguished from its investigation functions, and summarized its conclusions at the outset of its reasons, as follows:

> Ultimately, we conclude that compliance audits and tax evasion investigations must be treated differently. While taxpayers are statutorily bound to co-operate with CCRA auditors for tax assessment purposes (which may result in the application of regulatory penalties), there is an adversarial relationship that crystallizes between the taxpayer and the tax officials when the predominant purpose of an official's inquiry is the determination of penal liability. When the officials exercise this authority, constitutional protections against self-incrimination prohibit CCRA officials who are investigating ITA offences from having recourse to the powerful inspection and requirement tools in ss. 231.1(1) and 231.2(1). Rather, CCRA officials who exercise the authority to conduct such investigations must seek search warrants in furtherance of their investigation.
>
> (*Jarvis*, *supra*, at para. 2)

[30] The Court elaborated on the distinction by stating:

> In our view, where the predominant purpose of a particular inquiry is the determination of penal liability, CCRA officials must relinquish the authority to use the inspection and requirement powers under ss. 231.1(1) and 231.2(1). In essence, officials "cross the Rubicon" when the inquiry in question engages the adversarial relationship between the taxpayer and the state. There is no clear formula that can answer whether or not this is the case. Rather, to determine whether the predominant purpose of the inquiry in question is the determination of penal liability, one must look to all factors that bear upon the nature of that inquiry.
>
> (*Jarvis*, *supra*, at para. 88)

[31] The Court set out a non-exhaustive list of factors to be considered in determining whether a compliance audit has turned into an investigation of possible criminal offences:

> In this connection, the trial judge will look at all factors, including but not limited to such questions as:
>
> (a) Did the authorities have reasonable grounds to lay charges? Does it appear from the record that a decision to proceed with a criminal investigation could have been made?
>
> (b) Was the general conduct of the authorities such that it was consistent with the pursuit of a criminal investigation?
>
> (c) Had the auditor transferred his or her files and materials to the investigators?
>
> (d) Was the conduct of the auditor such that he or she was effectively acting as an agent for the investigators?
>
> (e) Does it appear that the investigators intended to use the auditor as their agent in the collection of evidence?
>
> (f) Is the evidence sought relevant to taxpayer liability generally? Or, as is the case with evidence as to the taxpayer's *mens rea*, is the evidence relevant only to the taxpayer's penal liability?
>
> (g) Are there any other circumstances or factors that can lead the trial judge to the conclusion that the compliance audit had in reality become a criminal investigation?

> It should also be noted that in this case we are dealing with the CCRA. However, there may well be other provincial or federal governmental departments or agencies that have different organizational settings which in turn may mean that the above factors, as well as others, will have to be applied in those particular contexts. [Emphasis in the original]
>
> (*Jarvis*, *supra*, at para. 94)

[32] Applying these factors to the facts before it, the Court found that there was no investigation into penal liability before May 4, 1994, when the auditor made the referral to the Special Investigations Section. The Interview was not an investigation into Jarvis's penal liability (in fact it revealed little that was new), and therefore the inclusion in the ITO of the information obtained as a result of the Interview did not violate the taxpayer's section 7 rights; the search warrant was validly obtained and the evidence would be admissible in any new trial. However, the Court upheld the lower court rulings with respect to the bank records, which were obtained by use of the audit powers at a time when the investigation was well underway. The appeal was dismissed and the order for a new trial upheld.

[33] Schwartz and Staff have strongly differing views on the interpretation of *Jarvis* and its application to the Motion.

[34] Schwartz submits that application of the *Jarvis* factors to this case suggests the following considerations:

> *(a) an objective assessment whether reasonable and probable grounds exist:*
>
> In York Rio, Vanderlaan's ITO lays out in great detail his belief that various offences occurred based on multiple grounds, and this was accepted as meeting the standard of reasonable belief in the commission of offences by the issuing Justice of the Peace. Schwartz notes that the ITO did not ask to seize any items for the purpose of affording evidence in support of administrative orders under section 127 of the Act. He submits that Staff was only authorized to seize evidence of section 122 offences under the Search Warrant, and therefore Staff's decision to seek a warrant under the POA shows that Staff needed more time to investigate quasi-criminal charges under section 122 of the Act.
>
> *(b) the conduct of Staff investigators – whether they were engaged in a focused, targeted investigation into specific conduct:*
>
> In York Rio, the Commission clearly targeted specific alleged illegal acts by named entities and individuals, including Schwartz.
>
> *(c) the nature of the evidence obtained by the Commission and its relevance to later proceedings:*
>
> Clearly the evidence obtained was relevant, material and compelling, requiring Vanderlaan to obtain multiple extensions on the seized items' detention.
>
> *(d) information or materials passing between the 'audit' or inspection branch and the branch that investigates offences for penal purposes:*
>
> This is inapplicable here, as [quasi-]criminal section 122 and administrative section 127 proceedings are combined in one branch and one individual. Vanderlaan, straddling the Rubicon, thus runs the risk of being subject to the full panoply of Charter standards at an *earlier stage* in his investigation than otherwise.

[35] In cross-examination on his affidavit, Schwartz conceded that no charges giving rise to penal liability have been laid in relation to York Rio and he has not been approached by any police force in relation to criminal charges possibly being laid in the future. However, he relies on the principle that the liberty interest protected by section 7 of the Charter is engaged at the point of testimonial compulsion. He also notes that in *Jarvis*, the Supreme Court of Canada stated:

> It would be a fiction to say that the adversarial relationship only comes into being when charges are laid. ... we believe that allowing CCRA officials to employ ss. 231.1(1) and 231.2(1) until the point where charges are laid, might promote bad faith on the part of the prosecutors. Quite conceivably, situations may arise in which charges are delayed in order to compel the taxpayer to provide evidence against himself or herself for the purposes of a s. 239 prosecution. Although the respondent [CCRA] argued that such situations could be remedied by the courts, we view it as preferable that such situations be avoided rather than remedied.
>
> (*Jarvis*, *supra*, at para. 91)

[36] Schwartz submits that when Staff investigates a possible contravention of sections 25, 38 or 53 of the Act, for example, "it is engaged in a *de facto*, *ab initio* criminal investigation". He says all contraventions in the Act are offences subject to section 122 penal liability. Although most investigations do not result in criminal charges, and Staff may later seek an order in the public interest under section 127 of the Act, Schwartz submits that all investigations begin as criminal investigations.

[37] It follows, in Schwartz's submission, that Staff may have "crossed the Rubicon" as early as October 14, 2008, when the Investigation Order was issued on the basis that Schwartz and others "may have" contravened sections 25, 53 and 126.1(b) of the Act; October 16, 2008, when the Search Warrant was issued; October 21, 2008, when it was executed; or the various dates in 2008 and 2009 when the Detention Orders were extended. Schwartz also relies on the following evidence:

(i) Vanderlaan, a Staff investigator, is a Provincial Offences Officer empowered to conduct Commission investigations into suspected offences under the Act.

(ii) Two officers of the Joint Securities Intelligence Unit ("**JSIU**"), one of whom is an RCMP officer, and one of whom is a member of Staff, attended the Search on October 21, 2008. Schwartz included in his motion materials the business cards of the two officers, pages from the notebook of one of the officers, and a page from the RCMP website explaining the role of the JSIUs and Integrated Market Enforcement Teams ("**IMETs**").

(iii) On June 24, 2009, Vanderlaan made a note that an Alberta investor had called him asking what was happening with the file and he advised the investor "that the investigation was progressing and that charges would likely be laid".

(iv) On July 10/14, 2009, Vanderlaan submitted an affidavit to the Court to seek a further extension of the Detention Order which stated that Staff was investigating potential breaches of the Act.

(v) On September 8, 2009, Vanderlaan advised an investor by email that "charges will be filed".

(vi) On September 29, 2009, in an email to a group of York Rio investors, Vanderlaan stated:

> I have spoken to an investigator from York Regional Police and they are aware that it is entirely up to them whether or not they start an investigation. The problem from our end, however, is that we cannot share compelled information with the police until it becomes public. I am prohibited by the Securities Act from giving information that I have received by way of summons but I can share information that I received on a voluntary basis. Most of the good stuff is compelled and this may be why [YRP] might be hesitant to start an investigation at this point.
>
> Once our information becomes public, i.e. after a hearing, I imagine that I will again be speaking with the police.
>
> At no time did I inform any police agency that I did not want or require their assistance, again, it is up to them to decide if they want to start an investigation and I would not advise them one way or the other.

(vii) On December 24, 2009, Vanderlaan made a note that he had completed an Investigation Recommendation Report and submitted it for approval.

(viii) On January 5, 2010, in an email to an investor, Vanderlaan wrote: "Things are moving along. My report has been submitted to legal and we should be proceeding with charges shortly".

(ix) In the Statement of Allegations, issued on March 2, 2010, Staff alleged that the York Rio Respondents contravened subsections 25(1), 38(3), 53(1) and 126.1(b) of the Act, and that "Schwartz violated Ontario securities laws by trading in securities while he was prohibited from doing so by order of the Commission, contrary to section 122(1)(c) of the Act and contrary to the public interest".

[38] Schwartz submits that the evidence discussed at paragraphs 34 and 37 above shows that Staff was engaged in an ongoing criminal investigation, seeking judicial authority under the POA, at the time it obtained his compelled evidence, and may still be pursuing a criminal investigation.

[39] Schwartz requests that his compelled evidence and the compelled evidence of third parties against him be sealed. In his affidavit, Schwartz stated that he believes, based especially on the email described at subparagraph (vi) of paragraph 37 above, that once the York Rio Proceedings under section 127 of the Act are completed and a decision issued, Vanderlaan will

notify the police that the compelled evidence admitted at the Merits Hearing is now a matter of public record and can be used against him by the police in a prosecution.

[40] Schwartz submits that although section 18 of the Act makes his compelled testimony inadmissible against him in any quasi-criminal prosecution under the POA, it does not apply to prosecutions in any other jurisdiction, and it does not prohibit Staff from using the compelled evidence of third parties against him. Schwartz submits that Jarvis stands for the proposition that no compelled evidence can be obtained once the predominant purpose of an investigation is incriminatory. Schwartz also submits that subsection 9(2) of the Evidence Act (Ontario) and subsection 5(2) of the *Canada Evidence Act*, R.S.C. 1985, c. C-5, as amended (the "**Canada Evidence Act**") do not prohibit the use of the compelled evidence of third parties against him. He also submits, relying on *Re Sextant* (2011), 34 O.S.C.B. 5829 ("***Sextant***"), that "[c]ompelled testimony may be used in subsequent proceedings except in the limited sense when the witness objects to answer a question in the current Hearing upon the ground that the answer may tend to criminate him in a subsequent prosecution under any Canadian law". Further, he submits that section 13 of the Charter likely does not prevent his compelled evidence from being used against him if it is argued that it was obtained in a civil proceeding. It is his position that these consequences are contrary to the ruling in *Jarvis*.

[41] In his Supplementary Submissions, Schwartz submits that the *Wilder* decision pre-dated the legislative amendments that increased the penalties available under subsection 122(1) of the Act, which took effect on April 7, 2003. As a result of those amendments, a person or company is liable, upon conviction, "to a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or to both"; prior to the legislative amendment, the maximum fine was $1 million and the maximum prison term two years less a day. Schwartz submits that the increased penalties call for heightened procedural protection under the Charter, in particular the separation of the Commission's criminal investigation and administrative investigation functions. Schwartz submits that, in this case, Staff's investigation began as a criminal investigation, as evidenced by Staff's obtaining a search warrant under the POA (Schwartz submits that it would be improper for Staff to obtain a search warrant under the POA for an administrative purpose), and only later became an administrative investigation. Schwartz submits that the compelled evidence was illegally obtained and should be stricken from the record.

B. Staff

[42] Staff seeks an order dismissing the Motion.

[43] Staff submits that *Jarvis* can be relied upon to exclude compelled evidence in a quasi-criminal hearing under section 122 of the Act (or in a criminal trial) but not in an administrative hearing under section 127 of the Act. As this is an administrative hearing, where Schwartz's liberty is not at stake, *Jarvis* does not apply.

[44] In response to Schwartz's submission that Staff's decision to obtain a search warrant under the POA, rather than make use of Staff's administrative investigation powers under section 13 of the Act, demonstrates the quasi-criminal purpose of the investigation, Staff submits that obtaining a search warrant under the POA does not convert an administrative proceeding into a quasi-criminal proceeding but merely ensures that the persons identified in the search warrant are provided with the full protection required by *Hunter v. Southam*, [1984] 2 S.C.R. 145 ("***Hunter v. Southam***"). There is nothing in the law that prevents Staff from obtaining a search warrant under the POA while keeping its options to proceed by quasi-criminal or administrative proceedings and while continuing to make use of its powers of compulsion under the Act.

[45] In response to Schwartz's submission that Staff's allegation against him under subsection 122(1)(c) of the Act (breach of a cease trade order) demonstrates the quasi-criminal purpose of the investigation, Staff submits that subsection 122(1)(c) describes a specific charge that can be dealt with by way of quasi-criminal or administrative proceeding, at the option of Staff, just as with any other contravention of Ontario securities law. Staff submits it has three options when an investigation results in evidence of a contravention of Ontario securities law: (i) proceed administratively under section 127 of the Act; (ii) proceed quasi-criminally in the Ontario Court of Justice under section 122 of the Act; (iii) or continue to investigate. Further, the Commission held in *Re Boock* (2010), 33 O.S.C.B. 1589 ("***Boock***"), that Staff may, absent bad faith, continue to obtain compelled evidence after issuing a Statement of Allegations.

[46] Staff states that when Staff determines that there has been an "offence" under the Act, Staff must obtain the consent of the Commission, pursuant to subsection 122(7) of the Act, to lay quasi-criminal charges under section 122 of the Act by swearing an information. Pursuant to subsection 122(8) of the Act, the matter then proceeds to trial before a judge of the Ontario Court of Justice or a justice of the peace. Staff submits that a proceeding is deemed to be an administrative proceeding under section 127 of the Act unless quasi-criminal charges are laid under section 122 of the Act. Staff cannot breach Jarvis by continuing to compel evidence once Staff has it in their mind to proceed possibly quasi-criminally. If Staff were to compel a respondent to testify and then proceed to lay quasi-criminal charges, that respondent's compelled evidence would not be admissible against him in the quasi-criminal proceeding, and the admissibility of the fruits of the compelled evidence would be open to challenge. However, Staff may decide to proceed administratively, in which case *Jarvis* does not apply, and any compelled evidence obtained would be admissible.

[47] Staff states that no quasi-criminal charges have been laid under section 122 of the Act in relation to the York Rio Proceeding, and that Schwartz has presented no evidence that Staff intends to lay quasi-criminal charges or intends to disclose the compelled evidence to any police force. When pressed on this point in cross-examination, Schwartz was able to provide no evidence, but only his belief that charges were pending. When Staff counsel suggested to Schwartz that Vanderlaan's comments about "charges" in his notes and investor emails in mid-to-late 2009 and early 2010 related to the Statement of Allegations issued on March 2, 2010, Schwartz described this suggestion as "totally absurd". He insisted that "charges" refers only to quasi-criminal charges, and that Vanderlaan would have referred to "allegations" if he were talking about administrative proceedings.

[48] Staff states that no criminal or quasi-criminal charges have been laid against Schwartz. However, if Schwartz ever faced charges under the Criminal Code which relied on the evidence filed in this hearing, including his compelled evidence, he could avail himself of the protections set out in sections 7 and 13 of the Charter, subsection 5(2) of the Canada Evidence Act, and the common law, including *R. v. White*, [1999] 2 S.C.R. 417 ("***White***") and *R. v. Noël*, [2002] 3 S.C.R. 433 ("***Noël***").

[49] In *White*, the Supreme Court of Canada held that three statements made by the accused under the compulsion of subsection 61(1) of the British Columbia *Motor Vehicle Act*, R.S.B.C. 1979, c. 288 (the "**Motor Vehicle Act**"), which imposes a statutory duty to report any accident that has caused death or personal injury, were inadmissible against her at her trial on a charge of failure to stop at the scene of an accident under subsection 252(1)(a) of the Criminal Code. Although subsection 61(7) of the Motor Vehicle Act states that, with two exceptions, "neither the report nor any statement contained in it is admissible in evidence … in a trial or proceeding arising out of the accident referred to in the report", the parties agreed that this use immunity applied only in provincial proceedings and not in Criminal Code proceedings (*White*, *supra*, at para. 35). Iacobucci J., speaking for the Court, said: "Statements made under compulsion of s. 61 of the Motor Vehicle Act are inadmissible in criminal proceedings against the declarant because their admission would violate the principle against self-incrimination" (*White*, *supra*, at para. 30).

[50] In *Noël*, the Supreme Court of Canada held, pursuant to section 13 of the Charter and subsection 5(2) of the Canada Evidence Act, that an accused who testifies at trial cannot be cross-examined on the basis of prior testimony, even if it is tendered for the apparent limited purpose of testing credibility, unless there is no realistic danger that the prior testimony could be used for incrimination (*Noël*, *supra*, at paras. 4 and 30).

[51] Staff submits that sections 16 and 17 of the Act limit Staff's ability to disclose compelled evidence to third parties, including the police, and section 18 of the Act provides an absolute bar on admitting a person's compelled testimony against him in a prosecution under the POA. Staff submits that there is no evidence that any police force or other entity has requested or obtained any compelled evidence admitted in the Merits Hearing, and accordingly, Schwartz's Motion is premature. However, Staff noted that Schwartz testified voluntarily at the Merits Hearing, which is a public hearing. On cross-examination by Staff counsel at the Motion Hearing, Schwartz affirmed that his request for a sealing order applied not only to his compelled evidence given to Staff during the investigation but also to Staff counsel's cross-examination of him with respect to his compelled evidence at the Merits Hearing.

[52] In response to Schwartz's request that his compelled evidence and the compelled evidence about him be sealed, Staff relies on Rule 8 of the Commission's Rules and subsection 9(1) of the SPPA, pursuant to which the Commission has authority to order that a hearing or part of a hearing be held i*n camera* (in the absence of the public). Staff submits that if Schwartz wanted to request an *in camera* hearing, he should have made that request at the start of the hearing and before the compelled evidence was admitted into evidence. Instead, Schwartz raised the matter after Staff had read excerpts from his compelled evidence into the evidence at the Merits Hearing, after Schwartz had voluntarily taken the stand and after Staff had cross-examined him in relation to, amongst other things, his compelled evidence. The evidence admitted at the Merits Hearing is now part of the public record, which includes transcripts of the oral evidence as well as the documentary evidence that was admitted.

[53] In its Supplementary Submissions, Staff submits that *Wilder* provides an absolute answer to the Motion because it stands for the proposition that the Act allows Staff three means of enforcement where the conduct at issue amounts to a contravention of Ontario securities law: a quasi-criminal proceeding in the Ontario Court of Justice pursuant to subsection 122(1) of the Act, seeking, upon conviction, a fine and/or imprisonment; an administrative proceeding before the Commission pursuant to section 127 of the Act, seeking an order in the public interest; or an application in the Ontario Superior Court of Justice, pursuant to section 128 of the Act, for a declaration that a person has not complied with or is not complying with Ontario securities law and a remedial order from that court. *Wilder* also stands for the proposition that an overly narrow interpretation of the Act would ignore the fundamental aspects of the statutory scheme and would frustrate rather than promote the objectives of the Act, that remedial variety and flexibility is preferable to a rigidly narrow and literal interpretation of the Act, and that the broader purpose of the enforcement provisions of the Act is to regulate the capital markets in a supervisory role and in order to adequately do so, the broader legislative purpose of the Act must be considered when giving meaning to its constituent provisions of the Act. Staff submits that Schwartz's Supplementary Submissions add nothing to his written and oral submissions made previously in the Motion, and are of no assistance to the Panel.

III. ANALYSIS

[54] The Motion is dismissed for the following reasons.

A. This is an administrative proceeding

[55] This Motion raises issues about the relationship between section 122 and section 127 of the Act. Section 122 creates provincial offences that may be prosecuted in the Ontario Court of Justice and punishable by a fine of not more than $5 million or imprisonment of not more than 5 years less a day or both. In this case, Staff alleges that Schwartz contravened subsection 122(1)(c) of the Act – contravening Ontario securities law – by trading in securities while he was prohibited from doing so by order of the Commission. Staff also alleges that Schwartz contravened subsection 25(1)(a) of the Act (unregistered trading of York Rio securities), subsection 53(1) (illegal distribution of York Rio securities), subsection 126.1(b) (fraud), and section 129.2 (deemed non-compliance by a director or officer who authorized, permitted or acquiesced in York Rio's contraventions of subsections 25(1)(a), 38(3) (making prohibited representations that York Rio securities were to be listed on a stock exchange), 53(1) and 126.1(b) of the Act), all of which allegations describe contraventions of Ontario securities law.

[56] However, and critically, Staff has not commenced a quasi-criminal proceeding pursuant to section 122 of the Act in the Ontario Court of Justice in relation to York Rio, Schwartz or any of the other York Rio Respondents. The Commission's Notice of Hearing that commenced the York Rio Proceeding gave the York Rio Respondents notice of a hearing to consider, "by reason of the allegations as set out in the Statement of Allegations …", "whether, in the opinion of the Commission, it is in the public interest, pursuant to sections 127 and 127.1 of the Act" to order that:

(i) trading in any securities by the respondents cease permanently or for such period as is specified by the Commission (pursuant to paragraph 2 of subsection 127(1) of the Act);

(ii) the acquisition of any securities by the respondents is prohibited permanently or for such other period as is specified by the Commission (pursuant to paragraph 2.1 of subsection 127(1) of the Act);

(iii) any exemptions contained in Ontario securities law do not apply to the respondents permanently or for such period as is specified by the Commission (pursuant to paragraph 3 of subsection 127(1) of the Act);

(iv) each of the respondents disgorge to the Commission any amounts obtained as a result of non-compliance by that respondent with Ontario securities law (pursuant to paragraph 10 of subsection 127(1) of the Act);

(v) the respondents be reprimanded (pursuant to paragraph 6 of subsection 127(1) of the Act);

(vi) the individual respondents, including Schwartz, resign one or more positions that they hold as a director or officer of any issuer, registrant or investment fund manager (pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act);

(vii) the individual respondents, including Schwartz, be prohibited from becoming or acting as a director or officer of any issuer, registrant and investment fund manager (pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act);

(viii) the respondents be prohibited from becoming or acting as a registrant, as an investment fund manager and as a promoter (pursuant to paragraph 8.5 of subsection 127(1) of the Act);

(ix) the respondents each pay an administrative penalty of not more than $1 million for each failure by that respondent to comply with Ontario securities law (pursuant to paragraph 9 of subsection 127(1) of the Act); and,

(x) the respondents be ordered to pay the costs of the Commission investigation and the hearing (pursuant to section 127.1 of the Act).

[57] In addition, the Notice of Hearing gave notice that the hearing would consider whether, in the opinion of the Commission, an order should be made pursuant to section 37 of the Act that the respondents cease permanently to telephone from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities, or "whether to make such further orders as the Commission considers appropriate".

[58] Staff has not requested imprisonment, which is a remedy available to the Ontario Court of Justice but not to the Commission. Legislative amendments which took effect on April 7, 2003 not only increased the penalties available under subsection 122(1) of the Act to "to a fine of not more than $5 million", but also gave the Commission powers to order administrative penalty and disgorgement under paragraphs 9 and 10 of subsection 127(1) of the Act, respectively. Rather than

requesting a "fine" of up to $5 million, Staff has requested an "administrative penalty" under paragraph 9 of subsection 127(1) of the Act, which is an administrative remedy, not a penal sanction (*Re Rowan* (2010), 33 O.S.C.B. 91). In sum, the remedies described at paragraphs 56 and 57 above are administrative remedies that are within the public interest jurisdiction of the Commission.

[59] That the Commission has jurisdiction, in an administrative proceeding, to hear and determine allegations under section 122 of the Act was conclusively established in *Wilder*. In that case, Staff alleged that Wilder, who was counsel to YBM Magnex International Inc., made statements in a letter to Staff "that in a material respect, and at the time and in the light of the circumstances under which the statements were made, were misleading or untrue or did not state a fact that was required to be stated or that was necessary to make the statements not misleading; specifically, statements concerning the result of due diligence conducted in respect of YBM. In doing so, Wilder acted in a manner contrary to the public interest".

[60] Before the Ontario Court of Appeal, Wilder argued that this allegation fell squarely and exclusively within the terms of the offence created by subsection 122(1)(a), and that the legislature gave the Ontario Court of Justice exclusive jurisdiction to deal with offences under subsection 122(1)(a). Amongst other things, he argued that the Act should not be interpreted so as to limit the rights he would have in a quasi-criminal proceeding:

> If Wilder were charged with the offence created by s. 122(1)(a), he would enjoy significant advantages and procedural protections not available under the administrative procedure of s. 127. On the quasi-criminal charge before the Ontario Court of Justice, the OSC would be required to prove guilt under the strict rules of criminal evidence and on the criminal standard of beyond a reasonable doubt. Wilder could assert ss. 7 and 11 Charter rights and the statutory due diligence defence specified in s. 122(2).
>
> (*Wilder*, *supra*, at para. 17).

[61] The Court described the issue in the following way:

> The specific allegation against Wilder precisely tracks the wording of the prohibition contained in s. 122(1)(a). There can be no doubt that on this allegation the OSC could have proceeded by way of a quasi-criminal prosecution against Wilder in the Ontario Court of Justice. Nor, in my view, can there be any doubt that the Ontario Court of Justice has exclusive jurisdiction to try any charges that are laid under s. 122(1)(a). The question is whether the OSC is limited to that enforcement route in dealing with conduct that could form the subject of a charge pursuant to s. 122(1)(a).
>
> (*Wilder*, *supra*, at para. 15)

[62] In an often-cited passage, the Court rejected Wilder's argument and affirmed Staff's remedial flexibility:

> The remedial and enforcement provisions of the Act must be read in light of the fundamental purpose and aim of the legislation. In the light of the overall purpose of the Act, I cannot accept the proposition that the wording of the provision creating the offences prescribed by s. 122 indicates a legislative intention to confer exclusive jurisdiction on the Ontario Court of Justice where it is alleged that a party has been guilty of misrepresentation. The legislature has quite clearly manifested its intention to provide the OSC with a range of remedial options to assist the OSC in carrying out its statutory mandate. The Act provides the OSC with three different enforcement tools: prosecution before the Ontario Court of Justice pursuant to s. 122; administrative sanctions before the OSC itself pursuant to s. 127; and declaratory, injunctive, and other orders from the Superior Court of Justice pursuant to s. 128. These enforcement tools provide the OSC with a range of remedial options to be deployed in the OSC's discretion to meet the wide variety of problems and issues that it must confront. In some cases, the OSC may determine that *quasi*-criminal prosecution leading to fine or imprisonment is the most effective and appropriate means to ensure compliance with the Act and to ensure public confidence in the capital markets. In other cases, the OSC may prefer the more flexible and less drastic administrative sanctions available pursuant to s. 127 as the best way to achieve the objectives of the legislation. To the extent one can discern a legislative intention from this scheme, it seems to me that the overwhelming message is one of remedial variety and flexibility, rather than one that creates hived-off areas of remedial exclusivity. A court should be loath to prefer a rigidly narrow and literal interpretation over one that recognizes and reflects the purposes of the Act.
>
> It is true that if Wilder were prosecuted under s. 122, he would enjoy procedural protections and other advantages not available in proceedings brought under s. 127. I fail to see, however, how that leads to the conclusion that he can only be prosecuted under s. 122. Different procedural rights are

> accorded because different consequences follow. The Act provides for various remedial routes which themselves entail varying procedural consequences. The reduction in procedural rights under s. 127 from those available in a prosecution under s. 122 results from the simple fact that there is no criminal sanction attached to a s. 127 order. **The essence of the statutory scheme is remedial flexibility, not remedial exclusivity, and differing procedural consequences are an inevitable result of such a scheme.** [Emphasis added]
>
> (*Wilder*, *supra*, at paras. 23-24)

[63] In our view, *Wilder* provides a complete answer to Schwartz's submissions. In summary, the fact that Staff *could have* charged the York Rio Respondents with offences under sections 25, 38, 53, 122 and 126.1(b) of the Act in the Ontario Court of Justice, which proceedings would have been governed by the POA, does not convert *this* proceeding into a quasi-criminal proceeding. We are here today because on March 2, 2010, Staff issued a Statement of Allegations and the Commission issued a Notice of Hearing, giving notice that a hearing would be held before the Commission to consider various remedies requested by Staff pursuant to sections 37, 127 and 127.1 of the Act. The Commission is an administrative tribunal whose powers and procedure are governed by the Act, the SPPA, and the Commission's Rules, and the York Rio Proceeding is an administrative proceeding.

[64] It does not matter that Vanderlaan may have used the word "charges" loosely to embrace administrative or regulatory allegations. As Staff counsel pointed out to Schwartz in his cross-examination, Vanderlaan made these comments shortly before Staff issued the Statement of Allegations on March 2, 2010. At the time of writing, some 18 months later, no quasi-criminal charges have been laid and we heard no evidence that they will be.

[65] Nor does it follow from Staff's decision to seek a search warrant under the POA, rather than making use of the Commission's inspection and search powers under section 13 of the Act, that penal liability was the predominant purpose of the investigation at the time the Search Warrant was issued and executed in October 2008. As Staff counsel noted in his submissions, use of the POA warrant process ensures that the persons named in the warrant receive the highest level of procedural protection, as set out in *Hunter v. Southam*. We were presented with no authority for the proposition that Staff can only apply for a warrant under the POA if administrative proceedings have been ruled out. In any event, the validity of the warrant is a matter for the issuing and reviewing Justice, and not for this Commission. For our purposes, Staff's decision to use the POA warrant process shows, at most, that Staff was keeping its options open at that time. It does not establish that Staff had "crossed the Rubicon" and embarked an a quasi-criminal investigation.

[66] We are satisfied that this proceeding is an administrative proceeding that does not involve penal liability.

B. A respondent's compelled evidence is admissible against him in an administrative proceeding

[67] It is now well-established that a respondent's compelled evidence is admissible against him in a an administrative proceeding before the Commission.

[68] The leading decision on point is the decision of the Supreme Court of Canada in *British Columbia Securities Commission v. Branch*, [1995] 2 S.C.R. 3 ("***Branch***"). In *Branch*, the British Columbia Securities Commission served summonses on Branch and Levitt, who were officers of a company that was under investigation, compelling them to attend for examination under oath and to produce all information and records in their possession concerning the company. The two officers challenged the summonses, arguing that the statutory provision under which they were issued (subsection 128(1) of the British Columbia *Securities Act*, S.B.C. 1985, c. 83, as amended which is similar to subsection 13(1) of the Act), violated sections 7 and 8 of the Charter. The Supreme Court of Canada rejected this position. The Court began its discussion of the issue of testimonial compulsion by stating:

> The liberty interest is engaged at the point of testimonial compulsion. Once it is engaged, the investigation then becomes whether or not there has been a deprivation of this interest in accordance with the principles of fundamental justice.
>
> (*Branch*, *supra*, at para. 33)

[69] The Court then stated that the issue before it was to determine "the predominant purpose of such an inquiry at which a witness is compelled to attend" (*Branch*, *supra*, at para. 34). To determine that issue, the Court looked to *Pezim v. British Columbia (Superintendent of Brokers)*, [1994] 2 S.C.R. 557 ("***Pezim***"), in which the Supreme Court of Canada discussed the regulatory and protective role of the securities commissions, and stated:

> This protective role, common to all securities commissions, gives a special character to such bodies which must be recognized when assessing the way in which their functions are carried out under their Acts.
>
> (*Pezim*, *supra*, p. 593, quoted at *Branch*, *supra*, at para. 34)

[70] The Court in Branch continued:

> Clearly, this purpose of the Act justifies inquiries of limited scope. The Act aims to protect the public from unscrupulous trading practices which may result in investors being defrauded. It is designed to ensure that the public may rely on honest traders of good repute able to carry out their business in a manner that does not harm the market or society generally. An inquiry of this kind legitimately compels testimony as the Act is concerned with the furtherance of a goal which is of substantial public importance, namely, obtaining evidence to regulate the securities industry. Often such inquiries result in proceedings which are essentially of a civil nature. The inquiry is of the type permitted by our law as it serves an obvious social utility. Hence, the predominant purpose of the inquiry is to obtain the relevant evidence for the purpose of the instant proceedings, and not to incriminate Branch and Levitt. More specifically, there is nothing in the record at this stage to suggest that the purpose of the summonses in this case is to obtain incriminating evidence against Branch and Levitt. Both orders of the Commission and the summonses are in furtherance of the predominant purpose of the inquiry to which we refer above. The proposed testimony thus falls to be governed by the general rule applicable under the Charter, pursuant to which a witness is compelled to testify, yet receives evidentiary immunity in return: [*R. v. S.(R.J.)*, [1995] 1 S.C.R. 451].
>
> (*Branch*, *supra*, at para. 35)

[71] The principles set out in *Branch* are now well-established (See *Johnson v. British Columbia (Securities Commission)* (1999), 128 B.C.A.C. 207; *Alberta (Securities Commission) v. Brost* (2008), 440 A.R. 7; *Gore v. College of Physicians and Surgeons of Ontario* (2008), 92 O.R. (3d) 195 (Ont. Div. Ct.); *Boock*, *supra*, at para. 72; and *Sextant*, *supra*, at paras. 4 and 7. Earlier Commission decisions to the same effect include *Ontario (Securities Commission) v. Biscotti*, [1988] O.J. No. 1115 (Ont. H.C.J.); and *A. v. Ontario Securities Commission*, [2006] O.J. No. 1768 (Ont. Div. Ct.), at paras. 43-44, 53, 58 and 59).

[72] The leading Commission decision is *Boock*. In that case, the issue was whether Boock's compelled evidence which was obtained by Staff for the purposes of an investigation into KSW Industries Inc. ("**KSW**") by the U.S. Securities and Exchange Commission, should be disclosed to Boock's co-respondents in the related Commission proceeding involving Select American Transfer Co. ("**SAT**") and others. Before obtaining the compelled evidence from Boock, Staff gave an undertaking that Staff would not "use" it against him in the Commission proceeding. Boock's co-respondents in the Commission proceeding sought production of Boock's compelled evidence pursuant to Staff's obligation to disclose to respondents all relevant materials, whether inculpatory or exculpatory, in advance of a hearing on the merits before the Commission. As Boock would not consent to the disclosure, Staff brought a motion before the Commission for a disclosure order. The Commission concluded that the undertaking did not prevent Staff from disclosing the compelled evidence to Boock's co-respondents, partly on the basis that Boock's reasonable expectations with respect to the scope of the undertaking should be based on the terms of the undertaking within the regulatory context in which it was given, including Staff's disclosure obligations and the admissibility of compelled evidence against him in Commission proceedings:

> In our view, a respondent in an administrative proceeding before the Commission should have a very low expectation of privacy with respect to the use in a *Commission administrative proceeding* of that respondent's own compelled testimony and evidence. Subsection 17(6) of the Act expressly contemplates that compelled evidence can be disclosed or produced in connection with a proceeding commenced or proposed to be commenced by the Commission under the Act, without the necessity for a Commission order under subsection 17(1). It is a much more difficult question if compelled testimony and evidence is proposed to be (i) provided to a foreign securities regulator, which is not subject to the provisions of the Charter, or (ii) used in any criminal proceeding. [Emphasis in the original]
>
> (*Boock*, *supra*, at para. 74)

[73] Boock also argued that disclosing and permitting co-respondents to use his compelled evidence against him in the Commission proceeding would be unfair and contrary to the protection against self-incrimination provided by sections 7, 11 and 13 of the Charter. The Commission rejected these submissions on the principles set out in *Branch* and the cases that followed it:

> In determining whether testimony and evidence can be compelled from a person "the crucial question is whether the predominant purpose for seeking the evidence is to obtain incriminating evidence against the person compelled to testify or rather some legitimate public purpose" (Branch, supra, at para. 7). In *Branch*, the Court concluded that the BCSC compelled the relevant testimony for a legitimate public purpose in regulating capital markets. Similarly in *Brost (C.A.)* and *Johnson v. British Columbia (Securities Commission)*, [1999] B.C.J. No. 1885 ("*Johnson (C.A.)*"), the Alberta and British Columbia Courts of Appeal affirmed, respectively, the admissibility of compelled

> evidence in administrative hearings. The Commission has the same public purpose to protect investors and regulate capital markets in this Province. Staff is bringing this Proceeding in furtherance of those objectives.
>
> The onus is on Boock to show that the purpose of the Compelled Evidence was to "incriminate" him. The British Columbia Court of Appeal addressed this issue in *Johnson (C.A.)*:
>
> > Merely because a person is compelled to give information that may be used against him at an administrative hearing does not mean that he is "incriminating" himself, as Branch makes clear ... The onus is on the applicant to show that the purpose of the hearing is to incriminate him or gather evidence that will be used to incriminate him, in a criminal or quasi-criminal proceeding.
> >
> > (*Johnson (C.A.)*, *supra*, at para. 9.)
>
> While SAT Staff [the Staff team involved in the section 127 proceeding] contemplated at one time the possibility of bringing criminal proceedings against certain respondents in the SAT matter, SAT Staff have represented to us that they no longer anticipate such a proceeding. As a result, the Ethical Wall has been terminated except as it relates to the Compelled Evidence.
>
> While we recognise that the sanctions that may be imposed by the Commission in an administrative proceeding can have significant regulatory and economic consequences to a respondent, those sanctions are not penal in nature and no respondent can be incarcerated by the Commission in the exercise of its jurisdiction under section 127 of the Act. The Commission has concluded that "a hearing under section 127 of the Act, including a hearing in which an administrative penalty is sought, is fundamentally regulatory. It does not meet the 'criminal by nature' characterization of the offence" (*Rowan*, *supra*, at para. 40; see also *R. v. White*, [1999] 2 S.C.R. 417).
>
> In our view, the fact that a financial penalty may be imposed on a respondent does not make a Commission administrative proceeding under section 127 of the Act criminal or penal in nature.
>
> Accordingly, in our view, sections 7 and 11 of the Charter do not apply to restrict the testimony and evidence that may be compelled in connection with this Proceeding.
>
> (*Boock*, *supra*, at paras. 94-99)

[74] The Commission added, in *Boock*, that "compelled testimony is a form of hearsay and the Panel hearing a matter on the merits has discretion to determine on what basis such evidence may be used at that hearing" (*Boock*, *supra*, at para. 109).

[75] In *Sextant*, the Commission again concluded that a respondent's compelled testimony is admissible against him in a Commission proceeding:

> Section 16(2) of the Act provides that all testimony given under s. 13 is for the "exclusive use of the Commission and shall not be disclosed" except as permitted under s. 17. Section 17(6) specifically permits disclosure of that testimony in connection with "a proceeding commenced by the Commission under this Act." We agree with Staff's submission that the combination of these two sections contemplate that testimony given under s. 13 may be used in a s. 127 proceeding before the Commission.
>
> Section 18 of the Act sets out prohibited uses of compelled testimony pursuant to s. 13. Section 18 provides that compelled testimony is not to be used in s. 122 proceedings or any other proceedings under the *Provincial Offences Act*. Nowhere in s. 18 of the Act is there a prohibition against the use of compelled testimony in s. 127 proceedings brought before the Commission. Had the legislature intended to prohibit the use of compelled testimony in s. 127 proceedings, it would have been a simple matter for the inclusion of s. 127 proceedings as one of the prohibited uses of compelled testimony in s. 18. We conclude that the reverse is the case, that is, the legislative intention was that compelled testimony could be used in s. 127 proceedings.
>
> (*Re Sextant*, *supra*, at paras. 8-9)

[76] In this case, we have been given no reason to conclude that Schwartz's compelled evidence is unreliable hearsay, that its admission would be unfair to Schwartz or that Staff has acted in bad faith. For the reasons given in *Branch*, *Boock* and

Sextant, we find that Schwartz's compelled evidence is admissible against him in this proceeding, which is administrative and not criminal or penal in nature.

C. A respondent's compelled evidence is not admissible against him in a quasi-criminal or criminal proceeding

[77] Although our analysis at paragraphs 55 to 76 above is sufficient to dispose of the Motion, we find it appropriate to add the following comments.

[78] Schwartz submits that if his compelled evidence is admitted against him in this proceeding, he will be deprived of protection against self-incrimination in any subsequent criminal or quasi-criminal proceedings. This submission reflects a misunderstanding of the protection provided by the law. The protection against self-incrimination provided by the Act, the SPPA, the Evidence Act (Ontario), the Canada Evidence Act, and the Charter does not make Schwartz's compelled testimony inadmissible against him in this Commission proceeding brought under section 127 of the Act. Schwartz is, however, protected, pursuant to section 18 of the Act, subsection 14(1) of the SPPA, subsection 9(2) of the Evidence Act (Ontario), and section 13 of the Charter, against use of his compelled evidence in any quasi-criminal prosecution under section 122 of the Act (or in any civil proceeding). In addition, subsection 5(2) of the Canada Evidence Act and section 13 of the Charter prevent the use of Schwartz' compelled evidence in any criminal proceeding against him. Section 7 of the Charter provides derivative use immunity in criminal or quasi-criminal proceedings.

[79] As Staff noted, these provisions do not apply to the testimony Schwartz gave voluntarily at the Merits Hearing.

[80] Finally, Schwartz appears to be concerned about the compelled evidence of others being admitted against him in this or any other proceeding. By definition, Schwartz can have no self-incrimination concern in relation to statements made by anyone other than Schwartz. Nothing prevents Staff from using the compelled evidence of others against Schwartz, subject to evidence law considerations relating to hearsay, particularly relating to co-respondents.

D. There is no basis for holding an *in camera* hearing or sealing any compelled evidence

[81] Schwartz submits, in the alternative, that if his compelled evidence is found to be admissible against him in this Proceeding, it should be sealed to ensure it is not provided to any police force or used against him in a criminal or quasi-criminal proceeding, and parts of the hearing where compelled evidence was read into the record should be ruled *in camera*.

[82] We find there is no basis for such a ruling. We have procedural and substantive reasons for our ruling.

[83] First, with respect to procedure, Schwartz gave notice of motion on June 16, 2011, on the sixteenth day of the Merits Hearing after some three weeks of evidence, and made his request for the hearing of a motion after the twenty-fourth day of the Merits Hearing, well beyond the time contemplated by Rule 8.2 of the Commission's Rules, the relevant part of which states: "If a party wishes to have a hearing held *in camera*, the party shall make a request *at the commencement of the hearing* before the Panel pursuant to section 9 of the SPPA". Where a party wishes to have only part of a hearing held *in camera*, for example, the testimony of a witness whose evidence concerns "intimate personal or financial matters", the request must be made *before* that part of the hearing commences. This is not merely a matter of courtesy and orderliness. The Commission's hearings are transcribed, and a transcript cannot be redacted. In this case, the compelled evidence that Schwartz is concerned about is already a matter of public record to the extent it has been read into the evidence at the Merits Hearing, prior to the making of the Motion.

[84] In any event, turning to substance, we are not persuaded there is any reason to seal any evidence or rule any part of the hearing *in camera* in this case. Subsection 9(1) of the SPPA codifies the foundational principle of open courts, and Rules 8 and 5 of the Rules, which deal with public hearings and public access to documents, respectively, are based on and make reference to the principle of open courts in subsection 9(1) of the SPPA. Accordingly, in considering whether to rule any part of the hearing *in camera* or to declare and seal any evidence under Rule 8.1 and subrule 5.2(1) of the Rules, respectively, we must consider whether "intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public". Further, in considering whether public access to a document should be restricted, a Commission panel has the power, pursuant to subrule 5.2(3) of the Rules, to declare a document confidential "if it is of the opinion that there are valid reasons for restricting access to [that] document".

[85] Schwartz's compelled evidence did not include any intimate financial or personal matters or other matters of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of Schwartz or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, as set out in subsection 9(1) of the SPPA and Rule 8.1 and subrule 5.2(1) of the Rules; nor are we satisfied that there are valid reasons under subrule 5.2(3) of the Rules for restricting access to the compelled evidence or declaring and sealing it as confidential. We note that pursuant to subsection 17(7) of the Act, Schwartz's compelled evidence cannot be disclosed, without his written

consent, to "a municipal, provincial, federal or other police force or to a member of a police force" or "a person responsible for the enforcement of the criminal law of Canada or of any other country or jurisdiction". Moreover, for the reasons discussed at paragraphs 55 to 80 above, we find that although Schwartz's compelled evidence is admissible against him in this proceeding, he is not thereby deprived of the protection against self-incrimination provided at law. Given these protections, we are not persuaded it is in the public interest to seal Schwartz's compelled evidence or hold an in camera hearing, even if it were possible to do so retrospectively.

IV. CONCLUSION

[86] For the reasons stated, the Motion is dismissed.

Dated at Toronto this 22nd day of December, 2011.

"Vern Krishna" "Edward P. Kerwin"

Vern Krishna, Q.C. Edward P. Kerwin

SCHEDULE A

***Securities Act*, R.S.O. 1990, c. S. 5 (as amended)**

"Ontario securities law" means,

(a) this Act,

(b) the regulations, and

(c) in respect of a person or company, a decision of the Commission or a Director to which the person or company is subject; ("droit ontarien des valeurs mobilières")

Investigation order

11. (1) The Commission may, by order, appoint one or more persons to make such investigation with respect to a matter as it considers expedient,

(a) for the due administration of Ontario securities law or the regulation of the capital markets in Ontario;

…

Power of investigator or examiner

13. (1) A person making an investigation or examination under section 11 or 12 has the same power to summon and enforce the attendance of any person and to compel him or her to testify on oath or otherwise, and to summon and compel any person or company to produce documents and other things, as is vested in the Superior Court of Justice for the trial of civil actions, and the refusal of a person to attend or to answer questions or of a person or company to produce such documents or other things as are in his, her or its custody or possession makes the person or company liable to be committed for contempt by the Superior Court of Justice as if in breach of an order of that court.

Disclosure to police

17. (7) Without the written consent of the person from whom the testimony was obtained, no disclosure shall be made under subsection (6) of testimony given under subsection 13 (1) to,

(a) a municipal, provincial, federal or other police force or to a member of a police force; or

(b) a person responsible for the enforcement of the criminal law of Canada or of any other country or jurisdiction.

Prohibition on use of compelled testimony

18. Testimony given under section 13 shall not be admitted in evidence against the person from whom the testimony was obtained in a prosecution for an offence under section 122 or in any other prosecution governed by the Provincial Offences Act.

Order prohibiting calls to residences

37. (1) The Commission may by order suspend, cancel, restrict or impose terms and conditions on the right of any person or company named or described in the order to call at a residence or telephone from a location in Ontario to a residence located in or out of Ontario for the purpose of trading in any security or derivative or in any class of securities or derivatives.

…

Offences, general

122. (1) Every person or company that,

(a) makes a statement in any material, evidence or information submitted to the Commission, a Director, any person acting under the authority of the Commission or the Executive Director or any person appointed to make an investigation or examination under this Act that, in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading;

(b) makes a statement in any application, release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular, issuer bid circular or other document required to be filed or furnished under Ontario securities law that, in a material respect and at the time and in the light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading; or

(c) contravenes Ontario securities law,

is guilty of an offence and on conviction is liable to a fine of not more than $5 million or to imprisonment for a term of not more than five years less a day, or to both.

…

Consent of Commission

(7) No proceeding under this section shall be commenced except with the consent of the Commission.

Trial by provincial judge

(8) The Commission or an agent for the Commission may by notice to the clerk of the court having jurisdiction in respect of an offence under this Act require that a provincial judge preside over the proceeding.

Orders in the public interest

127. (1) The Commission may make one or more of the following orders if in its opinion it is in the public interest to make the order or orders:

1. An order that the registration or recognition granted to a person or company under Ontario securities law be suspended or restricted for such period as is specified in the order or be terminated, or that terms and conditions be imposed on the registration or recognition.

2. An order that trading in any securities by or of a person or company or that trading in any derivatives by a person or company cease permanently or for such period as is specified in the order.

2.1 An order that the acquisition of any securities by a particular person or company is prohibited permanently or for the period specified in the order.

3. An order that any exemptions contained in Ontario securities law do not apply to a person or company permanently or for such period as is specified in the order.

4. An order that a market participant submit to a review of his, her or its practices and procedures and institute such changes as may be ordered by the Commission.

5. If the Commission is satisfied that Ontario securities law has not been complied with, an order that a release, report, preliminary prospectus, prospectus, return, financial statement, information circular, take-over bid circular, issuer bid circular, offering memorandum, proxy solicitation or any other document described in the order,

   i. be provided by a market participant to a person or company,

   ii. not be provided by a market participant to a person or company, or

   iii. be amended by a market participant to the extent that amendment is practicable.

6. An order that a person or company be reprimanded.

7. An order that a person resign one or more positions that the person holds as a director or officer of an issuer.

8. An order that a person is prohibited from becoming or acting as a director or officer of any issuer.

8.1 An order that a person resign one or more positions that the persons holds as a director or officer of a registrant.

8.2 An order that a person is prohibited from becoming or acting as a director or officer of a registrant.

8.3 An order that a person resign one or more positions that the person holds as a director or officer of an investment fund manager.

8.4 An order that a person is prohibited from becoming or acting as a director or officer of an investment fund manager.

8.5 An order that a person or company is prohibited from becoming or acting as a registrant, as an investment fund manager or as a promoter.

9. If a person or company has not complied with Ontario securities law, an order requiring the person or company to pay an administrative penalty of not more than $1 million for each failure to comply.

10. If a person or company has not complied with Ontario securities law, an order requiring the person or company to disgorge to the Commission any amounts obtained as a result of the non-compliance.

Ontario Securities Commission Rules of Procedure (2010), 33 O.S.C.B. 8017

Rule 5 – Public Access to Documents

5.1 Public Documents – Subject to Rule 5.2 and subrule 10.9(3), documents required to be filed or received in evidence in proceedings shall be available to the public.

5.2. Request Regarding Confidentiality – (1) At the request of a party or person, the Panel may order that any document filed with the Secretary or any document received in evidence or transcript of the proceeding be kept confidential pursuant to section 9 of the SPPA.

(2) A party or person who makes a request pursuant to subrule 5.2(1) shall advise the Panel of the reasons for the request.

(3) The Panel may, if it is of the opinion that there are valid reasons for restricting access to a document, declare the document confidential and make such other orders as it deems appropriate.

Rule 8 – Public Access to Hearings

8.1 Open to the Public Except under Certain Conditions – Subject to Rule 8.2, a hearing shall be open to the public, except when having regard to the circumstances, the Panel is of the opinion that intimate financial, personal or other matters may be disclosed at the hearing and that the desirability of avoiding that disclosure in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public pursuant to section 9 of the SPPA.

8.2 In Camera Hearing – If a party wishes to have a hearing held in camera, the party shall make a request at the commencement of the hearing before the Panel pursuant to section 9 of the SPPA. The Panel will make a decision on whether or not to hold the hearing or a portion of the hearing in camera, based on the facts and circumstances of each case.

***Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22**

Hearings to be public, exceptions

9. (1) An oral hearing shall be open to the public except where the tribunal is of the opinion that,

(a) matters involving public security may be disclosed; or

(b) intimate financial or personal matters or other matters may be disclosed at the hearing of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public,

in which case the tribunal may hold the hearing in the absence of the public.

Protection for witnesses

14. (1) A witness at an oral or electronic hearing shall be deemed to have objected to answer any question asked him or her upon the ground that the answer may tend to criminate him or her or may tend to establish his or her liability to civil proceedings at the instance of the Crown, or of any person, and no answer given by a witness at a hearing shall be used or be receivable in evidence against the witness in any trial or other proceeding against him or her thereafter taking place, other than a prosecution for perjury in giving such evidence.

***Evidence Act*, R.S.O. 1990, c. E.23**

Witness not excused from answering questions tending to criminate

9. (1) A witness shall not be excused from answering any question upon the ground that the answer may tend to criminate the witness or may tend to establish his or her liability to a civil proceeding at the instance of the Crown or of any person or to a prosecution under any Act of the Legislature.

Answer not to be used in evidence against witness

(2) If, with respect to a question, a witness objects to answer upon any of the grounds mentioned in subsection (1) and if, but for this section or any Act of the Parliament of Canada, he or she would therefore be excused from answering such question, then, although the witness is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer, the answer so given shall not be used or receivable in evidence against him or her in any civil proceeding or in any proceeding under any Act of the Legislature.

***Canada Evidence Act*, R.S.C. 1985, c. C-5**

Incriminating questions

5. (1) No witness shall be excused from answering any question on the ground that the answer to the question may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person.

Answer not admissible against witness

(2) Where with respect to any question a witness objects to answer on the ground that his answer may tend to criminate him, or may tend to establish his liability to a civil proceeding at the instance of the Crown or of any person, and if but for this Act, or the Act of any provincial legislature, the witness would therefore have been excused from answering the question, then although the witness is by reason of this Act or the provincial Act compelled to answer, the answer so given shall not be used or admissible in evidence against him in any criminal trial or other criminal proceeding against him thereafter taking place, other than a prosecution for perjury in the giving of that evidence or for the giving of contradictory evidence.

Canadian Charter of Rights and Freedoms

Life, liberty and security of person

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

Search or seizure

8. Everyone has the right to be secure against unreasonable search or seizure.

…

Self-crimination

13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.

3.1.2 Coventree Inc. et al.

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

AND

IN THE MATTER OF
COVENTREE INC.,
GEOFFREY CORNISH and DEAN TAI

REASONS FOR DECISION ON SANCTIONS AND COSTS

Hearing:	October 26 and 27, 2011		
Decision:	December 23, 2011		
Panel:	James E. A. Turner	–	Vice-Chair and Chair of the Panel
	Mary G. Condon	–	Vice-Chair
	Paulette L. Kennedy	–	Commissioner
Appearances:	Jane Waechter Michelle Vaillancourt Donna Campbell Shauna Flynn Christie Johnson Daniel Waldman	–	For Staff of the Commission
	Robert W. Staley Shara Roy Jason Woycheshyn Kent E. Thomson Sean Campbell Derek Ricci	–	For Coventree Inc.
	J. Thomas Curry Monique Jilesen Nadia Campion	–	For Geoffrey Cornish
	Paul Le Vay Johanna Braden Paul Saguil	–	For Dean Tai

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REASONS FOR DECISION ON SANCTIONS AND COSTS

I. INTRODUCTION

[1] This was a hearing before the Ontario Securities Commission (the "**Commission**") to consider pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") whether it was in the public interest to make an order with respect to sanctions and costs against Coventree Inc. ("**Coventree**"), Geoffrey Cornish ("**Cornish**") or Dean Tai ("**Tai**") (collectively referred to as the "**Respondents**").

[2] The hearing on the merits was heard over 45 days from May 12, 2010 to December 9, 2010 and the decision on the merits and our reasons were issued on September 28, 2011 (the "**Merits Decision**").

[3] Following the release of the Merits Decision, we held a separate hearing on October 26 and 27, 2011 to consider submissions from Staff of the Commission ("**Staff**") and counsel for Coventree, Cornish and Tai regarding sanctions and costs. We issued our order with respect to sanctions and costs on November 8, 2011 (the "**Sanctions Order**"). A copy of our Sanctions Order is attached as Schedule A to these reasons.

[4] These are our reasons for imposing the sanctions and costs under the Sanctions Order.

[5] Capitalized terms that are not defined in these reasons are used as defined in the Merits Decision.

II. THE MERITS DECISION

[6] On December 7, 2009, the Commission issued a Notice of Hearing in this matter pursuant to sections 127 and 127.1 of the Act in connection with a Statement of Allegations issued by Staff on the same day.

[7] This proceeding related to whether Coventree complied with its obligations (i) to make full, true and plain disclosure of all material facts in its final prospectus dated November 15, 2006 offering its common shares for sale to the public, and (ii) to disclose material changes that Staff alleged occurred on January 19, 2007 and August 1, 2007, or thereafter. Staff alleged that Cornish and Tai, both senior officers and directors of Coventree, authorized, permitted or acquiesced in Coventree's non-compliance with the Act and were therefore deemed also to have not complied with the Act. Staff also alleged that Coventree breached the Act in April 2007 by making a misleading statement as to the total U.S. subprime mortgage assets held by Coventree sponsored conduits.

[8] We concluded in the Merits Decision that:

(a) Coventree contravened subsection 75(1) of the Act by failing to forthwith issue and file a news release disclosing the material change with respect to Coventree that occurred as a result of the DBRS January Release;

(b) Coventree contravened subsection 75(2) of the Act by failing to file a material change report in respect of the material change referred to in paragraph (a) above in accordance with that subsection;

(c) Coventree contravened subsection 75(1) of the Act by failing to forthwith issue and file a news release disclosing the material changes with respect to Coventree that occurred by the close of business on August 1, 2007;

(d) Coventree contravened subsection 75(2) of the Act by failing to file a material change report in respect of the material changes referred to in paragraph (c) above in accordance with that subsection;

(e) each of Cornish and Tai authorized, permitted or acquiesced in Coventree's non-compliance with Ontario securities law referred to in paragraphs (a) to (d) above and were deemed to also have not complied with Ontario securities law in accordance with section 129.2 of the Act; and

(f) the conduct of Coventree in contravening Ontario securities law as provided in paragraphs (a) to (d) above, and the conduct of each of Cornish and Tai in contravening Ontario securities law as provided in paragraph (e) above, was contrary to the public interest.

[9] The allegations of Staff that Coventree breached section 56 and subsection 126.2(1) of the Act were dismissed.

[10] We relied upon our findings and conclusions in the Merits Decision in determining the appropriate sanctions and costs orders in the circumstances.

III. SANCTIONS AND COSTS REQUESTED BY STAFF

[11] Staff requested the following sanctions and costs orders against Coventree:

(a) pursuant to paragraph 2 of subsection 127(1) of the Act, that trading in any securities by Coventree cease until such time as Coventree is wound-up;

(b) pursuant to paragraph 3 of subsection 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to Coventree until such time as Coventree is wound-up;

(c) pursuant to paragraph 8.5 of subsection 127(1) of the Act, that Coventree be prohibited from becoming or acting as a registrant until such time as Coventree is wound-up;

(d) pursuant to paragraph 9 of subsection 127(1) of the Act, Coventree pay an administrative penalty of $5 million for its failures to comply with Ontario securities law; and

(e) pursuant to subsections 127.1(1) and (2) of the Act, Coventree, Cornish and Tai jointly pay the disbursements incurred during the investigation and costs of or related to the hearing that were incurred by or on behalf of the Commission, in the amount of $1.5 million.

[12] Staff requested the following sanctions and costs orders against each of Cornish and Tai:

(a) pursuant to paragraph 3 of subsection 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to each of Cornish and Tai for a period of five years;

(b) pursuant to paragraph 6 of subsection 127(1) of the Act, that each of Cornish and Tai be reprimanded;

(c) pursuant to paragraph 7 of subsection 127(1) of the Act, that each of Cornish and Tai resign any positions that they hold as a director or officer of a reporting issuer;

(d) pursuant to paragraph 8 of subsection 127(1) of the Act, that each of Cornish and Tai be prohibited from becoming or acting as a director or officer of a reporting issuer for a period of five years;

(e) pursuant to paragraph 9 of subsection 127(1) of the Act, that each of Cornish and Tai pay an administrative penalty of $5 million for their failures to comply with Ontario securities law;

(f) pursuant to subsections 127.1(1) and (2) of the Act, Cornish and Tai, jointly with Coventree, pay the disbursements and costs in accordance with paragraph 11(e) of these reasons; and

(g) pursuant to subsection 127(2) of the Act, that neither Cornish nor Tai may seek to accept, directly or indirectly, any indemnification from Coventree in relation to any administrative penalty ordered by the Commission.

IV. STAFF SUBMISSIONS

[13] Staff submitted that the misconduct of the Respondents was serious and went to the heart of the Commission's mandate to protect investors and to foster fair and efficient capital markets. Staff submitted that the Respondents' misconduct had a significant negative impact on the efficiency, integrity and reputation of Ontario's capital markets. Further, Staff submitted that the Respondents gave a low priority to Coventree's statutory disclosure obligations and downplayed the legitimate interest of shareholders and investors in receiving information about material adverse corporate events.

[14] Staff submitted that it is important that the sanctions imposed on the Respondents reflect the critical importance of timely disclosure by public companies and the vital role of senior officers in ensuring that such disclosure is made, regardless of whether the information to be disclosed is positive or negative in nature. Staff submitted that a strong message should be sent to the market that exactly the same diligence, care and attention should be exercised in relation to negative material changes as would be exercised in relation to positive material changes.

[15] In Staff's submission, the Respondents gave a low priority to Coventree's statutory disclosure obligations and downplayed the legitimate interest of shareholders and investors in receiving information about material adverse events. The Respondents' assessments of whether material changes had occurred were cursory, and Staff submitted that the Respondents appeared to have been focused on justifying why they should not disclose events to shareholders. The Respondents instead should have carried out a balanced and thorough assessment of Coventree's disclosure obligations.

[16] Staff submitted that Coventree was a highly sophisticated public company, was highly experienced in the capital markets, and was well-placed to properly assess its disclosure obligations. As such, Staff submitted that the Commission should find that Coventree's experience in the marketplace was an aggravating factor in its sanctions decision. Further, any sanctions imposed must reflect both Cornish and Tai's significant role and influence in managing Coventree and their experience, expertise and background in relation to the capital markets.

[17] Staff submitted that investors were dependent upon the Respondents to ensure that Coventree provided mandatory statutory disclosure. The instances of non-disclosure in this case had a substantial impact on the value of Coventree's shares. Staff submitted that to create a general deterrent effect and to foster compliance with issuers' disclosure obligations, the sanctions and costs requested by Staff were necessary.

V. RESPONDENTS' SUBMISSIONS

A. Coventree Submissions

[18] Coventree submitted that if there was ever a case in which a Commission panel should show compassion and restraint in imposing sanctions, this is that case. Coventree submitted that the appropriate sanctions in this case should be a reprimand and a modest administrative penalty that should not exceed $200,000.

[19] Coventree submitted that a reprimand would provide a strong censure of past conduct and impress on the public the importance of timely, accurate and complete disclosure, while at the same time recognizing that Coventree did not breach the Act intentionally and did not intentionally mislead anyone.

[20] Coventree argued that Staff's submissions were flawed in that their position (i) flies in the face of the foundational principles of parity and proportionality; (ii) disregards a number of the most important findings in the Merits Decision; and (iii) invites us to impose monetary sanctions that, as a matter of law, cannot be granted in the circumstances of this case.

[21] Coventree submitted that this case is unprecedented because the Panel in the Merits Decision went out of its way to make a series of highly favourable findings in respect of Coventree and the individual Respondents that are quite extraordinary in a case of this nature, and distinguish this case from any of the disclosure cases relied upon by Staff. Coventree submitted that the sanctions sought by Staff can only fairly be regarded as punitive in nature, and in the circumstances of this case, the sanctions sought are in no way warranted.

[22] In considering the issue of sanctions, Coventree submitted that it is critically important that we bear in mind that disclosure issues of the nature involved in this matter can be difficult and complicated, and are precisely the sorts of issues in respect of which reasonable people can differ.

[23] Coventree submitted that it was clear on the evidence as well as on the Panel's findings in the Merits Decision that there was no scheme to deceive public shareholders regarding the impact of market developments on Coventree and that no one associated with Coventree intended to breach the Act in any way or at any time. Coventree submitted that the evidence established that the culture of Coventree was to act professionally, take its responsibilities seriously and to treat investors fairly. Unlike the issuers in other typical enforcement proceedings, Coventree was not a company characterized by bad faith, recklessness or deceitful conduct.

[24] Coventree submitted that the honest and well-meaning conduct of Coventree that was at issue in this proceeding that resulted in unintentional breaches of the Act on two occasions, simply cannot be grouped together with the egregious and wilful misconduct that is characteristic of the previous disclosure cases heard by the Commission. Accordingly, Coventree submitted that any proportionately appropriate sanctions imposed on Coventree should be considerably less severe than the sanctions imposed on issuers in previous disclosure cases. This is so for at least the following three reasons.

[25] First, Coventree did not intentionally breach the Act or attempt to mislead public shareholders or investors. Rather, Coventree at all times considered its disclosure obligations seriously and in good faith, and in accordance with what it understood the law to be at the time. It is unlikely and illogical that imposing severe sanctions against Coventree for what was, at most, an error in judgment made in exceptionally difficult and unprecedented circumstances, will prevent or dissuade other well-meaning reporting issuers from unintentionally contravening securities laws in the future.

[26] Second, courts and numerous Canadian administrative tribunals have recognized that the intense publicity and reputational harm associated with proceedings of this nature act as a powerful deterrent in dissuading others from engaging in similar conduct. In this case, the notoriety now associated with Coventree by virtue of this lengthy, high-profile enforcement proceeding is sufficient to accomplish any general deterrent objective that we might reasonably have.

[27] Third, the events that gave rise to this sanctions hearing occurred more than four years ago in the context of an unprecedented and extraordinary global economic crisis that affected not just Coventree, but credit and commercial paper markets throughout the world. These were matters that Coventree had no ability to control, influence or predict with any degree of accuracy. The unique and unprecedented nature of the circumstances of this case minimize significantly, if not completely, the need for general deterrence.

[28] Coventree submitted that the sanctions proposed by Staff against Coventree would serve no preventative purpose and would merely cause further harm to innocent public shareholders. Coventree is in the process of being wound-up. Coventree has no intention of either issuing securities or applying to become a registrant under the Act prior to its winding up. Accordingly, Coventree submitted that there is no need for the registration prohibition and removal of exemptions order requested by Staff. Coventree submitted that any significant administrative penalty against Coventree would simply punish innocent shareholders by reducing any distribution that will ultimately be made in connection with its winding-up. Further, Coventree submitted that there is quite clearly no need to specifically deter Coventree from committing future breaches of its continuous disclosure obligations because the company is being wound-up.

[29] With respect to costs, Coventree submitted that there can be no doubt that Coventree and the other Respondents participated in this proceeding in a responsible, informed and well-prepared manner in a way that helped the Panel understand the issues before it. Indeed, the Panel made express findings regarding the unimpeachable credibility of the current and former Coventree employees who testified at the hearing. It is also clear from the record, and from the Merits Decision, that Coventree cooperated with Staff in its investigation. Moreover, in light of the complex matters at issue in this case and the Panel's decision, there can be no suggestion, and indeed, there has been no suggestion, that Coventree should have admitted anything that it refused to admit. All of these factors weigh against the Panel making a costs award as requested by Staff.

B. Cornish Submissions

[30] Cornish submitted that the findings against him were at the lower end of the spectrum of allegations that have been made in the past to the Commission and do not include allegations of fraud, self-dealing, wilful misconduct, recklessness or bad faith. Cornish submitted that his conduct is distinguishable from prior decisions of the Commission in which serious sanctions were imposed for failures to disclose material changes.

[31] In Cornish's submission, the position taken by Staff on sanctions is not supported by the Panel's findings in the Merits Decision, Cornish's personal circumstances, or the legal principles and precedents applicable to the making of orders in the public interest under the Act.

[32] Cornish submitted that the Commission should consider the following factors as mitigating in the circumstances:

(a) the Commission found that Cornish did not intend to breach the Act or intentionally mislead shareholders;

(b) there was no suggestion that Cornish breached the Act with a view to profiting from the breach;

(c) Cornish continuously considered Coventree's disclosure obligations and took diligent steps to ensure that the Coventree board was fully informed;

(d) Cornish testified honestly and credibly at the hearing on the merits and cooperated fully with Staff's investigation; and

(e) Cornish's reputation is one of honesty, intelligence and integrity (as supported by the numerous character references submitted); and he has been an effective contributor to the capital markets.

[33] Cornish also adopted the submissions of Coventree and Tai.

[34] Cornish submitted that in all the circumstances his conduct does not warrant significant sanctions and that the appropriate sanction is solely a reprimand.

C. Tai Submissions

[35] Tai submitted that the onerous sanctions that Staff seeks are not commensurate with the Panel's findings and cannot be justified by the relevant legal principles.

[36] Tai acknowledged the fundamental importance of timely and accurate continuous disclosure to the fairness, efficiency and integrity of capital markets. However, Tai submitted that not all failures to make timely disclosure are the same, and it is appropriate for us to consider the nature and seriousness of the relevant violations of the Act.

[37] Tai submitted that there is no evidence of actual harm to investors as a result of Tai's violations of the Act. While this does not excuse the failure to make timely and accurate disclosure, it does suggest that the sanctions should reflect that lack of evidence.

[38] Tai submitted that the Commission should consider the following factors as mitigating in the circumstances:

(a) Tai was a skilled and diligent businessman. His reputation according to those who testified at the hearing as well as those who submitted character references was one of honesty and integrity;

(b) Tai is not a lawyer and has no legal training or experience in interpreting the law of continuous disclosure;

(c) there was no evidence that Tai intentionally breached the Act or attempted to intentionally mislead public shareholders or investors;

(d) Tai continually sought the input of Coventree's board of directors as well as other members of senior management, which included two experienced securities lawyers;

(e) Tai took diligent steps to ensure that the Coventree board was fully informed of events and was able to make informed decisions;

(f) Tai cooperated fully in responding to Staff's investigation and attended voluntary interviews over the course of three days; and

(g) Tai made no profit from Coventree's failures to disclose.

[39] Tai also adopted the submissions of Coventree and Cornish.

[40] Tai submitted that in all the circumstances his conduct does not warrant significant sanctions and that the appropriate sanction is solely a reprimand.

VI. ANALYSIS AND SANCTIONS IMPOSED

A. The Law on Sanctions

[41] The Commission's dual mandate is (a) to provide protection to investors from unfair, improper or fraudulent practices; and (b) to foster fair and efficient capital markets and confidence in capital markets (section 1.1 of the Act).

[42] Subsection 127(1) of the Act gives the Commission power to make various orders if in the opinion of the Commission it is in the public interest to do so. The Commission's jurisdiction under subsection 127(1) is neither remedial nor punitive. Rather, the Commission's authority under subsection 127(1) is prospective in operation and preventative in nature. The Supreme Court of Canada has stated that:

> … The purpose of an order under s.127 is to restrain future conduct that is likely to be prejudicial to the public interest in fair and efficient capital markets. The role of the OSC under s. 127 is to protect the public interest by removing from the capital markets those whose past conduct is so abusive as to warrant apprehension of future conduct detrimental to the integrity of the capital markets.
>
> …
>
> Pursuant to s. 127(1), the OSC has the jurisdiction and a broad discretion to intervene in Ontario capital markets if it is in the public interest to do so. However, the discretion to act in the public

> interest is not unlimited … The sanctions under the section are preventive in nature and prospective in orientation.
>
> (*Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 at paras. 43 and 45)

[43] Accordingly, the Commission's objective when imposing sanctions is not to punish past conduct but to restrain future conduct that may be harmful to investors or Ontario's capital markets. This objective was described in *Re Mithras Management Ltd.* as follows:

> … [T]he role of this Commission is to protect the public interest by removing from the capital markets – wholly or partially, permanently or temporarily, as the circumstances may warrant – those whose conduct in the past leads us to conclude that their conduct in the future may well be detrimental to the integrity of those capital markets. We are not here to punish past conduct; that is the role of the courts, particularly under section 118 [now 122] of the Act. We are here to restrain, as best we can, future conduct that is likely to be prejudicial to the public interest in having capital markets that are both fair and efficient. In so doing we must, of necessity, look to past conduct as a guide to what we believe a person's future conduct might reasonably be expected to be; we are not prescient, after all.
>
> (*Re Mithras Management Ltd.* (1990), 13 OSCB 1600 at pp. 1610-1611)

[44] In *Norshield Asset Management (Canada) Ltd. (Re)* (2010), 33 OSCB 7171 at paras. 92 and 93, the Commission confirmed that its role is not to punish respondents in Commission proceedings for breaches of Ontario securities law nor to right any wrongs suffered by investors. The Commission noted, however, that the impact of the breaches of the Act on investors is a factor to consider when determining the appropriate sanctions.

[45] Further, the Supreme Court of Canada has recognized general deterrence as an additional factor that the Commission may consider when imposing sanctions. In *Cartaway Resources Corp.*, [2004] 1 S.C.R. 672 at para. 60, the Supreme Court stated that: "… it is reasonable to view general deterrence as an appropriate and perhaps necessary consideration in making orders that are both protective and preventative".

[46] The Commission must ensure that the sanctions imposed in each case are proportionate to the circumstances and the conduct of each respondent. The Commission has previously identified the following as some of the factors that a panel should consider when imposing sanctions:

(a) the seriousness of the conduct and the breaches of the Act;

(b) the respondent's experience in the marketplace;

(c) the level of a respondent's activity in the marketplace;

(d) whether or not there has been recognition by a respondent of the seriousness of the improprieties;

(e) whether or not the sanctions imposed may serve to deter not only those involved in the matter being considered, but any like-minded people, from engaging in similar abuses of the capital markets;

(f) the size of any profit obtained or loss avoided from the illegal conduct;

(g) the size of any financial sanction or voluntary payment;

(h) the effect any sanctions may have on the ability of a respondent to participate without check in the capital markets;

(i) the effect of the sanctions on the reputation and prestige of the respondent;

(j) the remorse of the respondent; and

(k) any mitigating factors.

(*Re Belteco Holdings Inc.* (1998), 21 OSCB 7743 at p. 7746; and *Re M.C.J.C.Holdings Inc. and Michael Cowpland* (2002), 25 OSCB 1133 at para. 26)

We considered these factors in coming to our conclusions with respect to the appropriate sanctions against the Respondents.

[47] Ultimately, the sanctions imposed should protect investors and Ontario's capital markets and deter others from similar conduct in the future.

B. Importance of Timely Disclosure

[48] Disclosure by reporting issuers is a fundamental cornerstone of securities regulation. Section 2.1 of the Act states that:

> In pursuing the purposes of this Act, the Commission shall have regard to the following fundamental principles:
>
> …
>
> 2. The primary means for achieving the purposes of this Act are,
>
> i. requirements for timely, accurate and efficient disclosure of information,
>
> …

[49] The Commission has emphasized the importance of disclosure to investors and capital markets in a number of decisions. In *Re Philip Services Corp.*, the Commission stated that:

> Disclosure is the cornerstone principle of securities regulation. All persons investing in securities should have equal access to information that may affect their investment decisions. The Act's focus on public disclosure of material facts in order to achieve market integrity would be meaningless without a requirement that such disclosure be accurate and complete and accessible to investors.
>
> (*Re Philip Services Corp.* (2006), 29 OSCB 3941, at para. 7)

[50] That comment applies equally to the disclosure of material changes under subsection 75(1) of the Act.

[51] As noted in the Merits Decision:

> [144] The Commission recognized in *Re YBM Magnex International Inc.* (2003), 26 OSCB 5285 ("*Re YBM Magnex*") that timely disclosure of material changes enhances the fairness and efficiency of capital markets. Other decisions that have accepted that principle include *Pezim v. British Columbia (Superintendent of Brokers)* [1994] 2 S.C.R. 557 ("*Re Pezim*"), *Re Philip Services Corp.* (2006), 29 OSCB 3971 ("*Philip Services Corp.*"), *Re AiT Advanced Information Technologies Corp.* (2008), 31 OSCB 712 ("*Re AiT*"), and *Re Rex Diamond Corp.* (2008), 31 OSCB 8337 (OSC) ("*Re Rex Diamond*").

[52] Section 75 of the Act is a key element of the disclosure regime imposed under the Act. That section requires that a reporting issuer forthwith disclose all material changes that occur with respect to the issuer. A material change is defined for this purpose as a change in a reporting issuer's business, operations or capital that would reasonably be expected to have a significant effect on the market price or value of the issuer's securities. Section 75 imposes that disclosure obligation in order to ensure that all investors have equal access to material information with respect to a reporting issuer when they are making investment decisions with respect to the reporting issuer's securities.

[53] As a result of Coventree's failure to disclose the material changes referred to in paragraph 8 of these reasons, shareholders and investors were uninformed of material information that we concluded would have significantly affected the market price or value of Coventree shares and would have affected the investment decisions of shareholders and investors with respect to Coventree shares.

[54] With respect to the material change that occurred as a result of the DBRS January Release, we concluded in the Merits Decision that "… In our view, a reasonable shareholder or investor would consider Coventree's inability to carry out future credit arbitrage transactions important information in making an investment decision with respect to Coventree shares" (Merits Decision, at para. 338).

[55] With respect to the material change that occurred by the close of business on August 1, 2007, we stated in the Merits Decision that a reasonable shareholder or investor would have considered the relevant information "… critically important in making an investment decision with respect to Coventree shares" (Merits Decision, at para. 596).

[56] We expressed in the Merits Decision our concerns with the decisions made by the Coventree disclosure committee as to Coventree's obligations under section 75 of the Act. We stated that:

> [756] We have indicated in these reasons a number of our concerns with the decisions made by the Coventree disclosure committee with respect to Coventree's obligations under section 75 of the Act to disclose material changes. We would reiterate here that:
>
> (a) Coventree's disclosure in its MD&A did not satisfy its obligation to disclose material changes by news release in accordance with section 75 of the Act …;
>
> (b) the fact that extensive risk factors were disclosed in the Prospectus and that "US subprime "contagion" etc. [was] widely discussed in the press" did not mean that public shareholders and investors had sufficient information to be able to fully assess the effects on, and consequences for, Coventree and its business of the events and developments that were unfolding in late July and early August 2007; to the contrary, we have concluded they did not have sufficient information to do so;
>
> (c) Coventree's obligation was to disclose changes that had occurred in its business or operations that were material; that disclosure obligation was not "premature" and did not require Coventree to speculate about or predict uncertain future events … ; and
>
> (d) the Draft Press Release prepared by Cornish addressed only spread widening and thereby failed to address a number of very significant events and developments that were discussed at the August Board Meeting … and that we have concluded constituted material changes.
>
> In our view, the various rationalizations of the disclosure committee did not justify the decisions it made not to publicly disclose events and developments that had occurred and constituted "material changes" within the meaning of the Act by the close of business on August 1, 2007.
>
> [757] In particular, in our view, the reasons Tai expressed to the Board for not issuing a news release on August 2, 2007 … did not justify that decision.
>
> [758] Further, Child's notes of the disclosure committee meeting on August 7, 2007 indicate that the relevant test used by securities regulators to determine when disclosure is required "is whether the information can be reasonably expected to influence investors". The disclosure committee concluded that "disclosure was not required under this test" … . We see no reasonable basis for that conclusion. To the contrary, we have concluded that a number of the events and developments that had occurred by the close of business on August 1, 2007 would have significantly affected the investment decisions of public shareholders and investors … .
>
> (Merits Decision, commencing at para. 756).

[57] Cornish and Tai played a key role in making the disclosure decisions that were the subject matter of this proceeding. We made the following statements in the Merits Decision:

> [768] Officers and directors of a reporting issuer are ultimately responsible for ensuring that timely and accurate information is disclosed by the issuer in accordance with the Act:
>
> > The responsibility of companies to make timely and accurate financial disclosure ultimately rests with directors of those companies. In practice, the responsibility is shared by the directors, audit committees, chief executive officers, chief financial officers and other management. The company itself would also be responsible.
>
> (*Re Standard Trustco* (1992), 15 OSCB 4322 at 4364) ("*Re Standard Trustco*")
>
> [769] More is expected of directors and officers who have superior qualifications, such as experienced business people, and more is expected of inside directors, such as Cornish and Tai, who have much greater involvement in corporate decision making and much greater direct access to corporate information (*Soper v. Canada* (1997) F.C.J. No. 881, at paras. 37 to 41; see also *Re YBM Magnex*, *supra*, at paras. 177, 183 and 184). The chief executive officer of a corporation plays a "pivotal" role in "co-ordinating, compiling and vetting material corporate disclosure" (*Re Biovail*, *supra*, at para. 387, referring to *Re Ironside*, 2006 ABASC 1930, at paras. 963 and 982; and *Re Workum and Hennig*, 2008 ABASC 363, at para. 713).

> [770] Both Cornish and Tai were leaders of Coventree and senior officers. Cornish was President and Tai was CEO of Coventree. They were both members of the Board and of Coventree's strategic council and disclosure committee. They had the knowledge, experience and access to information that their roles implied. Both Cornish and Tai were directly involved in deciding whether Coventree should make disclosure of the material changes in its business that we have found occurred on January 22, 2007 and by the close of business on August 1, 2007.
>
> (Merits Decision, commencing at para. 768).

[58] Accordingly, the failure by Coventree to disclose the material changes identified in the Merits Decision, and the contraventions of the Act by Cornish and Tai as a result of having authorized, permitted or acquiesced in those contraventions, require significant sanctions as a matter of specific and general deterrence.

C. Multiple Contraventions of the Act

[59] We concluded in the Merits Decision that there were four breaches of the Act by the Respondents: the failure to forthwith issue and file a news release with respect to the material changes that occurred as a result of the DBRS January Release and by the close of business on August 1, 2007, and the failures to file material change reports in respect of those two material changes.

[60] In our view, the substance of those breaches of the Act was the failure to make timely public disclosure of the two material changes that we found had occurred. If appropriate news releases had been issued by Coventree in respect of those material changes, the failure to file material change reports would have constituted, in our view, less serious breaches of the Act.

[61] This is relevant because, under paragraph 9 of subsection 127(1) of the Act, we are entitled to order a person to pay an administrative penalty of not more than $1.0 million for each failure to comply with the Act.

[62] We also agree with the submissions of the Respondents that the maximum sanctions that may be ordered in respect of a breach of the Act must be reserved for the most egregious circumstances.

D. The *Kienapple* Principle

[63] The Respondents submitted that the principle in the criminal case of *Kienapple v. The Queen* [1975], 1 S.C.R. 729 ("***Kienapple***") applies to sanctions imposed under the Act. That principle is that an accused cannot be punished for more than one offence arising out of the same set of facts. In Kienapple, the accused was convicted of both rape and unlawful sexual intercourse with a female under 14 years of age. The Supreme Court of Canada concluded that there should not be multiple convictions or penalties for the same delict against the same girl.

[64] *Kienapple* was applied to an administrative and disciplinary proceeding in *Carruthers v. College of Nurses of Ontario* [1996], O.J. No. 4275 ("***Carruthers***"). The Court in that case stated that:

> There is no quarrel with the proposition that a registrant/member ought to be held liable for each breach of the governing rules of the profession. No one, however, should be twice punished for the same delict or matter. It is as much the case for professional discipline as it is for a regulatory offence.

[65] *Kienapple* was a criminal case and we doubt whether the principle reflected applies to an administrative proceeding before us, notwithstanding the statement in *Carruthers* referred to above. As noted above, under paragraph 9 of subsection 127(1) of the Act, the Commission is expressly entitled to order an administrative penalty of not more than $1.0 million *for each failure to comply with the Act*. The Commission has a long history of decided cases in which it has treated substantially the same conduct as giving rise to multiple breaches of the Act; for instance, where the same conduct constitutes an illegal distribution of securities as well as a contravention of the requirement for registration.

[66] Staff submits in any event that subsections 75(1) and (2) of the Act impose different obligations and requirements on a reporting issuer. It seems to us that the failure to issue and file a news release in respect of a material change is an offence that is distinct from the failure to file a material change report in respect of the same material change. Further, in imposing administrative sanctions, we must be satisfied that the overall sanctions imposed are proportionate to the conduct of the respondents involved and are in the public interest.

E. Mitigating Factors

[67] In imposing sanctions on the Respondents, we considered the following mitigating factors:

(a) As we found in the Merits Reasons, there was no evidence that would lead us to conclude that Cornish or Tai intentionally breached the Act or attempted to intentionally mislead public shareholders and investors (see para. 772 of the Merits Decision). Further, Coventree did disclose in its shareholder letters and in its Management's Discussion & Analysis a number of the matters we considered important to shareholders. We also note that Coventree was intending to make further public disclosure in its Management's Discussion & Analysis following the August 13, 2007 board meeting.

(b) The disclosure decisions Coventree was faced with on August 1, 2007 raised difficult and relatively complex issues in the face of the unprecedented market impact of the credit crisis that occurred in August 2007. Further, the breaches of the Act by the Respondents were less egregious than the circumstances in a number of the previous disclosure cases decided by the Commission and referred to us (those previous decisions were *Re Cineplex Corporation, Drabinsky and Gottlieb* (1983), 6 OSCB 3845, *Re Standard Trustco* (1992), 15 OSCB 4322, *Re YBM Magnex International Inc.* (2003), 26 OSCB 5285, *Re Rex Diamond Corp.* (2008), 31 OSCB 8337 and *Re Biovail Corporation* (2010), 33 OSCB 8914).

(c) Neither Cornish nor Tai profited personally from Coventree's breaches of section 75 of the Act. To the contrary, as controlling shareholders of Coventree, they suffered substantial financial losses as a result of the events that gave rise to this proceeding. Those losses were, in effect, shared pro rata with other Coventree shareholders.

(d) Cornish and Tai identified for the Coventree board at the August 1, 2007 board meeting all of the market and other developments that we concluded gave rise to a material change by the close of business on August 1, 2007, and the directors ultimately did not object to the decision reached by Cornish and Tai not to have Coventree issue a news release at that time.

(e) There was a very high level of cooperation by each of the Respondents with Staff in the course of Staff's investigation of this matter.

(f) Coventree and its board acted responsibly in appointing a special committee of independent directors to investigate the allegations made by Staff. That special committee prepared a report at a very substantial cost to Coventree.

F. Other Relevant Considerations

[68] In considering the appropriate administrative penalty to impose in these circumstances, we also considered that Coventree is a substantial public company with significant financial assets. It seems to us that in order to determine an appropriate administrative penalty, we must consider the size of the relevant issuer and the potential financial impact of the sanctions imposed. A nominal financial sanction relative to the size and financial resources of an issuer does not accomplish our goal of specific and general deterrence.

[69] We considered the sanctions imposed by the Commission in each of the previous decisions of the Commission involving disclosure referred to in paragraph 67(b) of these reasons.

[70] None of the decisions of the Commission referred to us are on all fours with the circumstances in this matter. While the facts here are quite different, we do note the terms of settlement in *Re Melnyk* (2007), OSCB 5253. That matter involved, among other things, the failure of the respondent to disclose certain information that resulted in incomplete and misleading disclosure in the issuer's management information circulars. Pursuant to the terms of settlement, the Commission imposed on the respondent a one year ban in acting as a director of Biovail Inc., an administrative penalty of $750,000, costs of $250,000 and a reprimand. We also considered the sanctions imposed by the Commission in *Re Rowan* (2010), 33 OSCB 91.

[71] We note that substantially higher financial sanctions than we imposed in this matter have been imposed by the Commission under a number of other Commission settlements (see, for instance, *Re AGF Funds Inc.* (2005), 28 OSCB 875, *Re Research in Motion Ltd.* (2009), 32 OSCB 4434, *Re Biovail* (2009), 32 OSCB 1094, *Re HSBC Bank Canada* (2010), 33 OSCB 62, and *Re Canadian Imperial Bank of Commerce* (2010), 33 OSBC 73). While those settlements are relevant, Staff and the respondents are free in a settlement to agree to whatever financial and other sanctions they negotiate. In imposing sanctions after a merits hearing, we are bound by the provisions of subsection 127(1) of the Act and legal principles with respect to imposing sanctions.

[72] We would add that the sanctions we imposed related to the specific findings we made in the Merits Decision concerning the failure by Coventree to disclose material changes and file material change reports. While those breaches of the Act occurred in the context of the disruption in the ABCP market that took place on August 13, 2007, they do not relate to any matters that were not expressly the subject matter of this proceeding.

[73] Finally, in imposing sanctions on Coventree, we recognized that Coventree is in the process of winding-up. That means that Coventree will not be participating in Ontario capital markets in the future.

G. Sanctions Imposed on Coventree

[74] We concluded that we should impose on Coventree the administrative sanctions referred to in paragraph 89 of these reasons, including a $1.0 million administrative penalty. We concluded that significant administrative sanctions were appropriate in the circumstances but not at the top end of the range of penalties that we could have imposed. We concluded that, while the market conduct prohibitions contained in the Sanctions Order were appropriate, they should not interfere with Coventree's winding-up.

H. Sanctions Imposed on Cornish and Tai

[75] Cornish and Tai authorized, permitted or acquiesced in Coventree's failure to disclose the two material changes that we concluded in the Merits Decision had occurred. Having imposed an administrative penalty of $1.0 million on Coventree, we concluded that the same administrative penalty should be imposed, on an aggregate basis, on Cornish and Tai. Accordingly, we imposed an administrative penalty on each of Cornish and Tai of $500,000.

[76] The conduct of Cornish and Tai addressed in the Merits Decision was their conduct as officers and directors of Coventree. We concluded that general deterrence required us to impose a one-year prohibition on Cornish and Tai acting as an officer or director of a reporting issuer, other than Coventree. We did not consider it necessary in the circumstances to impose any other market conduct prohibitions on Cornish or Tai. That was not necessary in order to protect investors or our capital markets from their future conduct.

[77] Given that Coventree is in the process of winding-up and may wish the assistance of Cornish in doing so, we were prepared to exclude Coventree from our prohibitions on Cornish and Tai acting as a director or officer of a reporting issuer.

[78] We also considered a reprimand to be appropriate in the circumstances.

[79] Staff requested that we issue an order to the effect that Cornish or Tai not seek or accept any indemnification from Coventree in respect of any administrative penalty imposed by us. No notice was given to Cornish and Tai prior to the merits hearing that Staff was seeking such an order. In our view, Staff cannot now seek to do so. In any event, in our view, we have no authority under subsection 127(2) of the Act to make such an order. That subsection allows us to make an order under section 127 "subject to such terms and conditions as the Commission may impose". In our view, subsection 127(2) does not give us authority to make a substantive order, such as that requested, that is not specifically authorized under sections 127 or 127.1 of the Act. There is nothing, however, preventing Staff from negotiating a provision in a settlement agreement limiting the ability of a director or officer to seek indemnification under corporate law.

[80] We concluded in the circumstances that no distinction should be made between Cornish and Tai in imposing administrative sanctions. Both were leaders of Coventree and both participated equally in the disclosure decisions made by Coventree that were the subject matter of this proceeding.

I. Costs

[81] Staff requested reimbursement of disbursements related to the investigation of this matter and costs related to the litigation phase of this matter. Staff requested $1.5 million of costs to be paid jointly by the Respondents; we awarded costs of $250,000 against only Coventree. Reducing the cost award requested by Staff does not imply any criticism of Staff for its investigation of this matter, for bringing this proceeding or for Staff's conduct at the hearing. To the contrary, we have no reason to believe that Staff did not act throughout this matter responsibly, professionally and in good faith. Further, we have no doubt that the disbursements and costs requested by Staff were properly incurred and qualify to be reimbursed by the Respondents. There is no doubt that a proceeding of this nature is very expensive both for the Commission and for respondents.

[82] We determined the amount of our costs award against Coventree by applying the following considerations.

[83] First, the Respondents and their legal counsel conducted themselves throughout the hearing in a professional and responsible manner. They agreed to a statement of agreed facts with respect to a number of factual issues. In our view, they did not waste our time at the hearing on irrelevant or tangential matters. Legal counsel for the Respondents assisted us in our deliberations through the submissions they made and the materials they filed.

[84] Second, Staff was successful on its allegations that Coventree failed to forthwith disclose two material changes and to file material change reports in respect of those material changes. Staff was not successful on two other principal allegations, both of which took significant hearing time. We also note that Staff did not satisfy us that it was appropriate in the circumstances to treat the Respondents as having breached the Act on every day following the occurrence of the relevant material change until public disclosure was made. We concluded as a result of these considerations that any cost award should be very substantially reduced.

[85] Further, as noted above, the circumstances giving rise to this hearing raised difficult and relatively complex legal issues. A number of the issues discussed in the Merits Decision had not been expressly addressed in prior Commission decisions.

[86] Finally, an award of costs is a matter in our discretion. We are concerned not to unduly penalize or discourage respondents through our costs awards from bringing matters before the Commission that respondents wish to contest in good faith.

[87] All of the substantive allegations made by Staff were made against Coventree. The contraventions of the Act by Cornish and Tai were derivative in the sense that their contraventions arose because they authorized, permitted or acquiesced in Coventree's conduct. Accordingly, while there is no doubt that Cornish and Tai played a key role in making the Coventree disclosure decisions that were the subject matter of this proceeding, the allegations against Cornish and Tai personally did not add substantially to the length of the merits hearing.

[88] In the circumstances, we ordered that Coventree pay costs of $250,000 in connection with the hearing of this matter. That is a substantial costs award based on the Commission decisions we reviewed. We did not order Cornish or Tai to pay any costs.

VII. FINDINGS AND CONCLUSIONS AS TO SANCTIONS AND COSTS

[89] With respect to Coventree, we ordered pursuant to the Sanctions Order that:

(a) pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities by Coventree cease until such time as Coventree completes its winding-up;

(b) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Coventree until such time as Coventree completes its winding-up;

(c) pursuant to paragraph 9 of subsection 127(1) of the Act, Coventree pay an administrative penalty of $1.0 million; and

(d) pursuant to subsection 127.1(2) of the Act, Coventree pay $250,000 of the costs incurred by the Commission in connection with the hearing of this matter.

We also provided that the sanctions referred to in paragraphs (a) and (b) should not prevent Coventree's winding-up or any trade in securities reasonably related to the winding-up.

[90] With respect to each of Cornish and Tai, we ordered pursuant to the Sanctions Order that:

(a) pursuant to paragraph 6 of subsection 127(1) of the Act, each of Cornish and Tai be reprimanded;

(b) pursuant to paragraph 7 of subsection 127(1) of the Act, each of Cornish and Tai resign any positions that he may hold as a director or officer of a reporting issuer, other than Coventree;

(c) pursuant to paragraph 8 of subsection 127(1) of the Act, each of Cornish and Tai be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Coventree, for a period of one year; and

(d) pursuant to paragraph 9 of subsection 127(1) of the Act, each of Cornish and Tai shall pay an administrative penalty of $500,000.

[91] We confirmed in the Sanctions Order, for greater certainty, that the Sanctions Order was not intended to prevent Cornish or Tai making any claims for indemnity from Coventree in respect of the amounts referred to in paragraph 90(d) of these reasons.

[92] We also ordered that the amounts referred to in paragraphs 89(c) and 90(d) of these reasons, be allocated to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act.

VIII. CONCLUSION

[93] For the reasons discussed above, we concluded that the sanctions and costs we imposed under the Sanctions Order were proportionate to past decisions of the Commission and to the respective conduct and responsibilities of each of the Respondents in the circumstances. We also concluded that the sanctions and costs imposed under the Sanctions Order were in the public interest.

Dated at Toronto, this 23rd day of December, 2011.

"James E. A. Turner"
James E. A. Turner

"Mary G. Condon"
Mary G. Condon

"Paulette L. Kennedy"
Paulette L. Kennedy

Schedule A

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

AND

IN THE MATTER OF
COVENTREE INC.,
GEOFFREY CORNISH and DEAN TAI

ORDER
(Sections 127 and 127.1 of the Securities Act)

WHEREAS on December 7, 2009, a Statement of Allegations and a Notice of Hearing were issued by the Ontario Securities Commission (the "Commission") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of Coventree Inc. ("Coventree"), Geoffrey Cornish ("Cornish") and Dean Tai ("Tai") (collectively, the "Respondents");

AND WHEREAS the hearing on the merits of this matter took place over 45 hearings days from May 12, 2010 to December 9, 2010;

AND WHEREAS by reasons for decision dated September 28, 2011, the Commission determined that:

(a) Coventree contravened subsection 75(1) of the Act by failing to forthwith issue and file a news release disclosing a material change with respect to Coventree that occurred on January 22, 2007;

(b) Coventree contravened subsection 75(2) of the Act by failing to file a material change report in respect of the material change referred to in paragraph (a) above in accordance with that subsection;

(c) Coventree contravened subsection 75(1) of the Act by failing to forthwith issue and file a news release disclosing the material changes with respect to Coventree that occurred by the close of business on August 1, 2007;

(d) Coventree contravened subsection 75(2) of the Act by failing to file a material change report in respect of the material changes referred to in paragraph (c) above in accordance with that subsection;

(e) each of Cornish and Tai authorized, permitted or acquiesced in Coventree's non-compliance with Ontario securities law referred to in paragraphs (a) to (d) above and were deemed also to have not complied with Ontario securities law in accordance with section 129.2 of the Act; and

(f) the conduct of Coventree in contravening Ontario securities law as provided in paragraphs (a) to (d) above, and the conduct of each of Cornish and Tai in contravening Ontario securities law as provided in paragraph (e) above, was contrary to the public interest;

AND WHEREAS the allegations of Staff that Coventree breached section 56 and subsection 126.2(1) of the Act were dismissed;

AND WHEREAS on October 26 and 27, 2011, a hearing was held before the Commission to consider pursuant to sections 127 and 127.1 of the Act whether it is in the public interest to make an order imposing sanctions on, and the payment of costs of the hearing by, Coventree, Cornish or Tai;

AND WHEREAS Coventree is in the process of winding up its affairs and distributing its property and assets to shareholders (referred to in this Order as "winding-up");

AND WHEREAS in coming to its conclusions on sanctions the Commission carefully considered the submissions of all the parties, the principle of proportionality, and the numerous other factors and circumstances that the Commission considered relevant;

AND WHEREAS it is the intention of the Commission to issue, in due course, reasons for imposing the sanctions and costs set forth in this Order;

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

1. IT IS HEREBY ORDERED WITH RESPECT TO COVENTREE THAT:

(a) pursuant to clause 2 of subsection 127(1) of the Act, trading in any securities by Coventree cease until such time as Coventree completes its winding-up;

(b) pursuant to clause 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Coventree until such time as Coventree completes its winding-up;

(c) pursuant to clause 9 of subsection 127(1) of the Act, Coventree pay an administrative penalty of $1,000,000; and

(d) pursuant to section 127.1 of the Act, Coventree pay $250,000 of the costs incurred by the Commission in connection with the hearing of this matter;

2. IT IS HEREBY ORDERED WITH RESPECT TO EACH OF CORNISH AND TAI THAT:

(e) pursuant to clause 6 of subsection 127(1) of the Act, each of Cornish and Tai be reprimanded;

(f) pursuant to clause 7 of subsection 127(1) of the Act, each of Cornish and Tai resign any positions he may hold as a director or officer of a reporting issuer, other than Coventree;

(g) pursuant to clause 8 of subsection 127(1) of the Act, each of Cornish and Tai are prohibited from becoming or acting as a director or officer of a reporting issuer, other than Coventree, for a period of one year; and

(h) pursuant to clause 9 of subsection 127(1) of the Act, each of Cornish and Tai shall pay an administrative penalty of $500,000;

3. IT IS FURTHER ORDERED THAT:

(i) the Commission's orders in paragraphs (a) and (b) above shall not prevent the winding-up of Coventree or any trade in securities reasonably related to the winding-up;

(j) for greater certainty, this Order is not intended to prevent Cornish or Tai making any claim for indemnity from Coventree in respect of the amounts payable by them pursuant to paragraph (h) of this Order;

(k) the amounts referred to in paragraphs (c) and (h) above of this Order shall be allocated by the Commission to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act; and

(l) Staff or any of the Respondents shall be entitled to apply to the Commission with respect to any issue or question that may arise related to the interpretation or application of this Order.

DATED at Toronto this 8th day of November, 2011.

"James E. A. Turner"

"Mary G. Condon"

"Paulette L. Kennedy"

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
Homeserve Technologies Inc.	16 Dec 11	28 Dec 11	28 Dec 11	
Medifocus Inc.	04 Aug 11	16 Aug 11	16 Aug 11	21 Dec 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
Pacrim International Capital Inc.	30 Dec 11	11 Jan 12			

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
Pacrim International Capital Inc.	30 Dec 11	11 Jan 12			

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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
11/29/2011	4	2093755 Ontario Ltd. - Units	9,500,000.00	9,500,000.00
11/28/2011	8	2278419 Ontario Inc. - Common Shares	21,975.00	439,500.00
12/05/2011	1	480 Bayfield Inc. - Units	60,288.00	60,288.00
11/28/2011	4	9143-7459 Quebec Inc. - Units	32,250,000.00	32,250,000.00
12/09/2011	2	Adroit Resources Inc. - Units	250,000.00	4,166,666.00
11/21/2011	2	Air Lease Corporation - Notes	2,077,000.00	2.00
11/30/2011	8	Asantae Holdings International Inc. - Units	232,500.00	1,550,000.00
11/07/2011	1	Augustine Ventures Inc. - Common Shares	72,500.00	250,000.00
11/29/2011	63	Aurcana Corporation - Units	34,354,450.00	52,853,000.00
12/02/2011	62	Black Smoker Ventures Inc. - Units	1,238,714.90	11,797,286.00
12/07/2011	37	Blackbird Energy Inc. - Common Shares	658,000.00	3,290,000.00
12/02/2011	1	Blue Planet Environmental Inc. - Common Shares	508,250.00	2,433,522.00
11/30/2011	1	BlueScope Steel Limited - Common Shares	82,058.26	196,368.00
11/30/2011	4	CCO Holdings, LLC and CCO Holdings Capital Corp. - Notes	24,268,860.00	23,800.00
11/30/2011	112	Centurion Apartment Real Estate Investment Trust - Units	4,700,354.25	462,861.08
11/30/2011 to 12/20/2011	3	Colwood City Centre Limited Partnership - Notes	145,000.00	145,000.00
12/01/2011	16	Cuco Resources Limited - Units	19,401,818.00	19,070.00
12/07/2011	33	Daimler Canada Finance Inc. - Notes	299,985,000.00	3,000,000.00
12/05/2011	6	DynaMotive Energy Systems Corporation - Units	335,024.00	2,709,858.00
11/25/2011	2	Eagle Landing Retail Limited Partnership - Units	30,000.00	30,000.00
12/02/2011	27	Eastmain Resources Inc. - Flow-Through Shares	5,753,970.20	2,615,441.00
12/14/2011	15	Elissa Resources Ltd. - Units	560,000.00	2,800,000.00
11/24/2011	1	Eloro Resources Ltd. - Units	204,000.00	1,700,000.00
11/30/2011	99	Ferrum Americas Mining Inc. - Receipts	292,750.00	65,500.00
11/25/2011	10	Forsys Metals Corp. - Common Shares	9,879,664.00	722,457.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
10/31/2011	55	Foundation Resources Inc. - Units	1,027,250.00	10,272,500.00
11/30/2011	6	Genesis Technical Systems Corp. - Units	77,000.00	385,000.00
11/30/2011	7	Gryphon Minerals Limited - Common Shares	3,148,939.40	2,445,338.00
11/29/2011	6	Guinea Iron Ore Limited - Units	450,000.00	2,250,000.00
12/05/2011	2	Gulfport Energy Corporation - Common Shares	3,074,750.00	105,000.00
11/29/2011	16	Highbank Resources Ltd. - Common Shares	140,000.00	2,800,000.00
01/07/2011 to 10/07/2011	4	Hillsdale Canadian Long/Short Equity Fund - Units	158,941.51	6,175.46
12/08/2010 to 11/17/2011	35	Hillsdale Canadian Performance Equity Fund - Units	5,689,405.93	59,170.26
11/30/2010 to 11/08/2011	42	Hillsdale Enhanced Income Fund - Units	6,078,764.02	539,079.48
09/29/2011 to 10/06/2011	3	Honey Badger Exploration Inc. - Units	700,000.00	7,000,000.00
11/28/2011	3	iCanTrade Corporation - Common Shares	46,145.00	46,145.00
11/28/2011 to 12/02/2011	9	IGW Real Estate Investment Trust - Units	421,282.30	401,221.24
12/05/2011 to 12/09/2011	13	IGW Real Estate Investment Trust - Units	778,769.73	N/A
11/28/2011 to 12/02/2011	35	IGW Real Estate Investment Trust - Units	1,255,915.82	N/A
11/25/2011	15	Innovente Inc. - Common Shares	4,526,273.15	8,230,273.00
10/31/2011	54	International Enexco Limited - Units	2,500,000.00	6,250,000.00
11/30/2011	25	Iskander Energy Corp. - Special Warrants	2,335,000.00	1,167,500.00
12/05/2011	5	Kitrinor Metals Inc. - Units	99,000.00	582,353.00
09/02/2011	8	La Quinta Resources Corporation - Units	400,000.00	4,705,877.00
08/30/2011	7	La Quinta Resources Corporation - Units	135,000.00	1,687,500.00
11/30/2011	18	Martina Minerals Corp. - Units	750,000.00	15,000,000.00
12/06/2011 to 12/09/2011	4	Member-Partners Solar Energy Capital Inc. - Bonds	112,900.00	112.90
11/29/2011 to 12/01/2011	4	Member-Partners Solar Energy Limited Partnership - Units	70,000.00	70,000.00
12/07/2011	1	Network Exploration Ltd. - Units	175,000.00	N/A
12/07/2011	56	Network Exploration Ltd. - Units	862,750.00	12,325,000.00
11/29/2011 to 12/02/2011	28	Orestone Mining Corp. - Units	736,500.00	7,365,000.00
12/07/2011	7	PanTerra Resource Corp. - Units	215,000.00	860,000.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
11/30/2011	12	Penn West Petroleum Ltd. - Notes	135,000,000.00	12.00
12/08/2011	8	Placencia Capital Trust I - Units	438,450.00	438,450.00
11/17/2011	1	Potash Ridge Corporation - Common Shares	1,500,000.00	6,000,000.00
12/08/2011	1	Potash Ridge Corporation - Common Shares	500,000.00	2,000,000.00
11/30/2011	3	Pulis Registered Capital I Inc. - Bonds	373,200.00	373.20
12/01/2011	3	Redbourne Realty Fund II Inc. - Common Shares	15,189,572.00	15,189.57
11/24/2011	47	Reef Resources Ltd. - Common Shares	1,598,225.91	14,529,326.00
11/24/2011	4	Reef Resources Ltd. - Units	90,000.00	900,000.00
11/30/2011	1	Ring of Fire Resources Inc. - Common Shares	37,500.00	375,000.00
11/16/2011 to 11/17/2011	6	Ring of Fire Resources Inc. - Units	636,000.04	4,892,308.00
11/30/2011	2	Rockcliff Resources Inc. - Flow-Through Units	1,175,000.00	10,681,818.00
12/02/2011	6	Rocmec Mining Inc. - Units	235,000.00	2,350,000.00
10/24/2011	19	Sand Box Technologies Inc. - Common Shares	1,427,666.43	26,524,354.00
12/06/2011	1	Scorpio Tankers Inc. - Common Shares	194,752.25	35,000.00
07/29/2011	29	SelectCore Ltd. - Units	1,000,000.00	3,333,333.00
12/08/2011	1	Shoal Pint Energy Ltd. - Note	300,000.00	1.00
11/08/2011	2	SM Energy Company and Wells Fargo Securities LLC - Notes	5,044,000.00	2,500.00
12/11/2011	4	TerraX Minerals Inc. - Common Shares	20,650.00	70,000.00
11/25/2011	4	Timbercreek Four Quadrant LP - Limited Partnership Units	10,099,980.00	100,999.80
11/17/2011	34	Tolima Gold Corp. - Receipts	25,025,000.00	38,500,000.00
12/09/2011	17	TriAusMin Limited - Common Shares	3,270,299.99	38,474,118.00
11/14/2011	2	Triumph Group, Inc. - Common Shares	14,214,951.03	255,000.00
12/02/2011	22	Tsawwassen Retail Power Centre Limited Partnership - Units	1,010,000.00	1,010,000.00
11/30/2011 to 12/02/2011	27	UBS AG, Jersey Branch - Notes	9,577,198.32	95,771.98
11/22/2011	36	Visible Gold Mines Inc. - Common Shares	2,874,999.90	9,583,333.00
11/22/2011	1	Vital Alert Communication Inc. - Preferred Shares	250,000.02	1,388,889.00
11/21/2011	22	Vital Financial 2011F, LLC - Units	584,000.00	584,000.00
12/01/2011	3	Young Women's Christian Association of Greater Toronto - Debentures	32,600,000.00	5.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
AlphaNorth 2012 Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
Maximum Offering: $25,000,000.00 (2,500,000 Units);
Minimum Offering: $5,000,000.00 (500,000 Units)
Subscription Price: $10.00 per Unit minimum Subscription: $2,500 (250 Units)
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
GMP Securities L.P.
National Bank Financial Ltd.
Scotia Capital Inc.
Macquarie Capital Markets Canada Ltd.
Raymond James Ltd.
Mackie Research Capital Corporation
Queensbury Securities Inc.
Dundee Securities Ltd.
Desjardins Securities Inc.
MGI Securities Inc.
Union Securities Ltd.
Promoter(s):
AlphaNorth Asset Management
PowerOne Asset Management Limited
Project #1843314

Issuer Name:
Brookfield Office Properties Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated December 19, 2011
NP 11-202 Receipt dated December 20, 2011
Offering Price and Description:
US$1,000,000,000.00":
Class AAA Preference Shares
Common Shares
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1842206

Issuer Name:
Canoe 2012 Flow-Through LP - CDE Units
Canoe 2012 Flow-Through LP - CEE Units
Principal Regulator - Alberta
Type and Date:
Preliminary Long Form Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
CDE Units
Maximum – $100,000,000.00: Minimum – $5,000,000.00
Minimum Offering - $5,000,000 (200,000 Units)
Subscription Price – $25.00 per CDE Unit Minimum Subscription – $5,000 (200 Units)
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
TD SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
CANACCORD GENUITY CORP.
MANULIFE SECURITIES INCORPORATED
MACKIE RESEARCH CAPITAL CORPORATION
MACQUARIE PRIVATE WEALTH INC.
DUNDEE SECURITIES LTD.
GMP SECURITIES L.P.
RAYMOND JAMES LTD.
Promoter(s):
Canoe 2012 General Partner Corp.
Canoe Financial LP
Project #1843349/1843360

Issuer Name:
Capital International - Emerging Markets Total Opportunities
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
Series A, B, D, F, H and I Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
CAPITAL INTERNATIONAL ASSET MANAGEMENT (CANADA), INC.
Project #1842974

Issuer Name:
CMP 2012 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
$100,000,000.00 (maximum) - 100,000 Limited Partnership Units Price per Unit: $1,000
Minimum Subscription: $5,000 (Five Units)
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
DUNDEE SECURITIES LTD.
SCOTIA CAPITAL INC.
BMO NESBITT BURNS INC.
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
GMP SECURITIES L.P.
HSBC SECURITIES (CANADA) INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
MANULIFE SECURITIES INCORPORATED
RAYMOND JAMES LTD.
Promoter(s):
CMP 2012 CORPORATION
DUNDEE SECURITIES LTD.
Project #1843068

Issuer Name:
Dakar Resource Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
$750,000.00 - 3,000,000 COMMON SHARES PRICE: $0.25 PER SHARE
Underwriter(s) or Distributor(s):
HAYWOOD SECURITIES INC.
Promoter(s):
Allen Wilson
Project #1843485

Issuer Name:
Dynamic American Value Fund
Dynamic High Yield Bond Fund
Dynamic Short Term Bond Fund
Dynamic Strategic Yield Class
Dynamic Strategic Yield Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated November 14, 2011
NP 11-202 Receipt dated December 28, 2011
Offering Price and Description:
Series H and FH Securities
Underwriter(s) or Distributor(s):
Goodman & Company, Investment Counsel Ltd.
Promoter(s):
Goodman & Company, Investment Counsel Ltd.
Project #1824809/18943955

Issuer Name:
DynamicEdge Conservative Class Portfolio
DynamicEdge Defensive Portfolio
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated December 20, 2011
NP 11-202 Receipt dated December 28, 2011
Offering Price and Description:
Series A, F, I, O and T Securities
Underwriter(s) or Distributor(s):
Goodman & Company, Investment Counsel Ltd.
Promoter(s):
Goodman & Company, Investment Counsel Ltd.
Project #1843955

Issuer Name:
Enbridge Income Fund
Principal Regulator - Alberta
Type and Date:
Preliminary Base Shelf Prospectus dated December 29, 2011
NP 11-202 Receipt dated December 29, 2011
Offering Price and Description:
$800,000,000.00 - Medium Term Notes
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1845124

Issuer Name:
First Asset Canadian Dividend Opportunity Fund II
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
Maximum $* (* Units); Price: $10.00 per Unit Minimum Purchase: 200 Units
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
SCOTIA CAPITAL INC.
CANACCORD GENUITY CORP.
GMP SECURITIES L.P.
RAYMOND JAMES LTD.
DUNDEE SECURITIES LTD.
MACQUARIE PRIVATE WEALTH INC.
Promoter(s):
FIRST ASSET INVESTMENT MANAGEMENT INC.
Project #1842815

Issuer Name:
Front Street Flow-Through 2012-I National Class
Front Street Flow-Through 2012-I Québec Class
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 16, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
Maximum Offering: $120,000,000.00 - 4,800,000 National Class Limited Partnership Units
Price: $25 per National Class Unit Minimum Purchase: 200 National Class Units
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
TD SECURITIES INC.
GMP SECURITIES L.P.
SCOTIA CAPITAL INC.
CANACCORD GENUITY CORP.
MACQUARIE CAPITAL MARKETS CANADA LTD.
MANULIFE SECURITIES INCORPORATED
RAYMOND JAMES LTD.
TUSCARORA CAPITAL INC.
DESJARDINS SECURITIES INC.
DUNDEE SECURITIES LTD.
SHERBROOKE STREET CAPITAL (SSC) INC.
Promoter(s):
FSC GP II Corp.
Front Street Capital 2004
Project #1842352/1842356

Issuer Name:
Frontier Acquisition Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary CPC Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
$2,000,000.00 - 10,000,000 Common Shares Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
Promoter(s):
Brad Creswell
John R. Jacobs
Project #1843444

Issuer Name:
Horizons High Yield Bond ETF
Horizons U.S. Floating Rate Bond ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 20, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
Class E Units and Advisor Class Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
ALPHAPRO MANAGEMENT INC.
Project #1842250

Issuer Name:
NCE Diversified Flow-Through (12) Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 19, 2011
NP 11-202 Receipt dated December 20, 2011
Offering Price and Description:
$100,000,000.00 (Maximum Offering); $5,000,000.00 (Minimum Offering) A maximum of 4,000,000 and a minimum of 200,000 Limited Partnership Units Subscription Price: $25 per Unit Minimum Subscription: 200 Units
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
BMO NESBITT BURNS INC.
TD SECURITIES INC.
CANACCORD GENUITY CORP.
GMP SECURITIES L.P.
MANULIFE SECURITIES INCORPORATED
SCOTIA CAPITAL INC.
HSBC SECURITIES (CANADA) INC.
MACQUARIE PRIVATE WEALTH INC.
RAYMOND JAMES LTD.
DESJARDINS SECURITIES INC.
DUNDEE SECURITIES LTD.
M PARTNERS INC.
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
PETRO ASSETS INC.
Project #1841933

Issuer Name:
ONE Financial All-Weather Profit Canada Fund
ONE Financial All-Weather Profit Commodities Fund
ONE Financial All-Weather Profit Conservative Growth 2022 Protected Portfolio
ONE Financial All-Weather Profit Emerging Markets Fund
ONE Financial All-Weather Profit Europe & Asia Fund
ONE Financial All-Weather Profit Global Diversified Fund
ONE Financial All-Weather Profit Global Diversified Growth Fund
ONE Financial All-Weather Profit Growth & Income Balanced Fund
ONE Financial All-Weather Profit Monthly ROC Income 2022 Protected Portfolio
ONE Financial All-Weather Profit Monthly Tax-Efficient Bond Fund
ONE Financial All-Weather Profit Tax-Efficient Short-term Savings Fund
ONE Financial All-Weather Profit U.S. Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 29, 2011
NP 11-202 Receipt dated December 30, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
One Financial Corporation
Project #1845211

Issuer Name:
Overlord Capital Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 16, 2011
NP 11-202 Receipt dated December 20, 2011
Offering Price and Description:
$900,000.00 - 9,000,000 Units Price: $0.10 per Unit Each Unit comprised of one common share and one share purchase warrant
Underwriter(s) or Distributor(s):
M Partners Inc.
Promoter(s):
-
Project #1841168

Issuer Name:
Qwest 2012 Oil & Gas Flow-Through Limited Partnership
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
Maximum Offering: $20,000,000.00 (800,000 Units)
Minimum Offering: $5,000,000.00 (200,000 Units)
Price: $25.00 per Unit Minimum Purchase: 100 Units
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
MANULIFE SECURITIES INCORPORATED
NATIONAL BANK FINANCIAL INC.
GMP SECURITIES L.P.
MACQUARIE PRIVATEWEALTH INC.
RAYMOND JAMES LTD.
CANACCORD GENUITY CORP.
MACKIE RESEARCH CAPITAL CORPORATION
DUNDEE SECURITIES LTD.
HSBC SECURITIES (CANADA) INC.
ROTHENBERG CAPITAL MANAGEMENT INC.
UNION SECURITIES LTD.
Promoter(s):
QWEST INVESTMENTMANAGEMENT CORP.
Project #1843193

Issuer Name:
Royal Gold, Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary MJDS Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
Debt Securities
Preferred Stock
Common Stock
Warrants
Depositary Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1843187

Issuer Name:
Sentry Conservative Balanced Income Class
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
Series A, Series F and Series I Shares
Underwriter(s) or Distributor(s):
Sentry Investments Inc.
Promoter(s):
SENTRY INVESTMENTS INC.
Project #1842805

Issuer Name:
Sprott 2012 Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
$100,000,000.00 (maximum): 4,000,000 Limited Partnership Units
Price per Unit: $25 Minimum Subscription: $5,000 (200 Units)
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
NATIONAL BANK FINANCIAL INC.
CANACCORD GENUITY CORP.
GMP SECURITIES L.P.
SCOTIA CAPITAL INC.
DESJARDINS SECURITIES INC.
DUNDEE SECURITIES LTD.
MACQUARIE PRIVATE WEALTH INC.
MANULIFE SECURITIES INCORPORATED
RAYMOND JAMES LTD.
SPROTT PRIVATE WEALTH LP
Promoter(s):
SPROTT 2012 CORPORATION
SPROTT ASSET MANAGEMENT L.P.
Project #1842775

Issuer Name:
Stone 2012 Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
$50,000,000.00 (Maximum Offering); $5,000,000.00 (Minimum Offering) Maximum of 2,000,000 and Minimum of 200,000 Units Subscription Price: $25 per Unit Minimum Subscription: 100 Units
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
CANACCORD GENUITY CORP.
MACQUARIE PRIVATE WEALTH INC.
GMP SECURITIES L.P.
RAYMOND JAMES LTD.
BURGEONVEST BICK SECURITIES LIMITED
INDUSTRIAL ALLIANCE SECURITIES INC.
MACKIE RESEARCH CAPITAL CORPORATION
UNION SECURITIES LTD.
Promoter(s):
Stone 2012 Flow-Through GP Inc.
Stone Asset Management Limited
Project #1843244

Issuer Name:
Sunshine Silver Mines Corporation
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Long Form PREP Prospectus dated December 28, 2011
NP 11-202 Receipt dated December 29, 2011
Offering Price and Description:
US$ * - *Shares of Common Stock Price: US$ * per Share of Common Stock
Underwriter(s) or Distributor(s):
MORGAN STANLEY CANADA LIMITED
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
CITIGROUP GLOBAL MARKETS CANADA, INC.
Promoter(s):
THE ELECTRUM GROUP LLC
Project #1771826

Issuer Name:
Walmer Capital Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary CPC Prospectus dated December 29, 2011
NP 11-202 Receipt dated December 29, 2011
Offering Price and Description:
Maximum Offering: $300,000.00 or 3,000,000 Common Shares Minimum Offering: $200,000.00 or 2,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
UNION SECURITIES LTD.
Promoter(s):
James A. Richardson
Project #1845079

Issuer Name:
Westport Innovations Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Base Shelf Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
$300,000,000.00:
Common Shares
Preferred Shares
Subscription Receipts
Warrants
Debt Securities
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1843304

Issuer Name:
XTF Morningstar Canada Dividend Index ETF
XTF Morningstar Canada Liquid Bond Index ETF
XTF Morningstar Canada Momentum Index ETF
XTF Morningstar Canada Value Index ETF
XTF Morningstar Emerging Markets Composite Bond Index ETF
XTF Morningstar National Bank Québec Index ETF
XTF Morningstar US Dividend Target 50 Index ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
Common Units and Advisor Class Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
XTF Capital Corp.
Project #1842563

Issuer Name:
Aston Hill Strategic Yield Class
(Series A, F, I and Y shares)
Aston Hill Strategic Yield Fund
(Series A, F, I and Y units)
Aston Hill Strategic Yield Trust
(Series I units)
Principal Regulator - Ontario
Type and Date:
Amendment #3 dated December 21, 2011 to the Simplified Prospectuses and Annual Information Form dated August 11, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Aston Hill Asset Management Inc.
Promoter(s):
Aston Hill Asset Management Inc.
Project #1755111

Issuer Name:
BCE Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
$250,000,000.00 - 10,000,000 Cumulative Redeemable First Preferred Shares, Series AK Price: $25.00 per Series AK Preferred Share to yield initially 4.15% per annum
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Desjardins Securities Inc.
GMP Securities L.P.
Laurentian Bank Securities Inc.
Macquarie Capital Markets Canada Ltd.
Raymond James Ltd.
Promoter(s):
-
Project #1839687

Issuer Name:
Big Five Capital Corp.
Principal Regulator - Alberta
Type and Date:
Final CPC Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
$200,000.00 - 2,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Union Securities Ltd.
Promoter(s):
Jie Liang
Project #1804563

Issuer Name:
Bissett Strategic Income Fund
(Series A, F, I and O units)
Bissett Strategic Income Corporate Class
(Series A, F, I, O, R, S and T shares)
(Class of Franklin Templeton Corporate Class Ltd.)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 20, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Franklin Templeton Investments Corp.
Promoter(s):
Franklin Templeton Investments Corp.
Project #1827019

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:
Final Simplified Prospectuses dated December 19, 2011
NP 11-202 Receipt dated December 21, 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:
B.E.S.T. Total Return Fund Inc.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 19, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
Class A Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1826932

Issuer Name:
Cambridge Income Fund (formerly Cambridge Monthly Income Fund)
(Class A, E, F and O units)
Cambridge Income Corporate Class (formerly Cambridge Monthly Income Corporate Class)
(Class A, AT5, AT8, E, ET5, ET8, F, FT5, FT8, O, OT5 and OT8 shares)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 29, 2011
NP 11-202 Receipt dated December 30, 2011
Offering Price and Description:
Class A, E, F and O units and Class A, AT5, AT8, E, ET5, ET8, F, FT5, FT8, O, OT5 and OT8 shares @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Investments Inc.
Project #1820898

Issuer Name:
Cambridge Income Trust
(formerly Cambridge Monthly Income Trust)
(Class C Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated December 29, 2011
NP 11-202 Receipt dated December 30, 2011
Offering Price and Description:
Class C units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Investments Inc.
Project #1820899

Issuer Name:
CANADIAN ZINC CORPORATION
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated December 29, 2011
NP 11-202 Receipt dated December 29, 2011
Offering Price and Description:
$5,098,700.00 - 7,610,000 Units at a Price of $0.67 per Unit
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
NORTHERN SECURITIES INC.
OCTAGON CAPITAL CORPORATION
RAYMOND JAMES LTD.
Promoter(s):
-
Project #1840680

Issuer Name:
CIBC Canadian Equity Fund (Class A and O units)
CIBC Canadian Resources Fund (Class A and O units)
CIBC Energy Fund (Class A and O units)
CIBC Canadian Real Estate Fund (Class A and O units)
CIBC Precious Metals Fund (Class A and O units)
CIBC Global Monthly Income Fund (Class A and O units)
CIBC Disciplined U.S. Equity Fund (Class A and O units)
CIBC Disciplined International Equity Fund (Class A and O units)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated December 21, 2011 to the Simplified Prospectuses and Annual Information Form dated July 28, 2011
NP 11-202 Receipt dated December 23, 2011
Offering Price and Description:
Class A and O units @ net asset value
Underwriter(s) or Distributor(s):
CIBC Securities Inc.
Promoter(s):
Canadian Imperial Bank of Commerce
Project #1759749

Issuer Name:
Covington Fund II Inc.
Type and Date:
Final Long Form Prospectus dated December 20, 2011
Receipted on December 21, 2011
Offering Price and Description:
Class A, Series I shares @ net asset value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1828963

Issuer Name:
Flex First Plan
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 19, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
Scholarship trust units
Underwriter(s) or Distributor(s):
Knowledge First Financial Inc.
Promoter(s):
Knowledge First Foundation
Project #1802864

Issuer Name:
Friedberg Asset Allocation Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 19, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
Trust 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:
Final Long Form Prospectus dated December 19, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
Trust 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 Energy Growth Fund Inc.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 28, 2011
NP 11-202 Receipt dated December 29, 2011
Offering Price and Description:
Class A Shares, Series III @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
TNG CANADA/CWA SPONSOR INC.
FRONT STREET CAPITAL 2004
Project #1825852

Issuer Name:
Gimus Resources Inc.
Principal Regulator - Quebec
Type and Date:
Final Long Form Prospectus dated December 19, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Jones Gable & Company Limited
Promoter(s):
Jourdan Resources Inc.
Project #1832864

Issuer Name:
Greater Toronto Airports Authority
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
CIBCWORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
Promoter(s):
-
Project #1837879

Issuer Name:
Horizons Advantaged Equity Fund Inc.
Type and Date:
Amendment #3 dated December 8, 2011 to the Long Form Prospectus dated January 27, 2011
Receipted on December 23, 2011
Offering Price and Description:
Class A shares, series III @ net asset value
Underwriter(s) or Distributor(s):
-
Promoter(s):
CFPA Sponsor Inc.
Project #1680389

Issuer Name:
Horizons BetaPro S&P 500 VIX Short-Term Futures Bull Plus ETF
Horizons BetaPro S&P 500 VIX Short-Term Futures ETF
Horizons BetaPro S&P 500 VIX Short-Term Futures Inverse ETF
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 16, 2011
NP 11-202 Receipt dated December 29, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
HORIZONS ETFs MANAGEMENT (CANADA) INC.
Project #1822006

Issuer Name:
HSBC Canadian Money Market Fund
HSBC U.S. Dollar Money Market Fund
HSBC Mortgage Fund
HSBC Canadian Bond Fund
HSBC Emerging Markets Debt Fund
HSBC Monthly Income Fund
HSBC U.S. Dollar Monthly Income Fund
HSBC Canadian Balanced Fund
HSBC Dividend Income Fund
HSBC Equity Fund
HSBC Small Cap Growth Fund
HSBC Global Equity Fund
HSBC U.S. Equity Fund
HSBC European Fund
HSBC AsiaPacific Fund
HSBC Chinese Equity Fund
HSBC Indian Equity Fund
HSBC Emerging Markets Fund
HSBC BRIC Equity Fund
HSBC World Selection Diversified Conservative Fund
HSBC World Selection Diversified Moderate Conservative Fund
HSBC World Selection Diversified Balanced Fund
HSBC World Selection Diversified Growth Fund
HSBC World Selection Diversified Aggressive Growth Fund
(Investor Series, Advisor Series, Premium Series, Manager Series and Institutional Series)
Principal Regulator - British Columbia
Type and Date:
Final Simplified Prospectuses dated December 16, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
Investor Series, Advisor Series, Premium Series, Manager Series and Institutional Series Units
Underwriter(s) or Distributor(s):
HSBC Investment Funds (Canada) Inc.
Promoter(s):
HSBC Global Asset Management (Canada) Limited
Project #1819999

Issuer Name:
HSBC CANADIAN MONEY MARKET POOLED FUND
HSBC MORTGAGE POOLED FUND
HSBC CANADIAN BOND POOLED FUND
HSBC U.S. HIGH YIELD BOND POOLED FUND
HSBC GLOBAL INFLATION LINKED BOND POOLED FUND
HSBC EMERGING MARKETS DEBT POOLED FUND
HSBC CANADIAN DIVIDEND INCOME POOLED FUND
HSBC CANADIAN EQUITY POOLED FUND
HSBC CANADIAN SMALL CAP EQUITY POOLED FUND
HSBC U.S. EQUITY POOLED FUND
HSBC INTERNATIONAL EQUITY POOLED FUND
HSBC EMERGING MARKETS POOLED FUND
HSBC MULTIALPHA CANADIAN BOND POOLED FUND
HSBC MULTIALPHA CANADIAN EQUITY POOLED FUND
HSBC MULTIALPHA CANADIAN SMALL CAP EQUITY POOLED FUND
HSBC MULTIALPHA U.S. EQUITY POOLED FUND
HSBC MULTIALPHA U.S. SMALL/MID CAP EQUITY POOLED FUND
HSBC MULTIALPHA INTERNATIONAL EQUITY POOLED FUND
Principal Regulator - British Columbia
Type and Date:
Final Simplified Prospectuses dated December 20, 2011
NP 11-202 Receipt dated December 20, 2011
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
HSBC Global Asset Management (Canada) Limited
Project #1823268

Issuer Name:
Imperial Money Market Pool
Imperial Short-Term Bond Pool
Imperial Canadian Bond Pool
Imperial Canadian Diversified Income Pool
Imperial International Bond Pool
Imperial Equity High Income Pool
Imperial Canadian Dividend Income Pool
Imperial Global Equity Income Pool
Imperial Canadian Equity Pool
Imperial U.S. Equity Pool
Imperial International Equity Pool
Imperial Overseas Equity Pool
Imperial Emerging Economies Pool
(Class A units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 21, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
Class A units @ net asset value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1814429

Issuer Name:
INTELLIPHARMACEUTICS INTERNATIONAL INC.
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 23, 2011
Offering Price and Description:
U.S.$30,000.00:
Common Shares
Preference Shares
Warrants
Subscription Receipts

Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1830525

Issuer Name:
Lysander Balanced Fund
Lysander Canadian Bond Fund
Lysander Corporate Value Bond Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 22, 2011
NP 11-202 Receipt dated December 23, 2011
Offering Price and Description:
Series A and Series F Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Lysander Funds Limited
Project #1816003

Issuer Name:
Megal Capital Corporation
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 28, 2011
Offering Price and Description:
$375,000.00 (3,750,000 COMMON SHARES) Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
MACQUARIE PRIVATE WEALTH INC.
Promoter(s):
Harold Lee
Project #1811379

Issuer Name:
Nebo Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated December 28, 2011
NP 11-202 Receipt dated December 28, 2011
Offering Price and Description:
$240,000.00 (1,200,000 COMMON SHARES) Price: $0.20 per Common Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
Quest Capital Management Corp.
Project #1839200

Issuer Name:
Pathway Multi Series Fund Inc. - Explorer Series Fund
(Mutual Fund Shares: A/Rollover Series, A/Regular Series, F Series and I Series)
Pathway Multi Series Fund Inc. - Energy Series Fund
(Mutual Fund Shares: A/Rollover Series, A/Regular Series, F Series and I Series)
Pathway Multi Series Fund Inc. - Canadian Flex ™ Series Fund
(Mutual Fund Shares: A/Regular Series, Low Load/DSC Series, F Series and I Series)
Pathway Multi Series Fund Inc. - Resource Flex ™ Series Fund
(Mutual Fund Shares: A/Regular Series, Low Load/DSC Series, F Series and I Series)
Pathway Multi Series Fund Inc. - Flex Dividend and Income Growth ™ Series Fund
(Mutual Fund Shares: A/Regular Series, Low Load/DSC Series, F Series and I Series)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 22, 2011
NP 11-202 Receipt dated December 29, 2011
Offering Price and Description:
Mutual Fund Shares: A/Rollover Series, A/Regular Series, Low Load/DSC Series, F Series and I Series
Underwriter(s) or Distributor(s):
-
Promoter(s):
MINERALFIELDS FUND MANAGEMENT INC.
Project #1824976

Issuer Name:
Phillips, Hager & North Overseas Equity Class
Phillips, Hager & North Total Return Bond Capital Class
Phillips, Hager & North U.S. Multi-Style All-Cap Equity Class
RBC Canadian Dividend Class
RBC Canadian Equity Class
RBC Canadian Equity Income Class
RBC Canadian Mid Cap Equity Class
RBC Emerging Markets Equity Class
RBC Global Resources Class
RBC High Yield Bond Capital Class
RBC North American Value Class
RBC Short Term Income Class
RBC U.S. Equity Class
(Series A, Advisor Series, Series D, Series F and Series O Mutual Fund Shares)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 19, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
Series A, Advisor Series, Series D, Series F and Series O Mutual Fund Shares
Underwriter(s) or Distributor(s):
RBC Direct Investing Inc.
RBC Direct Investing Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #1773674

Issuer Name:
Railtown Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 23, 2011
Offering Price and Description:
$500,000.00 - 5,000,000 Common Shares Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
-
Project #1826289

Issuer Name:
RBC Dominion Securities Canadian Focus List Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated December 9, 2011 to the Simplified Prospectus and Annual Information Form dated September 29, 2011
NP 11-202 Receipt dated December 29, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
First Defined Portfolio Management Co.
Promoter(s):
FIRST DEFINED PORTFOLIO MANAGEMENT CO.
Project #1790623

Issuer Name:
Rogers Communications Inc.
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
$4,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1840485

Issuer Name:
Rogers Communications Inc.
Type and Date:
Final Base Shelf Prospectus dated December 22, 2011
Receipted on December 22, 2011
Offering Price and Description:
US$4,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1840491

Issuer Name:
Royal Gold, Inc.
Principal Regulator - Ontario
Type and Date:
Final MJDS Prospectus dated December 22, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1843187

Issuer Name:
Scotia Private Global Real Estate Pool
(Pinnacle Series, Series F and Series I units)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated December 16, 2011 to the Simplified Prospectus and Annual Information Form dated November 30, 2011
NP 11-202 Receipt dated December 22, 2011
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Scotia Capital Inc.(for Pinnacle Class and Class F units only)
Scotia Capital Inc. (for Class A and F units only)
Promoter(s):
Scotia Asset Management L.P.
Project #1818252

Issuer Name:
Signature High Yield Bond Corporate Class
Signature High Yield Bond Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated December 29, 2011
NP 11-202 Receipt dated December 30, 2011
Offering Price and Description:
Class A, F and I units and Class A, AT5, AT8, F, FT5 and FT8 shares @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Investments Inc.
Project #1820904

Issuer Name:
Signature High Yield Bond Trust
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated December 29, 2011
NP 11-202 Receipt dated December 30, 2011
Offering Price and Description:
Class C units @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Investments Inc.
Project #1820906

Issuer Name:
Stratton Capital Corp.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated December 15, 2011
NP 11-202 Receipt dated December 23, 2011
Offering Price and Description:
Minimum Offering: $250,000.00 or 2,500,000 Common Shares; Maximum Offering: $1,750,000.00 or 17,500,000 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:
Sun Life MFS Global Growth Fund (Series A, T5, T8, F, I)
Sun Life MFS International Growth Fund (Series A, T5, T8, F, I)
Sun Life Milestone Global Equity Fund (Series I)
Sun Life Milestone 2020 Fund (Series A)
Sun Life Milestone 2025 Fund (Series A)
Sun Life Milestone 2030 Fund (Series A)
Sun Life Milestone 2035 Fund (Series A)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated December 12, 2011 to the Simplified Prospectuses and Annual Information Form dated August 24, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
Series A, F, I, T5 and T8 @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
Sunlife Global Investments (Canada) Inc.
Project #1775587

Issuer Name:
Sure Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated December 20, 2011
NP 11-202 Receipt dated December 20, 2011
Offering Price and Description:
$18,000,000.00 - 12,000,000 Common Shares Price: $1.50 per Offered Share
Underwriter(s) or Distributor(s):
HAYWOOD SECURITIES INC.
GMP SECURITIES L.P.
DESJARDINS SECURITIES INC.
DUNDEE SECURITIES LTD.
Promoter(s):
-
Project #1839646

Issuer Name:
Timbercreek Senior Mortgage Investment Corporation
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated December 29, 2011
NP 11-202 Receipt dated December 30, 2011
Offering Price and Description:
Maximum - $105,000,000.00 (10,500,000 Shares);
Minimum - $50,000,000.00 (5,000,000 Shares)
$10.00 per Class A Share $10.00 per Class B Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
BMO Nesbitt Burns Inc.
TD Securities Inc.
CIBC World Markets Inc.
GMP Securities L.P.
RBC Dominion Securities Inc.
Manulife Securities Incorporated
Scotia Capital Inc.
Canaccord Genuity Corp.
HSBC Securities (Canada) Inc.
Macquarie Capital Markets Canada Ltd.
National Bank Financial Inc.
Promoter(s):
Timbercreek Asset Management Ltd.
Project #1837096

Issuer Name:
Trilogy Energy Corp.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated December 21, 2011
NP 11-202 Receipt dated December 21, 2011
Offering Price and Description:
$189,500,000.00 - 5,000,000 Common Shares Price: $37.90 per Common Share
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
PETERS & CO. LIMITED
STIFEL NICOLAUS CANADA INC.
SCOTIA CAPITAL INC.
CIBC WORLD MARKETS INC.
FIRSTENERGY CAPITAL CORP.
GMP SECURITIES L.P.
TD SECURITIES INC.
Promoter(s):
-
Project #1840228

Issuer Name:
Yoho Resources Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated December 23, 2011
NP 11-202 Receipt dated December 23, 2011
Offering Price and Description:
$15,000,150.00 - 4,545,500 Common Shares Price: $3.30 per Common Share
Underwriter(s) or Distributor(s):
FirstEnergy Capital Corp.
Acumen Capital Finance Partners Limited
Haywood Securities Inc.
Paradigm Capital Inc.
Peters & Co. Limited
CIBC World Markets Inc.
Promoter(s):
-
Project #1841059

Issuer Name:
Zuri Capital Corp.
Principal Regulator - British Columbia
Type and Date:
Final CPC Prospectus dated December 19, 2011
NP 11-202 Receipt dated December 20, 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:
Bullion Monarch Mining, Inc.
Principal Jurisdiction - Ontario
Type and Date:
Preliminary Long Form Prospectus dated April 12, 2011
Withdrawn on August 23, 2011
Offering Price and Description:
Minimum Offering: * Common Shares for $ *
Maximum Offering: * Common Shares for $ *
Price: $* per Common Share
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
R. Don Morris
Project #1728567

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change of Name	From: Harris Investor Services Inc. To: BMO Harris Financial Advisors, Inc.	Portfolio Manager	December 2, 2011
Consent to Suspension (Pending Surrender)	Martin + Becker Financial Management Ltd.	Mutual Fund Dealer	December 16, 2011
Suspension (Regulatory Action)	M. Hershberg Capital Limited	Mutual Fund Dealer	December 19, 2011
Consent to Suspension (Pending Surrender)	Alchemy Capital Inc.	Portfolio Manager, Investment Fund Manager and Exempt Market Dealer	December 20, 2011
Voluntary Surrender	Trilogy Global Advisors, LP	Exempt Market Dealer Portfolio Manager	December 21, 2011
Change in Registration Category	Tonus Capital Inc.	From: Exempt Market Dealer, Portfolio Manager and investment Fund Manager To: Portfolio Manager	December 21, 2011
Consent to Suspension (Pending Surrender)	Excel Financial Growth Inc.	Mutual Fund Dealer and Exempt Market Dealer	December 23, 2011
Consent to Suspension (Pending Surrender)	Medwell Securities Inc.	Exempt Market Dealer	December 29, 2011
Consent to Suspension (Pending Surrender)	Harris Brown & Partners Limited	Exempt Market Dealer	December 30, 2011

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Pending Surrender)	Lincluden Management Limited	Portfolio Manager, Investment Fund Manager and Exempt Market Dealer	December 30, 2011
New Registration	Lincluden Investment Management Limited	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	December 30, 2011
New Registration	Padlock Investment Management Inc.	Portfolio Manager	January 3, 2012
New Registration	Solutions Monetaires Monarc Inc./Monarc Money Solutions Inc.	Mutual Fund Dealer	January 3, 2012

Chapter 13

SROs, Marketplaces and Clearing Agencies

13.1 SROs

13.1.1 IIROC Rules Notice – Request for comments – Plain language rule re-write project – Interpretation and standards; Proposed Rules 1100 through 1400

IIROC RULES NOTICE – REQUEST FOR COMMENTS –
PLAIN LANGUAGE RULE RE-WRITE PROJECT –
INTERPRETATION AND STANDARDS; PROPOSED RULES 1100 THROUGH 1400

Summary of the nature and purpose of the proposed Rule

On April 13, 2011, the Board of Directors ("the Board") of the Investment Industry Regulatory Organization of Canada ("IIROC") approved the publication for comment of proposed plain language rules relating to rule interpretation, definitions, powers of the Corporation and principles of conduct (collectively referred to as the "proposed Rules").

IIROC has undertaken a project to rewrite its rules in plain language. The primary objective of this project is to develop a set of rules that is more clear, concise and organized, without changing the rules themselves. In addition we have identified a number of rules that also require substantive revisions. These proposed Rules include the following substantive change rules:

(1) Rule 1100, *Interpretation*;

(2 Rule 1200, *Definitions*;

(3) Rule 1300, *Powers of the Corporation*; and

(4) Rule 1400, *Standards of conduct*.

The above noted existing rules have been identified as requiring substantive revisions in order to:

- eliminate unnecessary rule provisions;
- clarify IIROC's expectations with respect to certain rules;
- ensure that the rules reflect actual IIROC practices; and
- ensure consistency with other IIROC Dealer Member rules and applicable securities legislation.

Issues and specific proposed amendments

Current rules

Other than the proposed substantive revisions set out below, the proposed Rules 1100, 1200, 1300 and 1400 do not create any new obligations for Dealer Members and have been drafted to clarify the existing rules with respect to rule interpretation, definitions, powers of the Corporation and standards of conduct.

Proposed rules

During the plain language rule rewrite process, several aspects of these rules were changed for simplification beyond the initial scope of the rewrite project. There are some changes in these rules that are substantive in nature and therefore require publication for comment.

The current Dealer Member Rulebook includes a brief interpretation section which outlines four general interpretation related matters. The proposed Rule 1100, Interpretation, provides a more comprehensive review of matters that need to be considered when reviewing and interpreting the rules. Although many sections are categorized as new in proposed Rule 1100, the concepts discussed within these provisions are not new. These concepts already exist within the current Dealer Members rules. For example, proposed Rule 1100 clarifies that any references to a Dealer Member's board of directors includes an equivalent

governing body for a Dealer Member that is not a corporation. Similarly, any references in the rules to a corporation type of entity would apply to other types of entities if the context is appropriate. Furthermore, the reference to times being Eastern Standard Time is similar to the current rules; various provisions in the existing rules clarify that the time references refer to Toronto time. Similarly, reference to District Council and provinces also already exist throughout the rulebook. Proposed Rule 1100 clarifies that any reference to District Council means the District Council of the applicable District. Furthermore, any reference to provinces includes provinces and territories of Canada. For ease of reference and clarity these types of provisions have been introduced in proposed Rule 1100.

In addition to the plain language rewrite of the existing requirements to create proposed Rule 1100, the following substantive amendments are proposed:

- *Delegation by a Dealer Member*: The current Dealer Member Rules discuss the ability of a Supervisor to delegate tasks but not responsibility. However, the issue of delegation is not discussed generally. The proposed Rule 1100 specifies that if a *Corporation requirement* requires a person at a Dealer Member to perform a function, unless specifically prohibited, that person may delegate the tasks or activities involved in performing the function but not the responsibility. *[1103]*

- *Electronic signatures*: The proposed Rule will codify the current rule interpretation that, unless specifically prohibited, where the *Corporation requirements* require a signature for an agreement, contract or transaction, an electronic or digital signature will be acceptable, subject to applicable law. The current rule interpretation with regards to electronic signatures is set out in IDA Member Regulation Notice MR0177, *Electronic Signatures*. *[1104]*

The proposed Rules include a definitions section. The defined terms included in proposed Rule 1200 are generally those that have been used more than once throughout the rulebook. Terms that are used only in a single rule will be defined in that particular Rule. Additional terms are set out in General By-Law No. 1 and Form 1. The proposed Rules will clarify that any terms not defined in proposed Rule 1200, which are defined in securities legislation, have the same meaning as defined in the relevant Securities Act, Rule, Regulation or National Instrument and other similar document.

In addition to the plain language rewrite of existing provisions, some definitions have been flagged as new in proposed Rule 1200. Although these terms are not defined in the current Dealer Member rules, the terms and concepts are commonly used in the application of the current Dealer Member Rules and therefore, do not create any substantive changes. The following are examples of terms included in proposed Rule 1200 which have not been previously defined:

- *advisory account,*
- *agent,*
- *Chief Compliance Officer,*
- *Chief Financial Officer,*
- *Corporation requirements,*
- *employee,*
- *investment dealer,*
- *laws or applicable laws,*
- *recognized exchange or recognized association,*
- *related issuer,*
- *risk adjusted capital,*
- *securities legislation or applicable securities legislation,*
- *segregation,*
- *trader, and*
- *Ultimate Designated Person*

In order to more clearly identify defined terms within the rulebook, the defined terms will be italicized. Any terms defined in General By-law No. 1 (example: Dealer Member) as well as all categories of approved persons (example: Supervisor) will be capitalized as well as italicized.

The proposed Rules do not include any substantive amendments to proposed Rule 1300 – *"Powers of the Corporation".*

Proposed Rule 1400 will include the following sections: *Introduction, Standards of conduct*, *Applicability, Policies and procedures*, and *Evidence of compliance with the Corporation requirements.*

- *Introduction, Standards of conduct and Applicability:* The text of these sections will be proposed through a separate project, the Consolidated Enforcement Rules.
- *Policies and procedures*: Consistent with current practices and expectations, proposed Rule 1400 will clarify that:
    - if a Corporation requirement mandates a Dealer Member to establish policies and procedures, those policies and procedures must be sufficient to meet the Corporation's objectives and that the Dealer Member may establish more stringent policies and procedures; *[1404(1)]*
    - guidelines provided by the Corporation, unless otherwise indicated, are intended to be acceptable compliance methods and that Dealer Members may use alternate methods to comply with the Corporation requirements; *[1404(2)]* and
    - the Corporation may require a Dealer Member to adopt additional or different policies and procedures if the Corporation considers the Dealer Member's existing policies and procedures to be insufficient. *[1404(3)]*
- *Evidence of compliance with the Corporation requirements:* Consistent with the current practices and expectations, as well as the provisions set out *Dealer Member Rule 19 Examinations and Investigations,* proposed Rule 1400 will specify that the Corporation may require a Dealer Member to provide it with evidence, satisfactory to the Corporation, of the Member's compliance with the Corporation requirements. *[1405]*

The full text of the proposed plain language Dealer Member Rules 1100, 1200, 1300 and 1400 is attached.

Rule-making process

IIROC Staff involved representatives of Dealer Members in the rule development process; a copy of the proposed Rules were provided to the *Executive* committee of the Compliance and Legal Section ("CLS") for their input and comments.

The proposed Rules were approved for publication by the IIROC Board of Directors on April 13, 2011.

The text of proposed plain language Rules 1100 through 1400 is set out in Attachment A. The text of the existing Dealer Member Rules to be repealed is set out in Attachment B. A table of concordance is included as Attachment C.

Issues and alternatives considered

An alternative to the inclusion of the amendments being proposed was to leave the rules substantively as they were prior to the plain language rewrite. IIROC staff considered other pending projects and proposals as well as the extent of the potential, substantive changes identified in order to decide which of the substantive changes would be proposed as part of the plain language rule rewrite project. Those substantive changes which were originally identified as part of the plain language rule rewrite project, but which were ultimately excluded from the plain language rewrite project are being pursued as separate rulemaking projects.

Proposed Rule classification

Statements have been made elsewhere as to the nature and effects of the proposed Rules. The purposes of the proposed Rules are to:

- Ensure compliance with securities laws;
- Prevent fraudulent and manipulative acts and practices;
- Promote just and equitable principles of trade and emphasize the duty to act fairly, honestly and in good faith;
- Foster fair, equitable and ethical business standards and practices; and
- Promote the protection of investors.

IIROC Staff propose that rules pertaining to interpretations, definitions, powers of the Corporation and standards of conduct should be rewritten to reflect actual IIROC expectations, to enhance the clarity of the rule and to ensure consistency with applicable securities legislation. These amendments are in addition to the plain language rewrite of the existing rule provisions. The Board has determined that the proposed amendments are not contrary to the public interest.

Due to the extent and substantive nature of these proposed amendments, they have been classified as Public Comment Rule proposals.

Effects of proposed Rule on market structure, Dealer Members, non-members, competition and costs of compliance

With proposed plain language Rules 1100, 1200, 1300 and 1400, Dealer Members will benefit from enhanced clarity and certainty in rules relating to interpretations, definitions, powers of the Corporation and standards of conduct.

The proposed Rules will not have any significant effects on Dealer Members or non-Dealer Members, market structure or competition. Furthermore, it is not expected that there will be any significant, increased costs of compliance as a result of the proposed Rules.

The proposed Rules do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in the furtherance of IIROC's regulatory objectives. The proposed Rules do not impose costs or restrictions on the activities of market participants that are disproportionate to the goals of the regulatory objectives sought to be realized.

Technological implications and implementation plan

There should not be significant technological implications for Dealer Members as a result of the proposed amendments. Proposed plain language Rules 1100, 1200, 1300 and 1400 will be implemented at the same time as the rest of the plain language rules.

Request for public comment

Comments are sought on the proposed amendments. Comments should be made in writing. Two copies of each comment letter should be delivered within 90 days of the publication of this notice. One copy should be addressed to the attention of:

Sherry Tabesh-Ndreka
Senior Policy Counsel, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
Suite 1600, 121 King Street West
Toronto, Ontario
M5H 3T9
stabesh@iiroc.ca

A second copy should be addressed to the attention of:

Manager of Market Regulation
Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario
M5H 3S8
marketregulation@osc.gov.on.ca

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the IIROC website (www.iiroc.ca under the heading "IIROC Rulebook – Dealer Member Rules – Policy Proposals and Comment Letters Received").

Questions may be referred to:

Sherry Tabesh-Ndreka
Senior Policy Counsel, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
Phone: 416.943.4656
Email: stabesh@iiroc.ca

Attachments

Attachment A – Proposed Rules 1100, 1200, 1300 and 1400

Attachment B - Text of the relevant provisions within Corporation General By-law No.1, Article 1 and Dealer Member Rules 1; 16.5; 16.6; 17.15;; 35.1; 39, Appendix A; 800.3; 1300.3; 1800.1; 1800.8; 1900.1; 2600, Internal Control Policy Statement 1, General Matters; 2600, Internal Control Policy Statement 8, Derivative Risk Management; 2900, Part 1, Definitions; and 3100, Definitions

Attachment C – Table of Concordance

ATTACHMENT A

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
PROPOSED RULES 1100 THROUGH 1400 – INTERPRETATION AND STANDARDS

PROPOSED AMENDMENTS

1. As part of a project to rewrite IIROC Rules in plain language, the following current rules are repealed and replaced.

Repealed current rule	Proposed plain language rule
	RULE 1100 **INTERPRETATION**
New	**1101. Introduction**
	(1) This Rule sets out general rules of interpretation that apply to the Rule Book, and certain specific interpretative provisions.
	1102. General Interpretation
Rule 1.2	(1) If the context requires, words in the singular may include the plural and words in the plural may include the singular.
New; derived from Rule 3000	(2) All times referred to the Rule Book are Eastern Standard Time, or Eastern Daylight Savings Time when in effect, unless stated otherwise.
	(3) References to:
Rule 1.3	(i) a *Dealer Member* include the *Dealer Member's Approved Persons* and *employees*, as the context indicates;
New	(ii) a *Dealer Member's* board of directors include a *Dealer Member's* equivalent governance body for a *Dealer Member* that is not a corporation;
New	(iii) a corporation, as a type of entity to which the *Corporation requirements* apply, includes other types of entities if the context is appropriate;
New	(iv) a *District Council* means the *District Council* for the applicable *District*; and
New	(v) provinces include provinces and territories of Canada.
Rule 1.6	(4) The general terms used in these Rules are defined in Rule 1200 and terms relating to specific provisions may be defined in that rule. Any terms not defined in Rule 1200 or in a specific rule, will have the same meaning as provided for in Section 1201(1).
Rule 1.4	(5) In the event of any dispute as to the intent or meaning of any provisions within the *Corporation requirements*, the interpretation of the *Board* is final, subject to any appeal procedures that may be available.
	1103. Delegation by a Dealer Member
New	(1) If a *Corporation requirement* requires a person at a *Dealer Member* to perform a function, that person may delegate the tasks or activities involved in performing the function unless the *Corporation requirements* specifically prohibit such delegation. An *individual* who delegates tasks or activities cannot delegate the responsibility for the function.

Repealed current rule	Proposed plain language rule
	1104. Electronic signatures
New, derived from IDA Member Regulation Notice MR0177	(1) Subject to *applicable law*, a *Dealer Member* may use an electronic or digital signature where a signature is required by *Corporation requirements* for an agreement, contract or transaction between a *Dealer Member* and its clients, *Approved Persons*, the *Corporation*, other *Dealer Members* or any other *person* unless specifically prohibited.
New	**1105. – 1199. – Reserved.**

Repealed current rule	Proposed plain language rule
	RULE 1200 DEFINITIONS
	1201. Definitions
Rule 1.6	(1) Terms used throughout the Rule Book are defined in subsection (2). Additional terms are set out in *Corporation* General By-Law No. 1 and Form 1. Terms that are used only in a single Rule are defined in that Rule. Any term not defined in subsection (2) or in a specific Rule, which is defined in *securities legislation*, has the same meaning as the defined in the relevant Securities Act, Rule, and Regulation, National Instrument or similar document.
	(2) The following terms have the meanings set out when used in the *Corporation requirements:*

New, based on proposed definition in Client Relationship Model proposals	"advisory account"	An account where the client is responsible for investment decisions but is able to rely on advice given by a *Registered Representative*. The *Registered Representative* is responsible for ensuring that the advice given is made in accordance with *Corporation requirements*.
Rule 3400 definitions	"advisory capacity"	Providing advice to an issuer in return for remuneration other than trading advice or related services.
Rule 1.1	"affiliate"	Where used to indicate a relationship between two corporations, means: (i) one corporation is a *subsidiary* of the other corporation; (ii) both corporations are *subsidiaries* of the same corporation; or (iii) both corporations are *controlled* by the same *person*.
New, based on current requirements in Rule 39	"agent"	An *individual* who is subject to the principal and agent relationship requirements set out in Rule 2400.
Rule 1.1	"approved lender"	A *chartered bank*, an acceptable counterparty or an acceptable institution as defined in Form 1, an industry investor, a *Dealer Member* or any other lender the *Board* designates.
Rule 1.1	"approved person"	An *individual* approved by the *Corporation* under the *Corporation requirements* to carry out a function for a *Dealer Member*.
General By-Law No. 1, Section 1.1	"associate"	The same meaning as set out in General By-law No. 1, Section 1.1
Rule 1.1	"beneficial ownership"	Beneficial ownership of securities by a *person* includes: (i) the direct ownership of any securities by a *person*; or (ii) the direct or beneficial ownership of the securities by a corporation *controlled* by that *person*; or (iii) the direct or beneficial ownership of securities by *affiliates* of a corporation *controlled* by that *person*.

Repealed current rule	Proposed plain language rule		
General By-Law No. 1, Section 1.1 and Rule 1.1		"Board"	The same meaning as set out in General By-law No. 1, Section 1.1
Rule 3100, Definitions		"business day"	A day other than Saturday, Sunday and any statutory holiday in the relevant *District*.
Rule 1.1		"business location"	A physical location where, on a regular and ongoing basis, at least one of a *Dealer Member's employee*s or *agent*s conducts business that requires *Corporation* approval or registration under *securities legislation*.
Rule 35.1(a)(i)		"carrying broker"	A *Dealer Member* that carries client accounts for another *Dealer Member*, which includes the clearing and settlement of trades, and the maintenance of *record*s of client transactions and custody of client cash and securities, in accordance with the requirements set out in Rule 2450.
General By-Law No. 1, Section 1.1 and Rule 2300.1		"CDS"	The same meaning as set out in General By-law No. 1, Section 1.1
Rule 1.1		"chartered bank"	A bank incorporated under the Bank Act (Canada).
New		"*Chief Compliance Officer*" or "CCO"	An *individual* approved by the *Corporation*, to act as *Chief Compliance Officer*.
New		"*Chief Financial Officer*" or "CFO"	An *individual* approved by the *Corporation*, to act as *Chief Financial Officer*.
General By-Law No. 1, Section 1.1		"Canadian Investor Protection Fund" or "CIPF"	The same meaning as set out in General By-law No. 1, Section 1.1.
Rule 800.3		"clearing day"	Any day *CDS* or another acceptable clearing corporation is open for business.
Rule 1.1		"control" or "controlled"	Where used to indicate control of a corporation, means a *person* has *beneficial ownership* of voting securities in the corporation that carry more than 50% of the votes for election of directors of the corporation and such votes allow the *person* to elect a majority of the directors; but if the *District Council* orders that a *person* does or does not control the corporation under the *Corporation requirements*, that order defines their relationship under the *Corporation requirements*.
General By-Law No. 1, Section 1.1		"Corporation"	The same meaning as set out in General By-law No. 1, Section 1.1.
New		"Corporation requirements"	Requirements set out within the *Corporation's* letters patent, by-laws and rules, along with all other instruments prescribed or adopted within the *Corporation's* by-laws and rules, and rulings of the *Corporation* and the *District Councils*.
General By-Law No. 1, Section 1.1		"Dealer Member"	The same meaning as set out in General By-law No. 1, Section 1.1.

Repealed current rule	Proposed plain language rule		
Rule 1.1		"Dealer Member corporation"	An incorporated *Dealer Member*.
Rule 16.1		"Dealer Member's auditor"	An auditor on the *District Council* approved panel of accounting firms chosen by the *Dealer Member* to be its auditor.
Rule 1.1		"debt", "debt investment" and "debt security"	An interest, investment or security that gives the holder the legal right, in specific circumstances, to demand payment of the amount owing, and includes a debtor-creditor relationship, whether written or not.
Rule 2600, Statement 8		"derivative"	A financial instrument whose value is derived from, and reflects changes in, the price of the underlying products. It is designed to facilitate the transfer and isolation of risk and may be used for both risk transference and investment purposes.
Rule 1.1		"designated *Supervisor*"	A *Supervisor* that the *Dealer Member* makes responsible for a *Supervisor*y role defined in the *Corporation requirements*, including: (i) the *Supervisor* responsible for the opening of new accounts and the supervision of account activity under Part B of Rule 3900; (ii) the *Supervisor* responsible for the supervision of *discretionary accounts* under Part E of Rule 3200; (iii) the *Supervisor* responsible for the supervision of *managed accounts* under Part E of Rule 3900; (iv) the Designated Futures *Supervisor* under Part D of Rule 3200; (v) the Designated Options *Supervisor* under Part D of Rule 3200; and (vi) the *Supervisor* or *Supervisors* responsible under Rule 3600 to pre-approve advertising, sales literature, correspondence and research reports.
Rule 1.1		"*Director*"	A member of the *Dealer Member's* board of *Director*s or an *individual* performing similar functions at a *Dealer Member* that is not a corporation.
Rule 1300.3		"discretionary account"	An account opened in accordance with the requirements set out in Part E of Rule 3200, which generally refers to an *advisory account* for which the *Registered Representative* can exercise discretion in trading on a temporary basis.
General By-Law No. 1, Section 1.1		"District"	The same meaning as set out in General By-law No. 1, Section 1.1.
General By-Law No. 1, Section 1.1		"District Council"	The same meaning as set out in General By-law No. 1, Section 1.1.
Rule 1.1		"equity", "equity investment" and "equity security"	An interest, investment of security in a corporation that gives the holder the right to participate in earnings of the corporation and, upon the corporation's liquidation or winding up, in its assets, and includes income trust units and securities convertible into an equity security.

Repealed current rule	Proposed plain language rule		
New		"employee"	Any employee of a Dealer Member or an *agent* of a Dealer Member that has entered into a principal/agent relationship contemplated under the *Corporation Requirements.*
Rule 1.1		"*Executive*"	A *Dealer Member's* partner, *Director* or *officer* who is involved in the *Dealer Member's* senior management, including anyone fulfilling the role of chair or vice-chair of the board of directors, chief executive officer, president, chief administrative officer, *Chief Financial Officer*, *Chief Compliance Officer*, member of an *Executive* management committee, any *individual* in a managerial position who has significant authority over daily operations, or any position that the *Dealer Member* designates as an *Executive* position.
Rule 1800 .1		"futures contract"	A contract to make or take delivery of the underlying interest during a designated future month on terms agreed to when the contract is entered on a commodity futures exchange.
Rule 1800.1		"futures contract option"	A right to acquire a long or short position in connection with a *futures contract* on terms agreed to at the time the *option* is granted and any *option* that has a *futures contract* as its underlying interest.
Rule 1300.3		"futures managed account"	A *managed account* which includes only investments in *futures contracts* or *futures contract options*.
Rule 1.1		"guarantee"	(i) an agreement to be responsible for the liabilities of a *person* or to provide security for a *person*; and (ii) includes an agreement to: (a) purchase an investment, property or services; (b) to supply funds, property or services; or (c) to make an investment; if the agreement's main purpose is to allow a *person* to perform its obligations under a security or investment, or to assure an investor in a security that the *person* will perform its obligations.
Rule 1.1		"holding company"	Of a corporation means either: (i) another corporation that owns : (a) more than 50 per cent of each class or series of the voting securities; and (b) more than 50 per cent of each class or series of the participating securities, either directly in the corporation or in the holding company of that corporation; or (ii) a corporation that the *District Council* orders is a holding company of that corporation; but does not include: (iii) an industry investor that owns the corporation's securities in the capacity of an industry investor; or (iv) a corporation that the *District Council* has ordered is not a holding company of that corporation.
Rule 1.1		"individual"	A natural person.
Rule 1.1		"institutional client"	(i) an acceptable counterparty, as defined in Form 1; (ii) an acceptable institution as defined in Form 1;

Repealed current rule	Proposed plain language rule		
			(iii) a regulated entity, as defined in Form 1; (iv) a registrant under *securities legislation*, other than an *individual* registrant; or (v) a non-*individual* with total securities under administration or management of more than $10 million
Rule 2600		"internal controls"	The policies and procedures established and maintained by management to assist in achieving the objective of ensuring, as far as practical, the orderly and efficient conduct of the *Dealer Member*'s business.
Rule 35.1(a)(ii)		"introducing broker"	A *Dealer Member* that introduces its client accounts to one or more *carrying brokers*, in accordance with the requirements set out in Rule 2450.
New, based on NI 31-103 definition of "investment dealer"		"investment dealer"	An *individual*, firm or corporation acting as dealer (principal) or broker (agent) in carrying out transactions in securities and commodity *futures contracts* or *futures contract options* on behalf of clients and includes, without limitation, acting as an underwriter or adviser;
Rule 1.1		"*Investment Representative*" or "IR"	An *individual*, approved by the *Corporation*, to trade in, but not advise on, securities, *options*, *futures contracts* or *futures contract options*, on the *Dealer Member's* behalf, including an *Investment Representative* (mutual funds).
New		"laws" or "applicable laws"	All laws, statutes, ordinances, regulations, rules, judgments, decrees or orders, applicable to a *Dealer Member* or its *employees* and *Approved Person*s in the conduct of its business.
Rule 1300.3		"managed account"	An account opened in accordance with the requirements set out in Part E of Rule 3200 which generally refers to an account where investment decisions are made on a continuing basis by a *Portfolio Manager*.
Rule 1.1		"Membership"	*Corporation* membership.
Rule 1800.8		"non-client orders"	Orders from the accounts in which the *Dealer Member* or an *approved person* has an interest other than the commission charged.
Rule 1.1		"officer"	A *Dealer Member's* chair and vice-chair of the board of directors, chief executive officer, president, chief administrative officer, *Chief Financial Officer*, *Chief Compliance Officer*, chief operating officer, vice-president, secretary, any other person designated an officer of a *Dealer Member* by law or similar authority, or any person acting in a similar capacity on behalf of a *Dealer Member*.
Rule 1900 .1		"option"	A right, other than a *futures contract* or *futures contract option*, to buy or sell the underlying interest during a designated period on terms agreed to when the contract is made.

Repealed current rule	Proposed plain language rule		
Rule 3200, Introduction		"order execution only service"	The acceptance and execution of client trade orders that the *Dealer Member* has neither recommended nor assessed as being suitable.
Rule 1.1		"person"	An *individual*, a partnership, a corporation, a government or any of its departments or agencies, a trustee, an incorporated or unincorporated organization, an incorporated or unincorporated syndicate or an *individual's* heirs, executors, administrators or other legal representatives.
New		"*Portfolio Manager*"	A *Registered Representative* designated by the *Dealer Member* and approved by the *Corporation* to provide discretionary portfolio management for *managed accounts*.
Rule 2300.1		"recognized depository"	A depository which has been recognized by the *Corporation* and included in the list of depositories that constitute acceptable external securities locations, as defined in Form 1.
New – codification of existing concept set out in Form 1		"recognized exchange" or "recognized association"	A *Corporation* approved exchange or association.
Rule 2900		"recognized foreign self-regulatory organization"	A foreign self-regulatory organization which offers reciprocal treatment to Canadian applicants that has been approved by the *Corporation*.
Rule 39, Appendix A,		"records"	Books, records, client files and information and other documentation, including electronic documents, related to the *Dealer Member's* business.
Rule 1.1		"*Registered Representative*" or "RR"	An *individual*, approved by the *Corporation*, to trade, or advise on trades, in securities, *options*, *futures contracts*, or *futures contract options* with the public in Canada, on the *Dealer Member's* behalf, including a *Registered Representative* (mutual funds) and a *Registered Representative* (non-retail).
Rule 1.1		"related company"	A sole proprietorship, partnership or corporation that is a *Dealer Member* and is related to another *Dealer Member* because: (i) it, or its *Executives*, *Directors*, *officers*, shareholders and *employees* (individually or collectively) have at least a 20% ownership interest in the other *Dealer Member*; or (ii) the other *Dealer Member*, or its *Executives*, *Directors*, *officers*, shareholders and *employees* (individually or collectively) have at least a 20% ownership interest in it; where the ownership interest includes an interest as a partner or shareholder, either directly or indirectly, or an interest through one or more holding companies. But if the *Board* has ordered that two *persons* are, or are not, related companies under the *Corporation requirements*, that order defines their relationship under the *Corporation requirements*.

Repealed current rule	Proposed plain language rule		
New		"related issuer"	The same meaning as set out in *applicable securities legislation*.
Rule 1.1		"retail client"	A client that is not an *institutional client*.
New		"risk adjusted capital" or "RAC"	The capital level maintained by a *Dealer Member*, calculated in accordance with the *Corporation requirements* set out in Form 1.
Rule 1.1		"securities commission"	The commission, *person* or other authority in any jurisdiction that is authorized to administer any legislation about (i) the offering or sale of securities or commodity futures to the public; or (ii) the registration or licensing of *persons* trading in securities or commodity futures.
New		"securities legislation" or "applicable securities legislation"	Any legislation about trading or advising in securities, commodities contracts *or derivatives* in Canada enacted by the government of Canada or any province or territory in Canada and includes all regulations, rules, orders and other regulatory directions made under that legislation by an authorized body, including a *securities regulatory authority*.
Rule 1.1		"securities related activities"	Acting as an *investment dealer*, or carrying on business that is necessary or incidental to being an *investment dealer*. The *Board* may include in or exclude any activities from this definition.
Rule 1.1		"segregated securities"	Securities held in *segregation* by a *Dealer Member* for a client.
New, based on principles set out in Rule 2000		"segregation"	A practice where a *Dealer Member* holds client securities that are: (i) held free and clear of any charge, lien, claim or encumbrance of any kind; (ii) ready for delivery to a client on demand; and (iii) held separate from the *Dealer Member's* other security holdings.
Rule 1.1		"subordinated debt"	*Debt* that does not allow the holder to be paid in priority to any senior class of debt
Rule 1.1		"subsidiary"	Subsidiary of a an entity means: (i) an entity it *controls*; (ii) a corporation it *controls* and one or more corporations *controlled* by that corporation; or (iii) a corporation *controlled* by two or more corporations it *controls*. and includes a corporation that is a subsidiary of another subsidiary of a corporation.
Rule 1.1		"*Supervisor*"	An *individual* given responsibility and authority by the *Dealer Member*, and approved by the *Corporation*, to manage the activities of the *Dealer Member's* other *employees* and Approved Persons to ensure they comply with the *Corporation requirements* and *securities legislation* in conducting their and the *Dealer Member's securities-related activities*.

Repealed current rule	Proposed plain language rule		
New		"*Trader*"	An *individual*, approved by the *Corporation* as a *Trader*, whose activity is restricted to trading through a Marketplace Member's trading system who may not advise the public.
New		"*Ultimate Designated Person*" or "UDP"	An *individual* approved by the *Corporation* as the *Ultimate Designated Person*
New	**1202. – 1299. – Reserved.**		

Repealed current rule	Proposed plain language rule
	RULE 1300 **POWERS OF THE CORPORATION**
New	**1301. Introduction** (1) This Rule describes the powers of IIROC to provide exemptions from the *Corporation requirements.*
Rule 17.15	**1302. Exemptions from Corporation requirements** (1) The *Board* may exempt a *Dealer Member* from any *Corporation requirement* if it is satisfied that doing so is not prejudicial to the interests of the public, *Dealer Members,* or their clients. In granting an exemption, the *Board* may impose any terms or conditions that it considers necessary.
New	**1303. – 1399. – Reserved.**

Repealed current rule	Proposed plain language rule
	RULE 1400 **STANDARDS OF CONDUCT**
	1401. Introduction
New	[The proposed provision will be issued for CSA and public comments as part of a separate project known as the Consolidated Enforcement Rules.]
	1402. Standards of conduct [The proposed provision will be issued for CSA and public comments as part of a separate project known as the Consolidated Enforcement Rules.]
	1403. Applicability [The proposed provision will be issued for CSA and public comments as part of a separate project known as the Consolidated Enforcement Rules.]
	1404. Policies and Procedures
New	(1) If a *Corporation requirement* mandates a *Dealer Member* to establish policies and procedures, those policies and procedures must be sufficient to meet the objectives of the *Corporation requirement*. A *Dealer Member* may establish more stringent policies and procedures than those needed to meet such objectives.
New	(2) Guidelines and best practices set out in a Guidance Note are generally intended to present acceptable methods that can be used to comply with specific *Corporation requirements*. Unless otherwise indicated, *Dealer Members* may use alternate methods, provided that those methods demonstrably achieve the overall objective of the *Corporation requirements*.
New	(3) The *Corporation* may require a *Dealer Member* to adopt additional or different policies and procedures if the *Corporation* considers the *Dealer Member's* existing policies and procedures are insufficient.
	1405. Evidence of compliance with the Corporation requirements
Rules 38.1(a), 2500 VI.B and 2700 II.E	(1) A *Dealer Member* must establish reasonable compliance procedures for monitoring compliance with *Corporation requirements* and *securities legislation*. Compliance monitoring systems must be designed to prevent and detect violations and include procedures for reporting the results of compliance monitoring to management.
New	(2) A *Dealer Member* must keep all *records* and evidence of its compliance with *Corporation requirements* that it produces, including supervisory reviews, reports and queries on compliance.
New	(3) The *Corporation* may require a *Dealer Member* to provide it with evidence, satisfactory to the *Corporation*, of the *Member's* compliance with a *Corporation requirement*.
New	**1406. – 1499. – Reserved.**

ATTACHMENT B

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
PROPOSED RULES 1100 THROUGH 1400 – INTERPRETATION AND STANDARDS

Text of the relevant provisions within Corporation General By-law No.1, Article 1 and Dealer Member Rules 1; 16.5; 16.6; 17.15;; 35.1; 39, Appendix A; 800.3; 1300.3; 1800.1; 1800.8; 1900.1; 2600, Internal Control Policy Statement 1, General Matters; 2600, Internal Control Policy Statement 8, Derivative Risk Management; 2900, Part 1, Definitions; and 3100, Definitions

GENERAL BY-LAW NO.1
ARTICLE 1
INTERPRETATION

Section 1.1 Definitions

In this By-law, unless the context otherwise specifies or requires:

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"Associate", where used to indicate a relationship with any person, means:

(a) any corporation of which such person beneficially owns, directly or indirectly, voting securities carrying more than ten percent (10%) of the voting rights attached to all voting securities of the corporation for the time being outstanding;

(b) a partner of that person;

(c) any trust or estate in which such person has a substantial beneficial interest or as to which such person serves as trustee or in a similar capacity;

(d) any relative of that person who resides in the same home as that person;

(e) any person who resides in the same home as the person and to whom that person is married or with whom that person is living in a conjugal relationship outside of marriage; or

(f) any relative of a person mentioned in clause (e) above, who has the same home as that person.

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"Board" means the Board of Directors of the Corporation.

"CDS" means Canadian Depository for Securities Limited.

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"CIPF" means the Canadian Investor Protection Fund.

"Corporation" means Investment Industry Regulatory Organization of Canada / Organisme Canadien de Réglementation du Commerce des Valeurs Mobilières.

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"Dealer Member" means a Member that is an investment dealer in accordance with securities legislation.

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"District" means a geographic area in Canada designated as a district of the Corporation by the Board, from time to time.

"District Council" means each of those Councils created in accordance with Article 10.

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DEALER MEMBER RULES
RULE 1
INTERPRETATION AND EFFECT

1.1. In these Rules unless the context otherwise requires, the expression:

"Affiliate" or "Affiliated Corporation" means in respect of two corporations, either corporation if one of them is the subsidiary of the other or if both are subsidiaries of the same corporation or if each of them is controlled by the same person;

"Approved Lender" means a chartered bank, an acceptable counterparty or acceptable institution as defined in Form 1, an industry investor, a Dealer Member or any other lender so designated by the Board;

"Approved Person" means, in respect of a Dealer Member, an individual who is a partner, Director, Officer, employee or agent of a Dealer Member who is approved by the Corporation or another Canadian Self Regulatory Organization to perform any function required under any Rule;

"Applicable" in relation to a District Council means the District Council for the District:

(1) In which the applicant for Membership or the Dealer Member has its principal office and, in the case of a holding company of a Dealer Member corporation, in which the Dealer Member corporation has its principal office;

(2) In which the business location will be located or in which the applicant for approval as a Supervisor resides;

(3) In which the applicant for approval as a new Executive of a Dealer Member or investor resides provided that if such Executive or investor has changed his or her place of residence to another District within 3 months prior to the change for which approval is being sought then the applicable District Council shall be the District Council for the District where the applicant formerly resided;

(4) In which the applicant for approval as a Registered Representative or Investment Representative resides;

(5) In which the applicant for approval as a futures contract principal, futures contract options principal or a person who deals with customers with respect to futures contracts or futures contract options resides;

(6) In which the applicant for approval as a portfolio manager, securities option portfolio manager, futures contract options portfolio manager or futures contracts portfolio manager resides;

(7) In which the respondent, if an individual, in a disciplinary action pursuant to Rule 20 was approved at the time the activities which are the subject of the disciplinary action primarily occurred, provided that,

(a) If the individual was approved in more than one District at the relevant time, and the matter which is the subject of the disciplinary action involves a client in a District where the respondent was approved other than that in which the respondent resides, in which such client resided at the time such activities occurred; or
(b) If the applicable District Council cannot otherwise be determined, in which the respondent resided at the relevant time; or

(8) In which the activities which are the subject of a disciplinary action against a respondent Dealer Member pursuant to Rule 20 primarily occurred, or, if such activities are not referable to any specific District, in which the principal office of the respondent Dealer Member is located, provided that, if a disciplinary action involves both an individual and a Dealer Member, the District Council having jurisdiction pursuant to clause (7) herein;

"Beneficial Ownership" in respect of any securities includes ownership by:

(i) A person other than a corporation, of securities beneficially owned by a corporation controlled by him or her or by an affiliate of such corporation; and

(ii) A corporation of securities beneficially owned by its affiliates;

"Board" means the board of directors of the Corporation;

"Business Location" means a physical location at which any employee or agent of a Dealer Member conducts on a regular and ongoing basis business requiring approval of the Corporation or registration under Provincial securities legislation;

"Callable Debt Security" means a security described in Rule 100.2A(a), which allows the issuer to redeem the security at a fixed price (the call price), subject to the call protection period;

"Call Protection Period" means the period of time during which the issuer cannot redeem a callable debt security;

"Chartered Bank" means a bank incorporated under the Bank Act (Canada);

"Control" or "Controlled", in respect of a corporation by another person or by two or more corporations, means the circumstances where:

(i) Voting securities of the first-mentioned corporation carrying more than 50% of the votes for the election of directors are held, other than by way of security only, by or for the benefit of the other person or by or for the benefit of the other corporations; and

(ii) The votes carried by such securities are entitled, if exercised, to elect a majority of the board of directors of the first-mentioned corporation,

And where the applicable District Council in respect of a particular Dealer Member or its holding company orders that a person shall, or shall not, be deemed to be controlled by another person, then such order shall be determinative of their relationships in the application of the Rules and Rulings with respect to that Dealer Member or holding company;

"Dealer Member Corporation" means an incorporated Dealer Member;

"Debt" means an investment which provides the holder with a legal right, in specified circumstances, to demand payment of the amount owing and includes a debtor-creditor relationship whether or not represented by a written instrument or security;

"Designated Supervisor" means a Supervisor designated by a Dealer Member as having responsibility to fulfill a supervisory role defined in a Rule, including but not limited to:

(1) the Supervisor designated to be responsible for the opening of new accounts and the supervision of account activity under Rule 1300.2

(2) the Supervisor designated to be responsible for the supervision of discretionary accounts under Rule 1300.4

(3) the Supervisor designated to be responsible for the supervision of managed accounts under Rule 1300.15

(4) the Supervisor designated to be responsible for the supervision of options accounts under Rule 1800.2(a)

(5) the Supervisor designated to be responsible for the supervision of futures contract accounts under Rule 1900.2

(6) the Supervisor or Supervisors designated to pre-approve advertising, sales literature and correspondence, including research reports, under Rule 29.7(3) and Rule 3400, Guideline 7;

"Director" means a member of the board of directors of, as the context dictates, a Dealer Member or the Corporation or a person performing a similar function in a Dealer Member that is not a corporation;

"Equity Investment" means an investment the holder of which has no legal right to demand payment until the issuing corporation or its board of directors has passed a resolution declaring a dividend or other distribution, or winding-up of the issuing corporation;

"Executive" means a partner, Director or Officer of a Dealer Member who is involved in the senior management of the Dealer Member, including anyone fulfilling the role of chair or a vice-chair of the board of directors, chief executive officer, president, chief administrative officer, chief financial officer, chief compliance officer, member of an executive management committee, any person in a managerial position who has significant authority over daily operations, or any position designated by a Dealer Member as being an Executive position;

"Extendible Debt Security" means a security described in Rule 100.2A(b), which allows the holder, during a fixed time period, to extend the maturity date of the security to the extension maturity date, and to change the principal amount of the security to a fixed percentage (the extension factor) of the original principal amount;

"Extension Election Period" means the period of time during which the holder may elect to extend the maturity date and change the principal amount of, an extendible debt security;

"Extension Factor" means, if any, the fixed percentage that should be used to change the original principal amount of the extendible debt security when the maturity date is deemed to be equal to the extension maturity date;

"Fully Participating Security" means a participating security other than a limited participation security;

"Guaranteeing" includes becoming liable for, providing security for or entering into an agreement (contingent or otherwise) having the effect or result of so becoming liable for or providing security for a person, including an agreement to purchase an investment, property or services, to supply funds, property or services or to make an investment primarily for the purpose of directly or indirectly enabling such person to perform its obligations in respect of such security or investment or assuring the investor of such performance;

"Holding Company" means, in respect of any corporation, any other corporation which owns more than 50 per cent of each class or series of voting securities and more than 50 per cent of each class or series of participating securities of the corporation or of any other corporation which is a holding company of the corporation, but an industry investor shall not be considered to be a holding company by reason of the ownership of securities in its capacity as an industry investor and the applicable District Council in its discretion may deem any person (including but not limited to a corporation) to be or not to be a holding company for the purposes of the Rules;

"Individual" means a natural person, other than an individual who is a Dealer Member;

"Industry Investor" means, in respect of any Dealer Member or holding company of a Dealer Member corporation, any of the following who owns a beneficial interest in an investment in the Dealer Member or holding company:

(i) The Dealer Member's full-time Officers and employees or the full-time officers and employees of a related company or affiliate of the Dealer Member which carries on securities related activities;

(ii) Spouses of individuals referred to in clause (i);

(iii) An investment corporation, if:

  (a) A majority of each class of the voting securities of the investment corporation is held by individuals referred to in clause (i); and
  (b) All interests in all other equity securities of the investment corporation are beneficially owned by individuals referred to in clause (i) or (ii) or their children or by industry investors with respect to the particular Dealer Member or holding company;

(iv) A family trust established and maintained for the benefit of individuals referred to in clause (i) or (ii) or their children, if

  (a) Full direction and control of the trust, including, without limitation, its investment portfolio and the exercise of voting and other rights attaching to instruments and securities contained in the investment portfolio, are maintained by individuals referred to in clause (i) or (ii); and
  (b) All beneficiaries of the trust are individuals referred to in clause (i) or (ii) or their children or industry investors with respect to the particular Dealer Member or holding company of a Dealer Member corporation;

(v) A registered retirement savings plan established under the *Income Tax Act (Canada)* by an individual referred to in clause (i) or (ii) if control over the investment policy of the registered retirement savings plan is held by that individual and if no other person has any beneficial interest in the registered retirement savings plan;

(vi) A pension fund established by a Dealer Member for its Officers and employees if the pension fund is organized so that full power of its investment portfolio and the exercise of voting and other rights attaching to instruments and securities contained in the investment portfolio is held by individuals referred to in clause (i);

(vii) The estate of an individual referred to in clause (i) or (ii) for a period of one year after the death of such individual or such longer period as may be permitted by the applicable District Council;

(viii) Any investor referred to in clause (i), (ii), (iii), (iv) or (v) for a period of 90 days or such longer period as the Corporation may permit after the individual who, in the case of clause (i), is the investor or, in the case of such other clauses, is the person through whom the industry investor qualifies as such, is no longer in the employment of the Dealer Member, related company or affiliate, as the case may be, in respect of which he or she has been approved;

But any of the foregoing is an industry investor only if an approval for purposes of this definition has been given, and not withdrawn, by the board of directors of such Dealer Member or holding company, as the case may be, and by the applicable District Council;

"Institutional Customer" means:

(1) An Acceptable Counterparty (as defined in Form 1);

(2) An Acceptable Institution (as defined in Form 1);

(3) A Regulated Entity (as defined in Form 1);

(4) A Registrant (other than an individual registrant) under securities legislation; or

(5) A non-individual with total securities under administration or management exceeding $10 million;

"Investment" in any person means any security or debt obligation issued, assumed or guaranteed by such person, any loan to such person, and any right to share or participate in the assets, profit or income of such person;

"Investment Representative" means any person who trades but does not advise on trades in securities, options, futures contracts or futures contract options with the public in Canada, other than a person who trades exclusively in securities of or guaranteed by the government of Canada or any province of Canada or any municipality in Canada, and shall include an investment representative (mutual funds) approved pursuant to Rule 18.7;

"Investor" means any person who has an interest in an investment;

"Junior Subordinated Debt" means subordinated debt, which is subordinated to other subordinated debt;

"Limited Participation Security" means indebtedness or a preferred share that

(i) Carries interest or dividends at a fixed rate, and, if dividends, cumulative and payable in priority to any dividends to the holders of common shares;

(ii) If indebtedness, is repayable at any time and, if a preferred share, is redeemable at any time, in either case at a price that may include a premium if the premium is not based on earnings or retained earnings;

(iii) Is limited in its participation in earnings to an amount not exceeding annually one-half of the annual fixed interest or dividend rate, although such participation may be cumulative; and

(iv) Is subject to subordination or equivalent arrangements such that the return to the holders thereof on a bankruptcy would not be adversely affected by section 110 of the Bankruptcy Act (Canada) or equivalent legislation,

And which is approved as a limited participation security by the applicable District Council;

"Membership" means membership in the Corporation as a Dealer Member;

"Non-participating Security" means a security with a claim limited to interest or dividends at a fixed rate;

"Non-subordinated Debt" means debt, which is not subordinated debt;

"Officer" means the chair and vice-chair of the board of directors, president, vice-president, chief executive officer, chief financial officer, chief operating officer, secretary, any other person designated an officer of a Dealer Member by law or similar authority, or any person acting in a similar capacity on behalf of a Dealer Member;

"Ordinary Course Indebtedness" means all debt other than debt which is a restrictive or participating security or subordinated debt;

"Ownership Interest" means all direct or indirect ownership of the participating securities;

"Parent" (where used to indicate a relationship with another corporation) means a corporation that has the other corporation as a subsidiary;

"Participating Security" means a security which entitles the holder thereof to participation, limited or unlimited, in the earnings or profits of the issuer, either alone or in addition to a claim for interest or dividends at a fixed rate, and includes, except where the reference is to "outstanding" participating securities, a security which entitles the holder thereof, on conversion, exchange, the exercise of rights under a warrant, or otherwise, to acquire a participating security;

"Person" means an individual, a partnership, or corporation, a government or any department or agency thereof, a trustee, any unincorporated organization and the heirs, executors, administrators or other legal representatives of an individual;

"Predecessor Organization" means the Investment Dealers Association of Canada;

"Public Ownership of Securities" means the ownership of securities (other than ordinary course indebtedness) by any person other than an industry investor, except that ownership by approved lenders of securities of a Dealer Member or a holding company does not, of itself, constitute public ownership of securities;

"Qualified Independent Underwriter" means, in respect of the distribution of securities of a Dealer Member corporation or a holding company of a Dealer Member corporation, a securities firm which is a member of a self-regulatory organization, and:

(i) Has engaged in the securities business for at least five years immediately preceding the filing of the prospectus or other equivalent document;

(ii) As of the date the distribution commences:

(a) If a corporation, the majority of the members of its board of directors

(b) If a partnership, the majority of its general partners

Has engaged in the securities business for the five-year period immediately preceding that date;

(iii) Has engaged in the underwriting of public offerings of securities for the five-year period immediately preceding the date the distribution commences; and

(iv) Is not an associate or affiliate of the corporation whose securities it is underwriting;

"Recognized Stock Exchange" means any stock exchange designated by the Board for the purposes of any one or more of these Rules;

"Registered Representative" means any person who trades or advises on trades in securities, options, futures contracts, or futures contract options with the public in Canada other than a person who trades or advises on trades exclusively in securities of or guaranteed by the government of Canada or any province of Canada or any municipality in Canada, and shall include a registered representative (mutual funds) approved pursuant to Rule 18.7 and a registered representative (non-retail) approved pursuant to Rule 18.8;

"Related Company" means a sole proprietorship, partnership or corporation which:

(i) Is related to a Dealer Member in that either of them, or its partners in, and directors, officers, shareholders and employees of, it, individually or collectively, have at least a 20% ownership interest in the other of them, including an interest as a partner or shareholder, directly or indirectly, and whether or not through holding companies;

(ii) Is a securities dealer or adviser in Canada; and

(iii) Is a member of a participating institution of the Canadian Investor Protection Fund;

Provided that the Board may, from time to time, include in, or exclude from this definition any sole proprietorship, partnership or corporation, and change those included or excluded;

"Restrictive Security" means a security of a Dealer Member or a holding company of a Dealer Member corporation which, in the opinion of the applicable District Council, entitles the holder thereof to rights which give it a more extensive or substantial degree of influence on the Dealer Member or holding company of the operations thereof than is usual for a holder of the same amount of securities of the same type;

"Retail Customer" means a customer of a Dealer Member that is not an institutional customer;

"Retractable Debt Security" means a security described in Rule 100.2A(c), which allows the holder of the security, during a fixed time period to retract the maturity date of the security to the retraction maturity date, and to change the principal amount of the security to a fixed percentage (the retraction factor), of the original principal amount;

"Retraction Election Period" means the period of time during which the holder may elect to retract the maturity date, and change the principal amount of, a retractable debt security;

"Retraction Factor" means, if any, the fixed percentage that should be used to change the original principal amount of the retractable debt security when the maturity date is deemed to be equal to the retraction maturity date;

"Rules" means these Rules and any Rules made pursuant to the By-laws of the Corporation;

"Secretary" means the Secretary of the Corporation;

"Securities Commission" means in any jurisdiction, the commission, person or other authority authorized to administer any legislation in force relating to the offering and/or sale of securities or commodity futures to the public and/or to the registration or licensing of persons engaged in trading securities or commodity futures;

"Securities Dealer" means an individual, firm or corporation acting as dealer (principal) or broker (agent) in carrying out transactions in securities and commodity futures contracts or options on behalf of clients and includes, without limitation, acting as an underwriter or adviser;

"Securities Held for Safekeeping," means those securities held by a Dealer Member for a client pursuant to a written safekeeping agreement. These securities must be free from any encumbrance, be kept apart from all other securities and be identified as being held in safekeeping for a client in a Dealer Member's security position record, customer's ledger and statement of account. Securities so held can only be released pursuant to an instruction from the client and not solely because the client has become indebted to the Dealer Member;

"Securities Related Activities" means acting as a securities dealer and carrying on any business which is incidental to or a necessary part of such activities provided that the Board may, from time to time, include in, or exclude from this definition any activities and change those included or excluded;

"Segregated Securities" means those clients' securities which are unencumbered and which have either been fully paid for or are excess margin securities. Segregated securities must be distinguished as being held in trust for the client owning the same. These securities must be described as being held in segregation on the Dealer Member's security position record (or related records), customer's ledger and statement of account. Whenever a client becomes indebted to a Dealer Member, the Dealer Member has the right to use, by sale or loan, previously segregated securities to the extent reasonably necessary to cover the indebtedness;

"Self-Regulatory Organization" means any of the Corporation, The TSX Venture Exchange, the Montreal Exchange and The Toronto Stock Exchange;

"Subordinated Debt" means any debt the terms of which specify that its holder will not be entitled to receive payment if any payment to any holder of a senior class of debt is in default;

"Subsidiary", in respect of a corporation and another corporation, means the first mentioned corporation if:

(i) It is controlled by:

  (a) That other; or

  (b) That other and one or more corporations each of which is controlled by that other; or

  (c) Two or more corporations each of which is controlled by that other; or

(ii) It is a subsidiary of a corporation that is that other's subsidiary;

"Supervisor" means a person to whom a Dealer Member has given responsibility and authority and who is approved by the Corporation to manage the activities of other partners, Directors, Officers, employees or agents of the Dealer Member so as to ensure their compliance with laws and regulations governing their and the Dealer Member's securities-related activities;

"Voting Securities" of a Dealer Member or holding company of a Dealer Member corporation means all securities of the Dealer Member or holding company outstanding from time to time that carry the right to vote for the election of directors, and includes:

(i) Except where the reference is to "outstanding" voting securities, those securities which entitle the holders thereof, on conversion, exchange, the exercise of rights under a warrant, or otherwise, to acquire voting securities; and
(ii) Preference shares which carry the right to vote for the election of directors only upon the occurrence of a specific event if such specific event has occurred.

1.2 Words importing the singular include the plural and vice versa and words importing any gender include any other gender.

1.3 Where the context indicates, references to a Dealer Member include the partners, Directors, Officers, employees and agents of the Dealer Member.

1.4 In the event of any dispute as to the intent or meaning of the By-laws or Rules or Rulings or Forms, the interpretation of the Board, subject to the provisions of Rule 33, shall be final and conclusive.

1.5 The enactment of these Rules shall be without prejudice to any right, obligation or action acquired, incurred or taken under the By-laws of the Corporation and its Predecessor Organization as heretofore in effect or under the Rules, Rulings or Forms passed pursuant thereto, and any proceedings taken under the By-laws as heretofore in effect or under such Rules, Rulings or Forms shall be taken up and continued under and in conformity with these By-laws and the Rules, Rulings and Forms as from time to time in effect.

1.6 Terms used in these Rules which are not defined herein shall have the same meanings as used or defined in General By-law No. 1 and the Hearing Committees and Hearing Panel Rule.

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RULE 16
DEALER MEMBERS' AUDITORS AND FINANCIAL REPORTING

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16.5. The Dealer Member's Auditor shall conduct his or her examination of the accounts of the Dealer Member in accordance with generally accepted auditing standards and the scope of his or her procedures shall be sufficiently extensive to permit him or her to express an opinion on the Dealer Member's financial statements in the form prescribed in subsection 16.2(iii). Without limiting the generality of the foregoing, the scope of the examination shall, where applicable, include at least the procedures set out in Rule 300.

16.6. Every Dealer Member's Auditor for the purpose of any such examination shall be entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence and records of every description of the Dealer Member being examined, and no Dealer Member shall withhold, destroy or conceal any information, document or thing reasonably required by the Dealer Member's Auditor for the purpose of his examination.

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RULE 17
DEALER MEMBER MINIMUM CAPITAL, CONDUCT OF BUSINESS AND INSURANCE

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17.15. The Board of Directors may exempt a Dealer Member from the requirements of any provision of the Rules where it is satisfied that to do so would not be prejudicial to the interests of the Dealer Members, their clients or the public and in granting such exemption the Board of Directors may impose such terms and conditions as are considered necessary.

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RULE 35
INTRODUCING BROKER/CARRYING BROKER ARRANGEMENTS

35.1. General

(a) For the purposes of this Rule 35:

(i) "Carrying Broker" means the Dealer Member or member of a self-regulatory organization that is a participating institution in the Canadian Investor Protection Fund that carries client accounts, which at a minimum includes the clearing and settlement of trades, the maintenance of books and records of client transactions and the custody of some or all client funds and securities;

(ii) "Introducing Broker" means the Dealer Member or member of a self-regulatory organization that is a participating institution in the Canadian Investor Protection Fund that introduces client accounts to the carrying broker;

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RULE 39
PRINCIPAL AND AGENT

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APPENDIX A
INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
PROVISIONS FOR AGENCY AGREEMENTS
IN CONNECTION WITH RULE 39.4

1. Definitions

(a) "Agent" means [•].

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(i) "Records" means books, records, client files, client information and all other documentation of the Agent relating in any way to Dealer Member Business, whether in written or electronic form.

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RULE 800
TRADING AND DELIVERY

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800.3. Clearing days are defined as being all business days, except Saturdays and statutory or other legal holidays.

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RULE 1300
SUPERVISION OF ACCOUNTS

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Discretionary and Managed Accounts

1300.3. In this Rule 1300 unless the context otherwise requires, the expression:

"discretionary account" means an account of a customer other than a managed account in respect of which a Dealer Member or any person acting on behalf of the Dealer Member exercises any discretionary authority in trading by or for such account, provided that an account shall not be considered to be a discretionary account for the sole reason that discretion is exercised as to the price at which or time when an order given by a customer for the purchase or sale of a definite amount of a specified security, option, futures contract or futures contract option shall be executed;

"futures contracts managed account" means a managed account which includes only investments in commodity futures contracts or commodity futures contract options;

"Investment" includes a commodity futures contract and a commodity futures contract option;

"managed account" means any account solicited by a Dealer Member in which the investment decisions are made on a continuing basis by the Dealer Member or by a third party hired by the Dealer Member;"

"portfolio manager" means a Registered Representative exercising discretionary authority over a managed account;
"Responsible person" means a partner, Director, Officer, employee or agent of a Dealer Member who:

(a) exercises discretionary authority over the account of a client or approves discretionary orders for an account when exercising such discretion or giving such approval pursuant to Rule 1300.4, or

(b) participates in the formulation of, or has prior access information regarding investment decisions made on behalf of or advice given to a managed account

but does not include a sub-adviser under Rule 1300.7(a)(ii);

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RULE 1800
COMMODITY FUTURES CONTRACTS AND OPTIONS

1800.1. For the purpose of this Rule 1800, unless the subject matter or context otherwise requires, the expression:

"Clearing Corporation" or "Clearing House" means an association or organization, whether incorporated or unincorporated, or part of a commodity futures exchange through which trades in contracts entered into on such exchange are cleared;

"Commodity" means, anything which (i) is defined or designated as a commodity in or pursuant to the Commodity Futures Act (Ontario) or similar legislation in any province of Canada not inconsistent therewith, or (ii) is the subject of a futures contract;

"Commodity Futures Exchange" means an association or organization whether incorporated or unincorporated, operated for the purpose of providing the physical facilities necessary for the trading of contracts by open auction;

"Contract" means any futures contract and any futures contract option;

"Futures Contract" means a contract to make or take delivery of a specified quantity and quality, grade or size of a commodity during a designated future month at a price agreed upon when the contract is entered into on a commodity futures exchange pursuant to standardized terms and conditions set forth in such exchange's by-laws, rules or regulations;

"Futures Contract Option" means a right, acquired for a consideration, to assume a long or short position in relation to a futures contract at a specified price and within a specified period of time and any other option of which the subject is a futures contract;

"Omnibus Account" means an account carried by or for a Dealer Member in which the transactions of two or more persons are combined and effected in the name of a Dealer Member without disclosure of the identity of such persons.

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1800.8. A Registered Representative or Investment Representative must identify all non-customer orders entered for the purchase or sale of futures contracts or futures contract options. A "non-customer" order is an order for an account in which the Dealer Member or any Approved Person of the Dealer Member has a direct or indirect interest other than an interest in the commission charged.

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RULE 1900
OPTIONS

1900.1. For the purposes of this Rule 1900, unless the subject matter or content otherwise requires:

"Option" means a call option or put option issued by the Canadian Derivatives Clearing Corporation, The Options Clearing Corporation or any other corporation or organization recognized by the Board for the purposes of this Rule but does not include a futures contract or futures contract option as defined in Rule 1800.1.

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RULE 2300
ACCOUNT TRANSFERS

2300.1. Definitions. In this Rule 2300 the expression:

"CDS" means The Canadian Depository for Securities Limited / La Caisse Canadienne de Dépôt de Valeurs Limitée;

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"Recognized Depository" means a clearing corporation or depository which has been recognized by the Board of Directors pursuant to Rule 2000.

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RULE 2600
INTERNAL CONTROL POLICY STATEMENTS

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INTERNAL CONTROL POLICY STATEMENT 1

GENERAL MATTERS

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Internal control is defined as follows:

"Internal control consists of the policies and procedures established and maintained by management to assist in achieving its objective of ensuring, as far as practical, the orderly and efficient conduct of the entity's business. The responsibility for ensuring adequate internal control is part of management's overall responsibility for the day-to-day activities of the entity". (CICA Handbook, 5200.03)

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INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
INTERNAL CONTROL POLICY STATEMENT 8
DERIVATIVE RISK MANAGEMENT

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Derivatives are financial instruments whose values are derived from, and reflect changes in, the prices of the underlying products. They are designed to facilitate the transfer and isolation of risk and may be used for both risk transference and investment purposes. This policy statement includes all types of derivatives i.e. exchange traded and over-the-counter derivatives.

RULE 2900
PROFICIENCY AND EDUCATION:

PART I – PROFICIENCY REQUIREMENTS

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DEFINITIONS

For the purpose of this Part I:

"Recognized Foreign Self-regulatory Organization" means a foreign self-regulatory organization which offers a reciprocal treatment to Canadian applicants and which has been approved as such by Corporation.

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RULE 3100
REPORTING AND RECORDKEEPING REQUIREMENTS

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Definitions

For the purposes of this Rule:

"business days" means a day other than Saturday, Sunday or any officially recognized Federal or Provincial statutory holiday.

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"exchange contracts" include, but are not limited, to commodity futures contracts and commodity futures options.

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"registrant" means any partner, director, officer or registered or approved person of a Dealer Member.

ATTACHMENT C

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
PROPOSED RULE 1100- INTERPRETATION
PROPOSED RULE 1200- DEFINITIONS
PROPOSED RULE 1300- POWERS OF THE CORPORATION
PROPOSED RULE 1400- STANDARDS OF CONDUCT
TABLE OF CONCORDANCE

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
New Provision			Rule 1100	R. 1101. Introduction	(1)	[**New – Non substantive –** Introduction section]
Rule 01; Interpretation and effect	1.2		Rule 1100	R. 1102. General Interpretation	(1)	
New Provision			Rule 1100	R. 1102. General interpretation	(2)	[**New – Non substantive –** The times discussed within the current rulebook are already interpreted to refer to Eastern Standard time. This concept is particularly discussed in current Dealer Member Rule 3000]
Rule 01; Interpretation and effect	1.3		Rule 1100	R. 1102. General interpretation	(3)(i)	
New Provision			Rule 1100	R. 1102. General interpretation	(3)(ii)	[**New – Non substantive** as entities other than a corporation may be a Dealer Member and therefore, it is presumed that such non-corporation entities would have a different type of governing body]
New Provision			Rule 1100	R. 1102. General interpretation	(3)(iii)	[**New – Non substantive** as various rules and definitions set out the applicability of the rule to a corporation type of entity, this provision clarifies that if the context is appropriate, the rule may also apply to other types of entities]

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
Rule 01; Interpretation and effect	1.1	Applicable	Rule 1100	R. 1102. General interpretation	(3)(iv)	[**Amended – Non substantive** as this concept is currently implied through the rules. The explanation set out in paragraph 1102(3)(iii) is simplified in relation to the definition of applicable set out in the current Rule 1.1 definition of applicable]
New Provision			Rule 1100	R. 1102. General Interpretation	(3)(v)	[**New – Non substantive** This concept is implied through the current Dealer Member Rules]
Rule 01; Interpretation and effect	1.6		Rule 1100	R. 1102 General interpretation	(4)	
Rule 01; Interpretation and effect	1.4		Rule 1100	R. 1102 General interpretation	(5)	
New Provision			Rule 1100	R. 1103. Delegation by a Dealer Member	(1)	[**New – Substantive** – To clarify that if a Corporation requirement requires a person at a *Dealer Member* to perform a function, the task may be delegated but not the responsibility. This concept already exists within Current Dealer Member Rule 38 .4(b) with respect to *Supervisors.*]
New Provision			Rule 1100	R. 1104. Electronic signature	(1)	[**New – Substantive** – Codified current expectation that an electronic or digital signature may be used where a signature is required. Currently explained in IDA Member Regulation Notice MR0177]
New Provision			Rule 1100	R. 1105. – 1199. – Reserved		[**New – Non-substantive –** Reserved sections]

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
Rule 01; Interpretation and effect	1.6		Rule 1200	R. 1201. Definitions	(1)	[**Amended – Non substantive –** Clarifies that all terms not used in subsection 1200(2) will have the same meaning as defined in relevant securities legislation]
New Provision			Rule 1200	R. 1201. Definitions "advisory account"	(2)	[**New – Substantive** – The definition introduced is new but the concept exists within rules. The definition is one based on proposed Client Relationship Model amendments]
Rule 3400; Research restrictions and disclosure requirements	Definitions		Rule 1200	R. 1201. Definitions "advisory capacity"	(2)	
Rule 01; Interpretation and effect	1.1	Affiliate	Rule 1200	R. 1201. Definitions "affiliate"	(2)	
New Provision			Rule 1200	R. 1201. Definitions "agent"	(2)	[**New – Non substantive –** Definition based on current requirements set out in existing Rule 39]
Rule 01; Interpretation and effect	1.1	Approved lender	Rule 1200	R. 1201. Definitions "approved lender"	(2)	
Rule 01; Interpretation and effect	1.1	Approved Person	Rule 1200	R. 1201. Definitions "approved person"	(2)	
General By-Law No. 1, Article 1; Interpretation	1.1	Associate	Rule 1200	R. 1201. Definitions "associate"	(2)	
Rule 01; Interpretation and effect	1.1	Beneficial Ownership	Rule 1200	R. 1201. Definitions "beneficial ownership"	(2)	
General By-Law No. 1, Article 1; Interpretation	1.1	Board	Rule 1200	R. 1201. Definitions "Board"	(2)	
Rule 01; Interpretation and effect	1.1	Board	Rule 1200	R. 1201. Definitions "Board"	(2)	

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
Rule 3100; Reporting and Record keeping requirements	Definitions	Business days	Rule 1200	R. 1201. Definitions "business day"	(2)	
Rule 01; Interpretation and effect	1.1	Business Location	Rule 1200	R. 1201. Definitions "business location"	(2)	
Rule 35; Introducing Broker/Carrying Broker arrangements	35.1	(a)(i)	Rule 1200	R. 1201. Definitions "carrying broker"	(2)	
General By-Law No. 1, Article 1; Interpretation	1.1	CDS	Rule 1200	R. 1201. Definitions "CDS"	(2)	
Rule 2300; Account Transfers	2300.1	CDS	Rule 1200	R. 1201. Definitions "CDS"	(2)	
Rule 01; Interpretation and effect	1.1	Chartered Bank	Rule 1200	R. 1201. Definitions "chartered bank"	(2)	
New Provision			Rule 1200	R. 1201. Definitions "chief compliance officer" or "CCO"	(2)	[**New – Non substantive –** Reference to CCO already exists within the rules particularly current Dealer Member Rule 38]
New Provision			Rule 1200	R. 1201. Definitions "chief financial officer" or "CFO"	(2)	[**New – Non substantive –** Reference to CFO already exists within the rules particularly current Dealer Member Rule 38]
General By-Law No. 1, Article 1; Interpretation	1.1	CIPF	Rule 1200	R. 1201. Definitions "Canadian Investor Protection Fund" or "CIPF"	(2)	
Rule 800; Trading and delivery	800.3		Rule 1200	R. 1201. Definitions "clearing day"	(2)	
Rule 01; Interpretation and effect	1.1	Control or Controlled	Rule 1200	R. 1201. Definitions "control" or "controlled"	(2)	
General By-Law No. 1, Article 1; Interpretation	1.1	Corpora-tion	Rule 1200	R. 1201. Definitions "Corporation"	(2)	

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
New Provision			Rule 1200	R. 1201. Definitions "Corporation requirements"	(2)	[**New- Non substantive**- definition used to reference to all rules, by-laws, instruments prescribed or adopted by the corporation]
General By-Law No. 1, Article 1; Interpretation	1.1	Dealer Member	Rule 1200	R. 1201. Definitions "Dealer Member"	(2)	
Rule 01; Interpretation and effect	1.1	Dealer Member Corpora-tion	Rule 1200	R. 1201. Definitions "Dealer Member corporation"	(2)	
Rule 16; Dealer Member's auditors and financial reporting	16.1		Rule 1200	R. 1201. Definitions "Dealer Member's auditor"	(2)	[**Amended- Non substantive**- The definition is provided based on current Rule 16.1 which explains that a panel of auditors is approved annually by the District Council and that each Dealer Member shall select is own auditor from the panel]
Rule 01; Interpretation and effect	1.1	Debt	Rule 1200	R. 1201. Definitions "debt", "debt investment" and "debt security"	(2)	
Rule 2600; Internal Control Policy Statements	Policy statement 8		Rule 1200	R. 1201. Definitions "derivative"	(2)	
Rule 01; Interpretation and effect	1.1	Designated Supervisor	Rule 1200	R. 1201. Definitions "designated supervisor"	(2)	
Rule 01; Interpretation and effect	1.1	Director	Rule 1200	R. 1201. Definitions "director"	(2)	
Rule 1300; Supervision of account	1300.3	Discre-tionary account	Rule 1200	R. 1201. Definitions "discretionary account"	(2)	
General By-Law No. 1, Article 1; Interpretation	1.1	District	Rule 1200	R. 1201. Definitions "District"	(2)	
General By-Law No. 1, Article 1; Interpretation	1.1	District Council	Rule 1200	R. 1201. Definitions "District Council"	(2)	
Rule 01; Interpretation and effect	1.1	Equity Investment	Rule 1200	R. 1200 Definitions "equity", "equity investment" and "equity security"	(2)	

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
New Provision			Rule 1200	R. 1201. Definitions "employee"	(2)	[**New – Substantive** – Various references to employee exists within the current rules. Definition also based on the concept set out in the current Dealer Member Rules and as set out in Dealer Member Rule 39.3 with respect to an *agent*]
Rule 01; Interpretation and effect	1.1	Executive	Rule 1200	R. 1201. Definitions "executive"	(2)	
Rule 1800; Commodity Futures Contract and options	1800.1	Futures contract	Rule 1200	R. 1201. Definitions "futures contract"	(2)	
Rule 1800; Commodity Futures Contract and options	1800.1	Futures contract option	Rule 1200	R. 1201. Definitions "futures contract option"	(2)	
Rule 1300; Supervision of accounts	1300.3	Futures contracts managed account	Rule 1200	R. 1201. Definitions "futures managed account"	(2)	
Rule 01; Interpretation and effect	1.1	Guaran-teeing	Rule 1200	R. 1201. Definitions "guarantee"	(2)	
Rule 01; Interpretation and effect	1.1	Holding company	Rule 1200	R. 1201. Definitions "holding company"	(2)	
Rule 01; Interpretation and effect	1.1	Individual	Rule 1200	R. 1201. Definitions "individual"	(2)	
Rule 01; Interpretation and effect	1.1	Institutional Customer	Rule 1200	R. 1201. Definitions "institutional client"	(2)	
Rule 2600; Internal control policy statements	Policy statement 1	Internal control	Rule 1200	R. 1201. Definitions "internal controls"	(2)	
Rule 35; Introducing Broker/Carrying Broker arrangements	35.1	(a)(ii)	Rule 1200	R. 1201. Definitions "introducing broker"	(2)	

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
New Provision			Rule 1200	R. 1201. Definitions "investment dealer"	(2)	[**New – Non substantive –** Based on references in National Instrument 31-103 *Registration requirements and exemptions*, references to securities dealers will be changed to investment dealer throughout the rulebook]
Rule 01; Interpretation and effect	1.1	Investment represen-tative	Rule 1200	R. 1201. Definitions "investment representative"	(2)	
New Provision			Rule 1200	R. 1201. Definitions "laws" or "applicable laws"	(2)	[**New – Non substantive –** The definition provided is consistent with the general meaning of laws and applicable laws]
Rule 1300; Supervision of accounts	1300.3	Managed account	Rule 1200	R. 1201. Definitions "managed account"	(2)	
Rule 01; Interpretation and effect	1.1	Membership	Rule 1200	R. 1201. Definitions "Membership"	(2)	
Rule 1800; Commodity Futures Contracts and Options	1800.8	Second sentence reference to non-customer	Rule 1200	R. 1201. Definitions "non-client orders"	(2)	
Rule 01; Interpretation and effect	1.1	Officer	Rule 1200	R. 1201. Definitions "officer"	(2)	
Rule 1900; Options	1900.1	Option	Rule 1200	R. 1201. Definitions "option"	(2)	
Rule 3200; Minimum requirements for *Dealer Member*s seeking approval under 1300.01(T) for suitability relief for trades not recommended by the member	Intro-duction		Rule 1200	R. 1201. Definitions "order execution only service"	(2)	
Rule 01; Interpretation and effect	1.1	Person	Rule 1200	R. 1201. Definitions "person"	(1)	

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
Rule 1300; Supervision of accounts	1300.3		Rule 1200	R. 1201. Definitions "portfolio manager"	(2)	[**Amended – Non substantive –** The term, although not fully defined, is used throughout the current rules particularly in Rules 1300 and 2900.]
Rule 2300	2300.1	Definitions	Rule 1200	R. 1201. Definitions "recognized depository"	(2)	
Rule 01; Interpretation and effect	1.1	Recognized stock exchange	Rule 1200	R. 1201. Definitions "recognized exchange" or "recognized association"	(2)	[**New – Non substantive –** Based on concept already existing in Form 1]
Rule 2900; Principal and Agent		Recognized Foreign Self-regulatory Organization	Rule 1200	R. 1201. Definitions "recognized foreign Self-Regulatory Organization"	(2)	
Rule 39; Principal and Agent	Appendix A		Rule 1200	R. 1201. Definitions "records"	(2)	
Rule 01; Interpretation and effect	1.1	Registered Represen-tative	Rule 1200	R. 1201. Definitions "registered representative" or "RR"	(2)	
Rule 01: Interpretation and effect	1.1	Related company	Rule 1200	R. 1201. Definitions "related company"	(2)	
New Provision			Rule 1200	R. 1201. Definitions "related issuer"	(2)	[**New – Non substantive** – Adoption of securities legislation term.]
Rule 01; Interpretation and effect	1.1	Retail Customer	Rule 1200	R. 1201. Definitions "retail client"	(2)	
New Provision			Rule 1200	R. 1201. Definitions "risk adjusted capital" or "RAC"	(2)	[**New – Non substantive** – This is based on concepts in current Dealer Member Rules particularly the calculation method provided in Form 1]
Rule 01; Interpretation and effect	1.1	Securities commission	Rule 1200	R. 1201. Definitions "securities commission"	(2)	
New Provision			Rule 1200	R. 1201. Definitions "securities legislation" or "applicable securities legislation"	(2)	[**New – Non substantive –** To codify existing understanding of these terms]

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
Rule 01; Interpretation and effect	1.1	Securities related activities	Rule 1200	R. 1201. Definitions "securities related activities"	(2)	
Rule 01; Interpretation and effect	1.1	Segregated securities	Rule 1200	R. 1201. Definitions "segregated securities"	(2)	
New Provision			Rule 1200	R. 1201. Definitions "segregation"	(2)	[**New – Non substantive –** definition based on principles set out in current Rule 2000]
Rule 01; Interpretation and effect	1.1	Subordinated debt	Rule 1200	R. 1201. Definitions "subordinated debt"	(2)	
Rule 01; Interpretation and effect	1.1	Subsidiary	Rule 1200	R. 1201. Definitions "subsidiary"	(2)	
Rule 01; Interpretation and effect	1.1	Supervisor	Rule 1200	R. 1201. Definitions "supervisor"	(2)	
New Provision			Rule 1200	R. 1201. Definitions "trader"	(2)	[**New- Non substantive –** Definition is new. However, the concept already exists with the rules particularly Dealer Member Rule 2900]
New Provision			Rule 1200	R. 1201. Definitions "ultimate designated person" or "UDP"	(2)	[**New – Non substantive –** Definition is new. However, the concept already exists within the rules particularly Dealer Member Rules 38 and 2900]
Rule 01; Interpretation and effect	1.1	Fully Participating Security				[**Repealed – Non substantive**- The term is no longer used in the plain language rules]
Rule 01; Interpretation and effect	1.1	Investment				[**Repealed – Non substantive –** A specific definition of this term is unnecessary as the term is used in a general sense throughout the plain language rules]

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
Rule 01; Interpretation and effect	1.1	Investor				[**Repealed – Non substantive –** The term customer is used throughout the plain language rules]
Rule 01; Interpretation and effect	1.1	Junior Subordinated debt				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]
Rule 01; Interpretation and effect	1.1	Limited Participation Security				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]
Rule 01; Interpretation and effect	1.1	Non-participating Security				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]
Rule 01; Interpretation and effect	1.1	Non-subordinated Debt				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]
Rule 01; Interpretation and effect	1.1	Ordinary Course Indebtedness				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]
Rule 01; Interpretation and effect	1.1	Predecessor organization				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]
Rule 01; Interpretation and effect	1.1	Restrictive Security				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]
Rule 01; Interpretation and effect	1.1	Rules				[**Repealed – Non substantive –** A new definition of Corporation requirements has been added]
Rule 01; Interpretation and effect	1.1	Secretary				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
Rule 01; Interpretation and effect	1.1	Securities Dealer				[**Repealed – Non substantive –** This term is no longer used in the plain language rules as the term "investment dealer" is now used]
Rule 01; Interpretation and effect	1.1	Self-Regulatory Organization				[**Repealed – Non substantive –** The term is no longer used in the plain language rules]
Rule 01; Interpretation and effect	1.1	Voting securities				[**Repealed – Non substantive –** This term is defined in securities legislation and it does not need to be defined in the IIROC rules as it has the same meaning based on the explanation provided in proposed subsection 1200(1)]
Rule 1300; Supervision of accounts	1300.3	Investment				[**Repealed – Non substantive –** A specific definition of this term is unnecessary as the term is used in a general sense throughout the plain language rules]
Rule 1300; Supervision of accounts	1300.3	Responsible Person				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]
Rule 1800; Commodity Futures Contracts and Options	1800.1	Clearing Corporation or Clearing House				[**Repealed – Non substantive –** This term is no longer used as part the plain language rules]
Rule 1800; Commodity Futures Contracts and Options	1800.1	Commodity				[**Repealed – Non substantive –** Use of the term is generally understood and definition is not necessary]

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
Rule 1800; Commodity Futures Contracts and Options	1800.1	Commodity futures exchange				[**Repealed – Non substantive –** Use of the term is generally understood and definition is not necessary]
Rule 1800; Commodity Futures Contracts and Options	1800.1	Contract				[**Repealed – Non substantive –** Definition is not necessary]
Rule 1800; Commodity Futures Contracts and Options	1800.1	Omnibus account				[**Repealed – Non substantive –** This term is no longer used in the plain language rules]
Rule 3100; Reporting and record keeping requirements	Definitions	Exchange contracts				[**Repealed – Non substantive –** Use of the term is generally understood and definition is not necessary]
Rule 3100; Reporting and record keeping requirements	Definitions	Registrant				[**Repealed – Non substantive –** The term "approved persons" is used throughout the rules]
New Provision			Rule 1200	R. 1202. – 1299. – Reserved		[**New – Non-substantive –** Reserved sections]
New Provision			Rule 1300	R. 1301. Introduction	(1)	[**New – Non substantive –** Introduction section]
Rule 17; Dealer Member minimum capital, Conduct of Business and insurance	17.15		Rule 1300	R. 1302. Exemptions from Corporation requirements	(1)	
New Provision			Rule 1300	R. 1303. – 1399. – Reserved		[**New – Non-substantive –** Reserved sections]
New Provision			Rule 1400	R. 1401. Introduction	(1)	[**New- Reserved section**- The content of this provision to be introduced through a separate project "The Consolidated Enforcement Rules"

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
New Provision			Rule 1400	R. 1402. Standards of conduct		[**New- Reserved section**- The content of this provision to be introduced through a separate project "The Consolidated Enforcement Rules"
			Rule 1400	R. 1403. Applicability		[**New-Reserved section**-This section is reserved and the content will be introduced through a separate project "The Consolidated Enforcement Rules"]
New Provision			Rule 1400	R. 1404. Policies and Procedures	(1)	[**New – Substantive –** The requirement for a *Dealer Member*'s policies and procedures to meet the Corporation's objectives, as well as the ability of the *Dealer Member* to have more stringent policies and procedures, is consistent with existing expectations and practices]
New Provision			Rule 1400	R. 1404. Policies and procedures	(2)	[**New – Substantive –** Codification of existing expectations that any guidelines provided through a Guidance Note present an acceptable method of complying with specific rules and that *Dealer Member*s may use alternate methods]
New Provision			Rule 1400	R. 1404. Policies and procedures	(3)	[**New – Substantive –** Codification of current expectations that the Corporation may require a *Dealer Member* to adopt additional or different policies if the Corporation considers the existing policies and procedures to be insufficient]

Current rule number and title	Sub-section		New rule number	New section, title and description	Sub-Section	Comments
New Provision			Rule 1400	R. 1405. Evidence of compliance with the Corporation requirements	(1)	[**New – Non substantive –** codification and clarification of provisions currently set out in *Dealer Member* Rules 38, 2500 and 2700 which require a *Dealer Member* to establish reasonable compliance procedures in a manner that would prevent and detect violations.
New Provision			Rule 1400	R. 1405. Evidence of compliance with the Corporation requirements	(2)	[**New – Substantive –** clarification of current expectations with regards to obligations of Dealer Members to retain records and evidence of compliance]
New Provision			Rule 1400	R. 1405. Evidence of compliance with the Corporation requirements	(3)	[**New – Substantive** - clarification of existing expectations that *Dealer Member*s may be required to provide the Corporation with evidence of the their compliance with the Corporation's requirements]
New Provision			Rule 1400	R. 1406. – 1999. – Reserved		[**New – Non-substantive –** Reserved sections]

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Chapter 25

Other Information

25.1 Consents

25.1.1 Caribou Copper Resources Ltd. – s. 4(b) of the Regulation

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under the Business Corporations Act (British Columbia).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 289/00, as am., s. 4(b).

IN THE MATTER OF
R.R.O. 1990, REGULATION 289/00,
AS AMENDED (THE "REGULATION")
MADE UNDER THE
BUSINESS CORPORATIONS ACT (ONTARIO)
R.S.O. 1990, c. B.16, AS AMENDED (THE "OBCA")

AND

IN THE MATTER OF
CARIBOU COPPER RESOURCES LTD.

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of Caribou Copper Resources Ltd. (the "**Applicant**") to the Ontario Securities Commission (the "**Commission**") requesting the consent of the Commission, pursuant to subsection 4(b) of the Regulation, for the Applicant to continue into the Province of British Columbia;

AND UPON considering the application and the recommendation of the staff of the Commission;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant was formed by articles of incorporation under the OBCA on February 27, 2007 under the name Yow Capital Corp. The Applicant's name was changed from Yow Capital Corp. to Caribou Copper Resources Ltd. pursuant to articles of amendment dated September 2, 2009.

2. The registered office of the Applicant is located at 50 O'Connor Street, 15th Floor, Ottawa, Ontario, K1P 6L2.

3. The Applicant is authorized to issue an unlimited number of common shares (the "**Common Shares**"), of which 31,068,000 Common Shares are issued and outstanding at the close of business on December 5, 2011.

4. The Common Shares of the Applicant are listed and posted for trading on the TSX Venture Exchange under the symbol "CKR".

5. The Applicant intends to apply to the Director under the OBCA for authorization to continue (the "**Application for Continuance**") under the *Business Corporations Act* (British Columbia), S.B.C. 2002, c. 57 (the "BCABC") pursuant to Section 181 of the OBCA (the "**Continuance**").

6. Pursuant to subsection 4(b) of the Regulation, where an applicant corporation is an "offering corporation" (as defined in the OBCA), the Application for Continuance must be accompanied by a consent from the Commission.

7. The Applicant is an offering corporation under the OBCA and is a reporting issuer under the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**"), and the securities legislation of each of British Columbia and Alberta that have a reporting issuer concept (collectively, the "**Legislation**").

8. The Applicant is not in default of any of the provisions, rules or regulations of the OBCA, the Act or the Legislation.

9. The Applicant is not a party to any proceeding or, to the best of its knowledge, information and belief, pending proceeding under the OBCA, the Act or the Legislation.

10. The Applicant is not in default of any of the rules, regulations or policies of the TSX Venture Exchange.

11. An annual and special meeting of the shareholders of the Applicant was held on December 16, 2011 (the "**Meeting**") to consider, among other things, a special resolution in connection with the Continuance (the "**Continuance Resolution**"). The Continuance Resolution required the approval of not less than two-thirds of the aggregate votes cast by the shareholders present in person or by proxy at the

Meeting, and was approved at the Meeting by 89.56% of the votes cast by shareholders of the Applicant, the requisite majority of shareholders present in person or by proxy at the Meeting.

12. The Management Information Circular of the Applicant dated November 7, 2011 (the "**Circular**"), which was provided to all securityholders of the Applicant in connection with the Meeting, advised the shareholders of their dissent rights in connection with the Continuance Resolution pursuant to Section 185 of the OBCA and included a summary comparison of the differences between the OBCA and the BCABC. The Circular was filed on the System for Electronic Document Analysis and Retrieval ("**SEDAR**") on November 17, 2011 and mailed to securityholders of record at the close of business on November 18, 2011.

13. Full disclosure of the reasons for and the implications of the Continuance are included in the Circular.

14. The Continuance is being made as management and the operating office of the Company are located in British Columbia; as such, the Board has determined the proposed Continuation is in the best interest of the Company and it will be more efficient and cost effective for the Company to be governed by the laws of British Columbia. At the Meeting the Applicant's shareholders, by special resolution, resolved that, upon continuance into British Columbia the name of the Applicant will be changed to "*Caribou King Resources Ltd.*", or such other name as may be approved by the Board of Directors in their sole discretion and is acceptable to the applicable regulatory authorities (the "**New Name**"). The Applicant will continue under such New Name.

15. The Applicant intends to remain a reporting issuer in each of Ontario, British Columbia and Alberta following the proposed continuance under the BCBCA.

16. The material rights, duties and obligations of a corporation governed by the BCABC are substantially similar to those of a corporation governed by OBCA.

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

THE COMMISSION HEREBY CONSENTS to the continuance of the Applicant as a corporation under the BCABC.

DATED this 20th day of December, 2011.

"Vern Krishna"
Commissioner
Ontario Securities Commission

"Judith Robertson"
Commissioner
Ontario Securities Commission

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