The Ontario Securities Commission

OSC Bulletin

February 7, 2013

Volume 36, Issue 6

(2013), 36 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
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
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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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February 7, 2013

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

- - - - - - - - - - - - - - - - - - - -

Temporary Change of Location of Ontario Securities Commission Proceedings

All hearings scheduled to be heard between November 22, 2012 and March 15, 2013 will take place at the following location:

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Vern Krishna	—	VK
Christopher Portner	—	CP
Judith N. Robertson	—	JNR
Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

February 11 & February 13-22, 2013	**Jowdat Waheed and Bruce Walter** s. 127
10:00 a.m.	J. Lynch in attendance for Staff Panel: CP/SBK/PLK
February 11 & February 13, 2013 10:00 a.m.	**Alexander Christ Doulis (aka Alexander Christos Doulis, aka Alexandros Christodoulidis) and Liberty Consulting Ltd.** s. 127 J. Feasby in attendance for Staff Panel: VK
February 13, 2013 10:00 a.m.	**Roger Carl Schoer** s. 21.7 C. Johnson in attendance for Staff Panel: JEAT
February 14-15 & February 20, 2013 10:00 a.m.	**Northern Securities Inc., Victor Philip Alboini, Douglas Michael Chornoboy and Frederick Earl Vance** s. 21.7 and 8 Y. Chisholm in attendance for Staff Panel: JEAT/JNR
February 19, 2013 10:00 a.m.	**Blackwood & Rose Inc., Steven Zetchus and Justin Kreller (also known as Justin Kay)** s. 37, 127 and 127.1 C. Rossi in attendance for Staff Panel: JEAT

February 21, 2013
2:00 p.m.
Firestar Capital Management Corp., Kamposse Financial Corp., Firestar Investment Management Group, Michael Ciavarella and Michael Mitton

s. 127

S. Horgan in attendance for Staff

Panel: EPK

February 27, 2013
10:00 a.m.
Global Energy Group, Ltd., New Gold Limited Partnerships, Christina Harper, Howard Rash, Michael Schaumer, Elliot Feder, Vadim Tsatskin, Oded Pasternak, Alan Silverstein, Herbert Groberman, Allan Walker, Peter Robinson, Vyacheslav Brikman, Nikola Bajovski, Bruce Cohen and Andrew Shiff

s. 127

C. Watson in attendance for Staff

Panel: EPK

February 27, 2013
11:00 a.m.
Issam El-Bouji, Global RESP Corporation, Global Growth Assets Inc., Global Educational Trust Foundation and Margaret Singh

s. 127 and 127.1

M. Vaillancourt in attendance for Staff

Panel: JEAT

February 28, 2013
10:00 a.m.
Children's Education Funds Inc.

s. 127

D. Ferris in attendance for Staff

Panel: JEAT

March 1, 2013
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) & (5)

A. Heydon/Y. Chisholm in attendance for Staff

Panel : EPK

March 5, 2013
10:00 a.m.
New Hudson Television LLC & Dmitry James Salganov

s. 127

C. Watson in attendance for Staff

Panel: MGC

March 5, 2013
2:00 p.m.
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

J. Feasby in attendance for Staff

Panel: MGC

March 6, 2013
10:00 a.m.
Blackwood & Rose Inc., Steven Zetchus and Justin Kreller (also known as Justin Kay)

s. 127

C. Rossi in attendance for Staff

Panel: JEAT

March 7, 2013
11:00 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: MGC

March 11, 2013
10:00 a.m.
AMTE Services Inc., Osler Energy Corporation, Ranjit Grewal, Phillip Colbert and Edward Ozga

s. 127

C. Rossi in attendance for Staff

Panel: JEAT

March 13, 2013 10:00 a.m.	**New Found Freedom Financial, Ron Deonarine Singh, Wayne Gerard Martinez, Pauline Levy, David Whidden, Paul Swaby and Zompas Consulting** s. 127 A. Heydon/S. Horgan in attendance for Staff Panel: JDC
March 13, 2013 10:00 a.m.	**Moncasa Capital Corporation and John Frederick Collins** s. 127 T. Center in attendance for Staff Panel: EPK
March 18-25, March 27-28, April 1-5 & April 24-25, 2013 10:00 a.m.	**Peter Sbaraglia** s. 127 J. Lynch in attendance for Staff Panel: CP
March 18-25 & March 27-28, 2013 10:00 a.m.	**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: EPK
March 21, 2013 9:00 a.m.	**Knowledge First Financial Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
March 21, 2013 9:00 a.m.	**Heritage Education Funds Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
March 22, 2013 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 C. Watson in attendance for Staff Panel: PLK/JNR
March 25, March 27-28, April 8, April 10-12, April 17, April 19, May 13-17, May 22 & June 24-28, 2013 10:00 a.m.	**Bernard Boily** s.127 and 127.1 M. Vaillancourt/U. Sheikh in attendance for Staff Panel: TBA
April 2, 2013 10:00 a.m.	**Vincent Ciccone and Cabo Catoche Corp. (a.k.a. Medra Corp. and Medra Corporation)** s. 127 M. Vaillancourt in attendance for Staff Panel: VK
April 4, 2013 10:00 a.m.	**Sandy Winick, Andrea Lee Mccarthy, Kolt Curry, Laura Mateyak, Gregory J. Curry, American Heritage Stock Transfer Inc., American Heritage Stock Transfer, Inc., BFM Industries Inc., Liquid Gold International Corp., (aka Liquid Gold International Inc.) and Nanotech Industries Inc.** s. 127 J. Feasby in attendance for Staff Panel: JDC
April 8, April 10-16, April 22, April 24, April 29-30, May 6 & May 8, 2013 10:00 a.m.	**Energy Syndications Inc. Green Syndications Inc. , Syndications Canada Inc., Daniel Strumos, Michael Baum and Douglas William Chaddock** s. 127 C. Johnson in attendance for Staff Panel: TBA

April 11-22 & April 24, 2013

10:00 a.m.

Morgan Dragon Development Corp., John Cheong (aka Kim Meng Cheong), Herman Tse, Devon Ricketts and Mark Griffiths

s. 127

J. Feasby in attendance for Staff

Panel: EPK

April 15-22, April 25-May 6 & May 8-10, 2013

10:00 a.m.

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

B. Shulman in attendance for Staff

Panel: JDC

April 25, 26 & May 13, 2013

10:00 a.m.

Matthew Robert White and White Capital Corporation

s. 8

S. Horgan/C. Weiler in attendance for Staff

Panel: JEAT

April 29-May 6 & May 8-10, 2013

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: TBA

May 9, 2013

10:00 a.m.

New Solutions Capital Inc., New Solutions Financial Corporation, New Solutions Financial (II) Corporation, New Solutions Financial (III) Corporation, New Solutions Financial (VI) Corporation and Ron Ovenden

s.127

Y. Chisholm in attendance for Staff

Panel: TBA

June 3, June 5-17 & June 19-25, 2013

10:00 a.m.

David Charles Phillips and John Russell Wilson

s. 127

Y. Chisholm in attendance for Staff

Panel: TBA

June 6, 2013

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: MGC

September 16-23, September 25-October 7, October 9-21, October 23-November 4, November 6-18, November 20-December 2, December 4-16 & December 18-20, 2013

10:00 a.m.

Eda Marie Agueci, Dennis Wing, Santo Iacono, Josephine Raponi, Kimberley Stephany, Henry Fiorillo, Giuseppe (Joseph) Fiorini, John Serpa, Ian Telfer, Jacob Gornitzki and Pollen Services Limited

s. 127

J, Waechter/U. Sheikh in attendance for Staff

Panel: TBA

October 15-21, October 23-29, 2013

10:00 a.m.

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

May 5-May 16 & May 20-June 20, 2014 10:00 a.m.	**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	**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 & 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	**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	**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	**FactorCorp Inc., FactorCorp Financial Inc. and Mark Twerdun** s. 127 C. Price 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 **David M. O'Brien**

s. 37, 127 and 127.1

B. Shulman in attendance for Staff

Panel: TBA

TBA **Bunting & Waddington Inc., Arvind Sanmugam, Julie Winget and Jenifer Brekelmans**

s. 127

S. Schumacher in attendance for Staff

Panel: TBA

TBA **Colby Cooper Capital Inc. Colby Cooper Inc., Pac West Minerals Limited John Douglas Lee Mason**

s. 127

B. Shulman in attendance for Staff

Panel: TBA

TBA **Beryl Henderson**

s. 127

S. Schumacher in attendance for Staff

Panel: TBA

TBA **International Strategic Investments, International Strategic Investments Inc., Somin Holdings Inc., Nazim Gillani and Ryan J. Driscoll.**

s. 127

C. Watson in attendance for Staff

Panel: TBA

TBA **Majestic Supply Co. Inc., Suncastle Developments Corporation, Herbert Adams, Steve Bishop, Mary Kricfalusi, Kevin Loman and CBK Enterprises Inc.**

s. 37, 127 and 127.1

D. Ferris in attendance for Staff

Panel: TBA

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

s.127 and 127.1

D. Ferris in attendance for Staff

Panel: TBA

TBA **Crown Hill Capital Corporation and Wayne Lawrence Pushka**

s. 127

A. Perschy/A. Pelletier in attendance for Staff

Panel: TBA

TBA **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

TBA

Irwin Boock, Stanton Defreitas, Jason Wong, Saudia Allie, Alena Dubinsky, Alex Khodjaiants 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 & 127.1

D. Campbell in attendance for Staff

Panel: TBA

TBA

Systematech Solutions Inc., April Vuong and Hao Quach

s. 127

D. Ferris in attendance for Staff

Panel: TBA

TBA

Ernst & Young LLP

s. 127 and 127.1

A. Clark in attendance for Staff

Panel: TBA

TBA

Newer Technologies Limited, Ryan Pickering and Rodger Frey

s. 127 and 127.1

B. Shulman 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

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

s.127

H. Craig 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

H. Craig in attendance for Staff

Panel: TBA

TBA

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

Fawad Ul Haq Khan and Khan Trading Associates Inc. carrying on business as Money Plus

s. 60 and 60.1 of the *Commodity Futures Act*

T. Center in attendance for Staff

Panel: TBA

TBA

Global RESP Corporation and Global Growth Assets Inc.

s. 127

D. Ferris in attendance for Staff

Panel: TBA

TBA **Quadrexx Asset Management Inc., Quadrexx Secured Assets Inc., Offshore Oil Vessel Supply Services LP, Quibik Income Fund and Quibik Opportunity Fund**

s. 127

D. Ferris in attendance for Staff

Panel: TBA

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

Livent Inc., Garth H. Drabinsky, Myron I. Gottlieb, Gordon Eckstein, Robert Topol

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

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

1.1.2 CSA Staff Notice 31-333 – Follow-up to Broker-Dealer Registration in the Exempt Market Dealer Category

CSA Staff Notice 31-333
Follow-up to Broker-Dealer Registration in the Exempt Market Dealer Category

February 7, 2013

Introduction

On September 2, 2011, the Canadian Securities Administrators (**CSA** or we) published CSA Staff Notice 31-327 *Broker-Dealer Registration in the Exempt Market Dealer Category* (**CSA Staff Notice 31-327**). On July 12, 2012, we published CSA Staff Notice 31-331 *Follow-Up to Broker-Dealer Registration in the Exempt Market Dealer Category* (**CSA Staff Notice 31-331**). CSA Staff Notice 31-331 introduced IIROC Notice 12-0217 *IIROC Concept Proposal – Restricted Dealer Member Proposal* (the **Restricted Dealer Member Proposa**l). This notice provides a further update on broker-dealer registration in the exempt market dealer (**EMD**) category.

Substance and Purpose

The purpose of this notice is to inform FINRA firms currently conducting brokerage activities while registered in the EMD category or in the restricted dealer category that the Investment Industry Regulatory Organization of Canada (**IIROC**) does not intend to proceed with the Restricted Dealer Member Proposal, as detailed in IIROC Notice 13-0042 dated February 7, 2013 (the **IIROC Notice**). In the future, firms will need to conduct all brokerage activities through a full IIROC member firm.

Background

CSA Staff Notice 31-327 outlines our concerns about firms using the EMD category to conduct brokerage activities (trading securities listed on an exchange in foreign or Canadian markets) (**brokerage activities**). We also stated that we would examine the issue to ensure that appropriate regulatory requirements applied to all firms that were engaging in brokerage activities in Canada.

We are of the view that IIROC should regulate these firms because IIROC has rules that address the risks associated with brokerage activities. Therefore, on July 12, 2012 we published CSA Staff Notice 31-331 in tandem with the Restricted Dealer Member Proposal. The Restricted Dealer Member Proposal introduced a new class of IIROC Member, called a "Restricted Dealer Member", which was intended to migrate firms currently registered as EMDs or restricted dealers carrying out brokerage activities to IIROC membership.

Now that the 90-day comment period has concluded, IIROC is publishing the IIROC Notice. The IIROC Notice summarizes the comments received on the Restricted Dealer Member Proposal and discusses IIROC's intention not to proceed with the proposal.

We remain of the view that IIROC should regulate firms that conduct brokerage activities. Therefore, we intend to publish proposed amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) later in 2013 in order to prohibit EMDs from conducting brokerage activities (the **NI 31-103 Amendments**).

Next Steps

Based on the above, impacted firms need to consider the following:

- EMDs that are conducting brokerage activities may continue to conduct these activities until the NI 31-103 Amendments come into force, but they will thereafter be required to restrict their activities to those permitted by the EMD category after the NI 31-103 Amendments are effective; and

- restricted dealers that are conducting brokerage activities in accordance with the terms and conditions of their registration will have their registration and any related exemptive relief extended to the date the NI 31-103 Amendments are effective.

Impacted firms may wish to consider how they will conduct brokerage activities in the future. Options include transferring their brokerage activities to a Canadian incorporated IIROC firm, tailoring their activities to fit solely within the EMD category, or relying upon the international dealer exemption in section 8.18 of NI 31-103.

Questions

Please refer your questions to any of the following persons:

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Senior Legal Counsel, Capital Markets Regulation
British Columbia Securities Commission
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1-800-373-6393
lbremner@bcsc.bc.ca

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1.1.3 Notice of Correction – DUSA Pharmaceuticals, Inc. – s. 1(10)(a)(ii)

The date "January 29, 2013" was inadvertently omitted from the Order published at (2013), 36 OSCB 1229. The Order should read as follows:

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)(a)(ii).

January 29, 2013

DUSA Pharmaceuticals, Inc.
25 Upton Drive
Wilmington, Massachusetts 01887

Dear Sirs/Mesdames:

Re: DUSA Pharmaceuticals, Inc. (the Applicant) – application for an order under subclause 1(10)(a)(ii) of the Securities Act (Ontario) (the Act) that the Applicant is not a reporting issuer

The Applicant has applied to the Ontario Securities Commission for an order under subclause 1(10)(a)(ii) of the Act that the Applicant is not a reporting issuer.

In this order, "securityholder" means, for a security, the beneficial owner of the security.

The Applicant has represented to the Commission that:

(a) the outstanding securities of the Applicant, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in Ontario and fewer than 51 securityholders in total worldwide;

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

(c) the Applicant is not in default of any of its obligations under the Act as a reporting issuer; and

(d) the Applicant will not be a reporting issuer in any jurisdiction of Canada immediately following the Director granting the relief requested.

The Director is satisfied that it would not be prejudicial to the public interest to grant the requested relief and orders that the Applicant is not a reporting issuer.

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

1.1.4 CSA Staff Notice 11-321 – Business Continuity Planning – Industry Testing Exercise

Canadian Securities Administrators | Autorités canadiennes en valeurs mobilières

CSA Staff Notice 11-321
Business Continuity Planning – Industry Testing Exercise

February 7, 2013

Introduction

Business continuity is an ongoing priority for securities industry participants and regulatory authorities. Various events over the past few years, such as flu outbreaks, natural disasters, black-outs and marketplace system problems heightened that priority by highlighting the risk of operational disruptions to the financial system.

Substance and Purpose

Staff of the Canadian Securities Administrators (CSA Staff or we) support and encourage the industry's efforts to identify the challenges and address the potential impact of incidents that could disrupt normal business operations. Securities regulations require that business continuity plans be tested regularly, to reflect current or potential developments. Subsection 12.4(2) of National Instrument 21-101 *Marketplace Operation* requires marketplaces to test their business continuity and disaster recovery plans on a reasonably frequent basis and, in any event, at least annually. In addition, subsection 11.1(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* requires a registered firm to establish, maintain and apply policies and procedures that establish a system of controls and supervision sufficient to manage the risks associated with its business in accordance with prudent business practices. Dealer Member Rules of the Investment Industry Regulatory Organization of Canada (IIROC) requires Dealer Members to establish and maintain a business continuity plan and conduct an annual review and a test of their business continuity plan to determine whether any modifications are necessary. In addition, clearing agencies are expected to have procedures to ensure business continuity including regularly testing their business continuity plans.

We are of the view that dealers, marketplaces, self-regulatory organizations and clearing agencies should participate regularly in industry-wide testing.

As stated in IIROC Notice 12-0279 issued on September 24, 2012, IIROC has set the date for a market wide test on October 5, 2013. IIROC expects all Dealer Members and major service providers to participate in this test and it will share the results of the test with all participants.

CSA Staff encourage all dealers, marketplaces and clearing agencies to participate in the October, 2013 market-wide exercise organized by IIROC. Participation in this exercise may lead to the discovery of potential system and operational problems that could undermine the integrity of the capital markets.

Questions

Please refer your questions to any of the following people:

John Kearns
Ontario Securities Commission
416-593-8278
jkearns@osc.gov.on.ca

Doug MacKay
British Columbia Securities Commission
604-899-6609
dmackay@bcsc.bc.ca

Jason Alcorn
New Brunswick Securities CommissionBranch
506-643-7857
Jason.Alcorn@nbsc-cvmnb.ca

Chris Pottie
Nova Scotia Securities Commission
902-424-5393
pottiec@gov.ns.ca

Armand K. Djolla
Autorité des marchés financiers
514-395-0337
armand.kamban-djolla@lautorite.qc.ca

Paula White
Manitoba Securities Commission
204-945-5195
paula.white@gov.mb.ca

Paula Kaner
Alberta Securities Commission
403-355-6290
paula.kaner@asc.ca

Curtis Brezinski
Financial and Consumer Affairs Authority of Saskatchewan
306-787-5876
Curtis.Brezinski@gov.sk.ca

1.2 Notices of Hearing

1.2.1 Blackwood & Rose Inc. et al. – ss. 37, 127, 127.1

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

AND

IN THE MATTER OF
BLACKWOOD & ROSE INC., STEVEN ZETCHUS
and JUSTIN KRELLER (also known as JUSTIN KAY)

NOTICE OF HEARING
(Sections 37, 127 and 127.1)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 37, 127 and 127.1 of the *Securities Act,* R.S.O. 1990, c. S.5, as amended (the "Act") at the temporary offices of the Commission, 333 Bay Street, Suite 900, Toronto, ON, M5H 2T4 on February 19, 2013 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 37, 127 and 127.1 of the Act to order that:

(a) trading in any securities by Blackwood & Rose Inc. (“Blackwood”), Steven Zetchus (“Zetchus”) and Justin Kreller (“Kreller”), (collectively, 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) each of the Respondents disgorge to the Commission any amounts obtained as a result of their or its non-compliance with Ontario securities law;

(e) Zetchus and Kreller (the “Individual Respondents”) be reprimanded;

(f) each of the Individual Respondents resign one or more positions that they hold as a director or officer of any issuer, registrant, or investment fund manager;

(g) each of the Individual Respondents be prohibited from becoming or acting as a director or officer of any issuer, registrant, and investment fund manager;

(h) each of the Individual Respondents be prohibited from becoming or acting as a registrant, as an investment fund manager and as a promoter;

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

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

(ii) whether, in the opinion of the Commission, an order should be made pursuant to section 37 of the Act that the Individual Respondents cease permanently from telephoning from within Ontario to any residence within or outside Ontario for the purpose of trading in any security or any class of securities; and

(iii) 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 January 29, 2013 and such further 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 29th day of January, 2013

"Josée Turcotte"
per John Stevenson
Secretary to the Commission

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

AND

IN THE MATTER OF
BLACKWOOD & ROSE INC., STEVEN ZETCHUS
and JUSTIN KRELLER (also known as JUSTIN KAY)

STATEMENT OF ALLEGATIONS
OF STAFF OF THE ONTARIO SECURITIES COMMISSION

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

Overview

1. This proceeding involves a course of conduct by Blackwood & Rose Inc. ("Blackwood"), Steven Andrew Zetchus ("Zetchus") and Justin Luther Kreller ("Kreller") (collectively, the "Respondents") relating to securities that was fraudulent and otherwise in breach of Ontario securities law.

2. Between September 2012 and December 2012 (the "Material Time"), the Respondents held themselves out as engaging in the business of trading in securities without being registered and through misrepresentations and other fraudulent means solicited members of the public in the United States (the "U.S. Residents") to transfer funds to Blackwood purportedly in furtherance of transactions involving the purchase and/or sale of securities.

3. Zetchus incorporated Blackwood in August 2012 and almost immediately began portraying Blackwood to members of the public as an established and "specialized boutique firm" engaged in the business of trading in securities.

4. During the Material Time, Zetchus was the directing mind of Blackwood and under Zetchus' supervision Kreller, and other persons employed by Blackwood, cold-called the U.S. Residents to make the fraudulent solicitations referred to above.

5. In total, the U.S. Residents sent approximately USD $15,000 to Blackwood as a result of these solicitations. On December 19, 2012, Staff of the Commission served a Temporary Order on Blackwood, Zetchus and Kreller halting Blackwood's operations.

The Respondents

6. Blackwood was incorporated federally in Canada on August 8, 2012.

7. Zetchus is a resident of Ontario. Zetchus incorporated Blackwood and has been its sole director and directing mind since its incorporation. Blackwood's registered address is Zetchus' home address in Ottawa.

8. Zetchus rented an office for Blackwood in Ottawa (the "Blackwood Office") and created a website for the company (the "Blackwood Website").

9. Kreller is a resident of Ontario and from October 2012 to December 2012 was a salesperson at Blackwood. Kreller used the alias "Justin Kay" when corresponding with the U.S. Residents.

10. None of Blackwood, Zetchus or Kreller (the "Respondents") has ever been registered in any capacity with the Commission.

The Gigapix Scheme

11. During the Material Time, from the Blackwood Office, Zetchus and Kreller solicited shareholders in Gigapix Studios, Inc. ("Gigapix" and the "Gigapix Shareholders") to send funds to Blackwood purportedly to facilitate the sale of the Gigapix shares held by the Gigapix Shareholders (the "Gigapix Scheme"). Gigapix is a U.S. company and its shares are not publicly listed.

12. As part of the Gigapix Scheme, the Gigapix Shareholders were informed by Zetchus and Kreller that Blackwood had buyers for their Gigapix shares but that various payments were required in order to complete the sales. These

representations were false and were designed to extract money from the Gigapix Shareholders. Zetchus and Kreller knew or ought to have known that by making these false representations they were perpetrating a fraud on the Gigapix Shareholders.

13. Zetchus and Blackwood raised approximately USD $15,000 from three Gigipix Shareholders.

14. The funds transferred by the U.S. Residents were misappropriated by Zetchus and were not used to further any transactions involving the purchase of the Gigapix shares.

15. No sales were completed and the Gigapix Shareholders have received no consideration for their payments to Blackwood.

The Respondents Held themselves out as Engaging in the Business of Trading in Securities

16. In addition to the Gigiapix Scheme, during the Material Time, the Respondents otherwise held themselves out as engaging in the business of trading in securities and engaged in acts in furtherance of trades in securities as outlined below.

17. During the Material Time, Zetchus and Kreller, through Blackwood, solicited the U.S. Residents to send funds to Blackwood for the purported purpose of opening an account with Blackwood and to purchase shares Blackwood purportedly held in several companies including Toongoggles, Inc., Barrick Gold Corporation (“Barrick”) and Dundee Precious Metals Inc. (“Dundee”).

18. These solicitations were made from the Blackwood Office.

19. To entice the U.S. Residents, Zetchus and Kreller informed investors that Blackwood had purchased the shares in Dundee and Barrick from a distressed brokerage and offered to sell the shares below their market value.

20. Blackwood held no shares and Zetchus and Kreller used deceit, falsehood and other fraudulent means to solicit funds from the U.S. Residents in the manner described above.

21. No funds were raised from these solicitations.

Breaches of the *Securities Act* and Conduct Contrary to the Public Interest

22. By engaging in the conduct described above, the Respondents engaged in and held themselves out as engaging in the business of trading in securities without registration in circumstances where no exemption was available, contrary to section 25 of the *Securities Act,* R.S.O. 1990, c. S.5, as amended (the "Act").

23. Further, by engaging in the conduct described in paragraphs 11 to 15 above, the Respondents directly or indirectly engaged in or participated in an act, practice or course of conduct relating to securities which they or it knew, or reasonably ought to have known, perpetrated a fraud on investors, contrary to section 126.1(b) of the Act.

24. Zetchus authorized, permitted or acquiesced in Blackwood’s non-compliance with Ontario securities law contrary to section 129.2 of the Act.

25. The Respondents’ conduct was contrary to the public interest and harmful to the integrity of the Ontario capital markets.

DATED at Toronto this 29th day of January, 2013.

1.2.2 Quadrexx Asset Management Inc. et al. – ss. 127(1), (2), (5)

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

AND

**IN THE MATTER OF
QUADREXX ASSET MANAGEMENT INC.,
QUADREXX SECURED ASSETS INC.,
OFFSHORE OIL VESSEL SUPPLY SERVICES LP,
QUIBIK INCOME FUND AND QUIBIK OPPORTUNITY FUND**

**NOTICE OF HEARING
(Subsections 127(1), (2) and (5))**

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the temporary offices of the Commission at ASAP Reporting Services Inc., 333 Bay Street, Suite 900, Toronto, Ontario, on Wednesday, February 6, 2013 at 12:00 p.m. or as soon thereafter as the hearing can be held;

TO CONSIDER whether, in the opinion of the Commission, it is in the public interest, pursuant to subsections 127(1), (2), (4), (5), (6), (7) and (8) of the Act, for the Commission to issue a temporary order or an order that:

(a) all trading cease in the securities of Quadrexx Asset Management Inc. ("Quadrexx"), Quadrexx Secured Assets Inc. ("QSA"), Offshore Oil Vessel Supply Services LP ("OOVSS"), Quibik Income Fund ("QIF") and Quibik Opportunity Fund ("QOF");

(b) the registration of Quadrexx as a dealer in the category of an exempt market dealer be suspended;

(c) terms and conditions be imposed on the registration of Quadrexx as an adviser in the category of portfolio manager and as an investment fund manager as set out in Schedule "A" to this Notice of Hearing or such other terms and conditions as the Commission deems appropriate;

(d) in the alternative to paragraph (c), the registration of Quadrexx as an adviser in the category of portfolio manager and as an investment fund manager be suspended; and

(e) such other orders as the Commission deems appropriate.

BY REASON OF such allegations and evidence as counsel may advise and the Commission may permit;

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

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

DATED at Toronto this 4th day of February, 2013

"Christos Grivas"
per: John Stevenson
Secretary to the Commission

TO: Quadrexx Asset Management Inc.
Quadrexx Secured Assets Inc.
Offshore Oil Vessel Supply Services LP
Quibik Income Fund
Quibik Opportunity Fund

c/o Miklos Nagy and Tony Sanfelice

SCHEDULE "A"

Proposed Terms and Conditions
Quadrexx Asset Management Inc.

1. Quadrexx's activities as a portfolio manager and investment fund manager shall be applied exclusively to the Managed Accounts and to the Quadrexx Funds as defined in the Temporary Order;

2. Quadrexx shall not accept any new clients or open any new accounts of any kind; and

3. Such other terms and conditions concerning the monitoring and/or financial reporting as the Commission considers appropriate.

1.2.3 Western Wind Energy Corp. et al. – ss. 104, 127

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

AND

IN THE MATTER OF
WESTERN WIND ENERGY CORP.,
BROOKFIELD RENEWABLE
ENERGY PARTNERS LP, AND
WWE EQUITY HOLDINGS INC.

NOTICE OF HEARING
(Sections 104 and 127)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing (the "Hearing") at the temporary offices of the Commission at ASAP Reporting Services Inc., Bay Adelaide Centre, 333 Bay Street, Suite 900, Toronto, Ontario commencing on Thursday, February 7, 2013 at 10:00 a.m. or as soon thereafter as the Hearing can be held;

TO CONSIDER motions relating to an application filed by Western Wind Energy Corp. dated January 28, 2013.

Dated at Toronto this 5th day of February, 2013

"John Stevenson"
Secretary to the Commission

1.3 News Releases

1.3.1 OSC Panel Issues Sanctions Against Paul Donald for Conduct Contrary to the Public Interest

FOR IMMEDIATE RELEASE
January 31, 2013

OSC PANEL ISSUES SANCTIONS AGAINST PAUL DONALD FOR CONDUCT CONTRARY TO THE PUBLIC INTEREST

TORONTO – A panel of the Ontario Securities Commission released today its Reasons and Decision on Sanctions and Costs with respect to Paul Donald.

In an August 1, 2012 decision on the merits, the Commission concluded that, although Donald did not breach subsection 76(1) of the Act, his conduct related to the purchase of securities of Certicom, while in a special relationship with Certicom, was contrary to the public interest.

In today's decision, the OSC panel made protective orders prohibiting Donald from becoming or acting as an officer or director of a reporting issuer for five years and requiring Donald to pay $150,000, representing a portion of the cost to the OSC incurred in investigating and litigating the matter. The panel did not order a ban on trading in or acquiring securities.

A copy of the Reasons and Decision on Sanctions and Costs and the Reasons and Decision on the Merits are available on the OSC website at www.osc.gov.on.ca.

The mandate of the OSC is to provide protection to investors from unfair, improper or fraudulent practices and to foster fair and efficient capital markets and confidence in capital markets. Investors are urged to check the registration of any person or company offering an investment opportunity and to review the OSC's investor materials available at www.osc.gov.on.ca.

For media inquiries:
media_inquiries@osc.gov.on.ca

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

Alison Ford
Media Relations Specialist
416-593-8307

For investor inquiries:

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

1.4 Notices from the Office of the Secretary

1.4.1 Blackwood & Rose Inc. et al.

FOR IMMEDIATE RELEASE
January 30, 2013

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

AND

IN THE MATTER OF
BLACKWOOD & ROSE INC.,
STEVEN ZETCHUS
and JUSTIN KRELLER
(also known as JUSTIN KAY)

TORONTO – The Office of the Secretary issued a Notice of Hearing on January 29, 2013 setting the matter down to be heard on February 19, 2013 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 January 29, 2013 and Statement of Allegations of Staff of the Ontario Securities Commission dated January 29, 2013 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
media_inquiries@osc.gov.on.ca

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Media Relations Specialist
416-593-8307

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1-877-785-1555 (Toll Free)

1.4.2 Paul Donald

FOR IMMEDIATE RELEASE
January 31, 2013

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

AND

IN THE MATTER OF PAUL DONALD

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

A copy of the Reasons and Decision on Sanctions and the Order dated January 30, 2013 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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1-877-785-1555 (Toll Free)

1.4.3 Ground Wealth Inc. et al.

FOR IMMEDIATE RELEASE
February 4, 2013

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

AND

IN THE MATTER OF
GROUND WEALTH INC., ARMADILLO ENERGY INC., PAUL SCHUETT, DOUG DEBOER, JAMES LINDE, SUSAN LAWSON, MICHELLE DUNK, ADRION SMITH, BIANCA SOTO AND TERRY REICHERT

TORONTO – The Commission issued a Temporary Order in the above named matter which provides that pursuant to subsections 127(1), 127(7) and 127(8) of the Act:

1. the February 2012 Temporary Order is extended to March 6, 2013, or until further order of the Commission, as against the respondents GWI, Armadillo, DeBoer, Dunk and Smith; and

2. a further hearing shall be held before the Commission on March 5, 2013, at 2:00 p.m. or on such other date as set by the Office of the Secretary.

A copy of the Temporary Order dated February 1, 2013 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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media_inquiries@osc.gov.on.ca

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Manager, Public Affairs
416-593-2361

Alison Ford
Media Relations Specialist
416-593-8307

For investor inquiries:

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

1.4.4 Goldpoint Resources Corporation et al.

FOR IMMEDIATE RELEASE
February 4, 2013

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

AND

IN THE MATTER OF
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

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

A copy of the Reasons For Decision on Sanctions and Costs and the Order dated February 1, 2013 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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416-593-8307

For investor inquiries:

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

1.4.5 Quadrexx Asset Management Inc. et al.

FOR IMMEDIATE RELEASE
February 5, 2013

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

AND

IN THE MATTER OF
QUADREXX ASSET MANAGEMENT INC.,
QUADREXX SECURED ASSETS INC.,
OFFSHORE OIL VESSEL SUPPLY SERVICES LP,
QUIBIK INCOME FUND AND
QUIBIK OPPORTUNITY FUND

TORONTO – The Office of the Secretary issued a Notice of Hearing on February 4, 2013 in the above named matter setting the matter down to be heard on February 6, 2013 at 12:00 p.m. to consider whether, in the opinion of the Commission, it is in the public interest, pursuant to subsections 127(1), (2), (4), (5), (6), (7) and (8) of the Act, for the Commission to issue a temporary order or an order that:

(a) all trading cease in the securities of Quadrexx Asset Management Inc. ("Quadrexx"), Quadrexx Secured Assets Inc. ("QSA"), Offshore Oil Vessel Supply Services LP ("OOVSS"), Quibik Income Fund ("QIF") and Quibik Opportunity Fund ("QOF");

(b) the registration of Quadrexx as a dealer in the category of an exempt market dealer be suspended;

(c) terms and conditions be imposed on the registration of Quadrexx as an adviser in the category of portfolio manager and as an investment fund manager as set out in Schedule "A" to this Notice of Hearing or such other terms and conditions as the Commission deems appropriate;

(d) in the alternative to paragraph (c), the registration of Quadrexx as an adviser in the category of portfolio manager and as an investment fund manager be suspended; and

(e) such other orders as the Commission deems appropriate.

The hearing will be held at the temporary offices of the Commission at ASAP Reporting Services Inc., 333 Bay Street, Suite 900, Toronto, Ontario.

A copy of the Notice of Hearing dated February 4, 2013 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

For media inquiries:
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1-877-785-1555 (Toll Free)

1.4.6 Western Wind Energy Corp. et al.

FOR IMMEDIATE RELEASE
February 5, 2013

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

AND

IN THE MATTER OF
WESTERN WIND ENERGY CORP.,
BROOKFIELD RENEWABLE
ENERGY PARTNERS LP, AND
WWE EQUITY HOLDINGS INC.

TORONTO – On February 5, 2013, the Commission issued a Notice of Hearing pursuant to sections 104 and 127 of the *Securities Act* to consider motions relating to an Application of Western Wind Energy Corp. dated January 28, 2013. The hearing will be held on February 7, 2013 at 10:00 a.m. at the temporary offices of the Commission at ASAP Reporting Services Inc., Bay Adelaide Centre, 333 Bay Street, Suite 900, Toronto, Ontario.

A copy of the Notice of Hearing dated February 5, 2013 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOHN P. STEVENSON
SECRETARY

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Shona Energy Company, 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.

Ontario Statutes

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

January 29, 2013

Davis LLP
Livingston Place, Suite 1000
250 - 2 Street SW

Calgary, AB T2P 0C1

Attention: Jonathan Brown

Dear Sir:

Re: Shona Energy Company, 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 that the Applicant is not a reporting issuer.

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

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 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 Marketplace Operation or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of 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

2.1.2 OMERS Administration Corporation and OMERS Investment Management Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application by pension fund administrator and related entities for relief from dealer registration and prospectus requirements that may be applicable to certain trades in over-the-counter (OTC) derivatives with "permitted counterparties" – permitted counterparties will consist exclusively of persons or companies who are non-individual "permitted clients" as defined in Section 1.1 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – relief sought in Ontario and certain other jurisdictions as interim response to current regulatory uncertainty associated with OTC derivatives in Canada – filers intend to rely on comparable exemptions in orders or rules of general application in certain jurisdictions for trades with "qualified parties" and, in Quebec, the exemption under Quebec derivatives legislation for trades with "accredited counterparties" – relief granted subject to certain terms and conditions, including sunset provision of up to four years.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 25(1), 53(1) and 74(1).

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 1.1 ("permitted client").

January 25, 2013

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
OMERS ADMINISTRATION CORPORATION (OAC)

AND

OMERS INVESTMENT MANAGEMENT INC.
(OIM, and, together with OAC, 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

(i) an exemption from the prospectus requirement for OAC, OIM and special purpose vehicles established by OIM (the **Special Purpose Vehicles** and, together with OAC and OIM, **OMERS**), and

(ii) an exemption from the dealer registration requirement for OAC, the Special Purpose Vehicles and their respective directors, officers and employees,

in connection with trades in Derivative Contracts (as defined below) with Permitted Counterparties (as defined below), as are permitted by and as are carried out in accordance with the *Ontario Municipal Employees Retirement System Act, 2006*, R.S.O. 2006, c. 2, as amended from time to time (the **OMERS Act**) (the **Requested Relief**), subject to certain terms and conditions.

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

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

(b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* **(MI 11-102)** is intended to be relied upon in Manitoba, New Brunswick (to the extent Local Rule 91-501 *Derivatives* does not apply), Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut.

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.

The term **Permitted Counterparty** means a person or company that:

(a) is a "permitted client", as that term is defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*; and

(b) is not an individual.

Representations

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

The Filers

1. OAC (previously the Ontario Municipal Employees Retirement Board) is the administrator of the OMERS pension plans, which includes the OMERS Primary Pension Plan (the **Plan**). OAC was continued as a corporation without share capital under the OMERS Act. Its head office is in Toronto, Ontario. OAC is not registered in any capacity under the securities legislation of any jurisdiction.

2. OIM is an authorized subsidiary of OAC under subsection 35.1(3) of the OMERS Act. It was incorporated under Ontario law in 2009. Its head office is in Toronto, Ontario. OIM is registered as an exempt market dealer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia.

3. OAC and the Plan are regulated by the OMERS Act, the Pension *Benefits Act* (Ontario) (the **PBA**) and the *Income Tax Act* (Canada) (the **ITA**), and are subject to supervision by the Financial Services Commission of Ontario (**FSCO**) as well as the Registered Plans Division of the Canada Revenue Agency (**CRA**). The regulatory oversight and supervision by FSCO is pursuant to the PBA and the regulatory supervision by the CRA is pursuant to the ITA. Pursuant to the PBA, the Plan pension fund investments are subject to a codified prudent person standard of care (section 22 of the PBA) and various quantitative and related party investment restrictions which are set out in the federal *Pension Benefits Standards Regulations, 1985* (the **federal investment regulations**). The federal investment regulations are incorporated into the PBA and are fully applicable to OAC and the Plan. The PBA also requires that OAC (as administrator of the Plan) establish and adhere to a written statement of investment policies and procedures (**SIP&P**). FSCO has under the PBA general authority to supervise and monitor the investment activities of a pension plan that is registered under the PBA including the Plan. Under the PBA, OAC (in its capacity as administrator of the Plan) is required, among other things, to certify annually its compliance with the PBA including the investment regulations thereunder. OAC and the Plan are also subject to various investment limitations imposed under the ITA including prohibitions against various types of investments relating to employers which participate in the Plan (Income Tax Regulation 8514) and strict limitations on borrowing money (Income Tax Regulation 8502(i)). Such limitations are enforced by the CRA and if not complied with would (like any other registered pension plan) jeopardize the registration of the Plan under the ITA.

4. The Plan was established in 1962 as the pension plan for employees of local governments (and various agencies of local governments) in Ontario. As of November 30, 2012 there were approximately 966 employers participating in the Plan. As administrator of the Plan, OAC manages as part of the Plan a diversified portfolio of stocks and bonds, as well as real estate, infrastructure and private equity investments, holding more than $55 billion in net assets as of December 31, 2011.

5. The Ontario Municipal Employees Retirement System was created by the Ontario Government for the purpose of aggregating investment assets held in pension plans for the benefit of local government employees in order that they may be managed with a high level of investment expertise in a cost-effective manner. As administrator of those assets, OAC is not subject to registration under the Legislation for this purpose, but is subject to supervision and regulation under the PBA and the ITA. The investment by OAC of the Plan is also subject to common law fiduciary duties.

OMERS Services

6. There are two categories of investment powers provided under the OMERS Act; namely (i) the authority given to OAC to administer and invest the OMERS pension plans under sections 34(1) and 35(2)(a) (the **administrator powers**), and (ii) the provision of eligible services by authorized subsidiaries to enumerated categories of clients under sections 34(3) and 35.1 of the OMERS Act and the provision of services by OAC pursuant to 35.2 of the OMERS Act (the **third party services powers**). Former legislation governing OAC included the administrator powers and a limited third party services power (former section 29). Expanded third party services powers, including those that would permit OMERS to enter into the proposed Derivative Contracts (as defined below), were added through an amendment to the OMERS Act in 2009.

7. Under subsection 35.1(1) of the OMERS Act, in order to exercise the third party services powers OAC "may incorporate or cause to be incorporated and may make and maintain an investment in one or more corporations that, after the investment is made, are authorized subsidiaries of" OAC. Under subsection (3), "a corporation is an authorized subsidiary of OAC if:

   (a) the corporation carries on business with a view to profit;

   (b) the business of the corporation is limited to providing one or more eligible services to one or more persons or entities described in subsection (6); and

   (c) [OAC] has beneficial ownership of shares of the corporation representing more than 50 per cent of the shareholders' equity of the corporation."

Subsection (5) provides that "each of the following is an eligible service if it is carried out in compliance with all applicable laws:

1. Providing advice to an administrator of a pension plan regarding the administration of the pension plan or the investment policies for the pension fund maintained to provide benefits in respect of that pension plan.

2. Providing advice to a client on investing in, holding, buying or selling securities or other assets.

3. Buying, selling, holding and managing investments for a client, with or without discretionary authority granted by the client to manage the client's investment portfolio.

4. Activities and services ancillary to the services listed in paragraphs 1 to 3, including,

   i. activities relating to the distribution or sale to clients of securities issued by an investment entity [incorporated, established, managed or operated by an authorized subsidiary of OAC for the purpose of providing eligible services], and

   ii. entering into derivative contracts in which the return is based in whole or in part of the performance of all or part of the pension fund maintained to provide benefits in respect of any of the OMERS pension plans or of any of pension fund's investments.

5. Providing administrative services to an administrator of a pension plan.

Clients to which eligible services may be provided, as specified in subsection (6) are:

1. OAC.

2. The administrator of a pension plan other than the OMERS pension plans, whether the pension plan is in or outside Canada.

3. The Government of Canada or the government of a province or territory of Canada or,

   i. a Crown corporation, Crown agency or wholly-owned entity of the Government of Canada or of the government of a province or territory of Canada, or

   ii. a corporation established by federal or provincial statute.

4. A municipal corporation or a municipal or public body performing a function of government in Canada.

5. A board, within the meaning of the *Education Act* (Ontario), or a school board or similar authority that operates under comparable legislation in another province of Canada.

6. A college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002* (Ontario), a university that receives regular and ongoing operating funding from Ontario for purposes of post-secondary education or an educational institution in another province in Canada that receives regular and ongoing operating funding from the province.

7. An educational institution outside Canada.

8. An endowment fund for a university, college or educational institution referred to in paragraph 6 or 7.

9. A registered charity within the meaning of the *Income Tax Act* (Canada).

10. A national, federal, state, provincial, territorial or municipal government of or in any jurisdiction outside Canada or any entity owned or controlled by that government.

11. An investment entity authorized by the OMERS Act.

12. A client or class of clients prescribed by the regulations or that satisfies conditions prescribed by the regulations.

No regulations have been promulgated under the OMERS Act.

8. In furtherance of the third party services powers, subsection 35.2(2) of the OMERS Act authorizes OAC to "enter into agreements under which [its authorized subsidiaries] provide eligible services to clients".

Proposed Derivative Contracts

9. As permitted by the OMERS Act, OIM proposes, either directly or through a Special Purpose Vehicle (which it is permitted to establish under subsection 35.1(4) of the OMERS Act), to enter into derivative contracts with third party pension plan funds or other clients specified in subsection 35.1(6) of the OMERS Act (the **Derivative Contract Clients**), all of which will be Permitted Counterparties. In turn, OIM or the Special Purpose Vehicle, as applicable, will enter into derivative contracts with OAC that mirror the derivative contracts entered into with the Derivative Contract Clients (collectively, all derivative contracts in the proposed structure are referred to as the **Derivative Contracts**). The net result of the Derivative Contracts will be to provide Derivative Contract Clients with an annual return based on the reported performance of the Plan's total portfolio or on the performance of a particular subset of assets of the Plan. Paragraph 35.1(5)4.ii of the OMERS Act, as amended in 2009, expressly authorizes "entering into derivatives contracts in which the return is based in whole or in part on the performance of all or part of the pension fund maintained to provide benefits in respect of any of the OMERS pension plans or of any of the pension fund's investments".

10. Where a Special Purpose Vehicle is the counterparty to the Derivative Contracts, Derivative Contract Clients will purchase units of, or acquire interests in, the Special Purpose Vehicle. Paragraph 35.1(5)4.i of the OMERS Act authorizes the authorized subsidiary to engage in "activities relating to the distribution or sale to clients of securities issued by" a Special Purpose Vehicle.

11. OAC may provide a guarantee to Derivative Contract Clients in respect of any payment obligations of OIM or a Special Purpose Vehicle under the Derivative Contracts to Derivative Contract Clients.

12. OMERS will not offer or provide credit or margin to any of the Derivative Contract Clients.

13. Each Derivative Contract Client will acknowledge in the applicable Derivative Contract (or ancillary documentation) that it has not relied on any communications of OMERS as investment advice or as a recommendation to enter into the Derivative Contract.

14. Representatives of OAC and entities that manage OAC's private investment assets will participate in presentations to Derivative Contract Clients and prospective Derivative Contract Clients to provide information on the assets held by OAC and the investment processes used to manage those assets.

15. The Ontario government has facilitated these arrangements with Derivative Contract Clients that are Ontario pension funds by amending the Regulation under the PBA in 2011 to clarify that a Derivative Contract Client that is a pension fund is able to enter into such an arrangement for more than 10% of its assets without violating the diversification limitation imposed under the PBA on pension plans investing more than 10% of their assets in any one investment so

long as not more than 10% of the total book value of the Derivative Contract Client is directly or indirectly invested in any one underlying asset, business or investment. This change to the Regulation under the PBA was in recognition of the fact that the Plan itself is a regulated pension fund subject to the requirements of the PBA, including the diversification limitation imposed under the PBA.

Dealer Registration and Prospectus Exemptions

16. Under the Legislation a person or company that engages in or holds himself, herself or itself out as engaging in the business of trading in securities is subject to a requirement to register as a dealer. No person or company may trade in a security if the trade would be a distribution unless a preliminary prospectus and prospectus have been filed and receipts obtained.

17. It is unclear whether the dealer registration and prospectus requirements would apply in respect of the Derivative Contracts in provinces and territories other than those that have provided exemptive relief as referenced in the following paragraph due to the uncertainty of the extent to which over-the-counter derivative (**OTC Derivative**) transactions involve securities. In particular, OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts in Ontario* (**Notice 91-702**) characterizes certain contracts for difference, foreign exchange contracts and "similar" OTC Derivatives as securities as a result of being "investment contracts". Notice 91-702 states that it is not intended to address direct or intermediated trading between institutions and accordingly does not provide specific guidance with respect to the characterization of OTC Derivative transactions between OIM or a Special Purpose Vehicle and its counterparties.

18. Each of the British Columbia Securities Commission, Alberta Securities Commission, Saskatchewan Financial Services Commission and New Brunswick Securities Commission has made an order or rule of general application exempting OTC Derivative transactions that involve negotiated, bilateral contracts between sophisticated non-retail parties from the dealer registration and prospectus requirements. Such transactions similarly are exempt from the registration requirements of the *Derivatives Act* (Quebec).

19. The Filers seek the Requested Relief as an interim, harmonized solution to the uncertainty and fragmentation that currently characterizes the regulation of OTC Derivatives across Canada, pending the development of a uniform framework for the regulation of OTC Derivative transactions in all provinces and territories of Canada. Similar relief from the dealer registration and prospectus requirements in respect of trading in OTC Derivatives with Permitted Counterparties was granted to Deutsche Bank AG, a bank listed in Schedule III to the *Bank Act* (Canada) and exempt from registration pursuant to subsection 35.1(1) of the Legislation, and DB Commodities Canada Ltd., an unregistered entity, in *In the Matter of Deutsche Bank AG and DB Commodities Canada Ltd.* (2011) 34 OSCB 10743. The Filers acknowledge that registration and prospectus requirements may be triggered for any or all of OAC, OIM and the Special Purpose Vehicles in connection with the Derivative Contracts under any such uniform framework to be developed for the regulation of OTC Derivative transactions.

20. OIM is a "market participant", and OAC and any Special Purpose Vehicle would each become a "market participant" as a consequence of the making of this decision. For the purposes of the *Securities Act* (Ontario) (the **Act**), and as a market participant each of OAC and OIM and any Special Purpose Vehicle will be required by subsection 19(1) of the Act to: (i) keep such books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs, and the transactions that it executes on behalf of others; and (ii) keep such books, records and documents as may otherwise be required under Ontario securities law.

21. For the purposes of their compliance with subsection 19(1) of the Act, the books and records that OAC, OIM and any Special Purpose Vehicle will keep in connection with the Derivative Contracts will include books and records that

    (a) demonstrate the extent of their compliance with applicable requirements of securities legislation;

    (b) demonstrate compliance with their policies and procedures for establishing a system of controls and supervision sufficient to provide reasonable assurance that OAC, OIM and any Special Purpose Vehicle, and each individual acting on their behalf, comply with applicable securities legislation;

    (c) identify all Derivative Contracts conducted on their behalf and each of the Derivative Contract Clients, including the name and address of all parties to the transaction and its terms; and

    (d) for each Derivative Contract entered into, set out information corresponding to that which would be required to be included in an exempt distribution report for the transaction, if the transaction were entered into by OAC, OIM and any Special Purpose Vehicle in reliance upon the "accredited investor" prospectus exemption in section 2.3 of National Instrument 45-106 *Prospectus Exempt Distributions*.

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) each Derivative Contract Client is a Permitted Counterparty;

(b) OMERS does not offer or provide any credit or margin to the Derivative Contract Clients; and

(c) the Requested Relief shall terminate on the date that is the earlier of:

(i) the date that is four years after the date of this decision; and

(ii) the coming into force in the Jurisdiction of legislation or a rule that specifically governs dealer, adviser or other registration requirements applicable to market participants in connection with OTC Derivative transactions.

"Judith Robertson"
Commissioner
Ontario Securities Commission

"Paulette Kennedy"
Commissioner
Ontario Securities Commission

2.1.3 AUX Canada Acquisition

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)(a)(ii).

February 1, 2013

c/o Angela Chu
Cassels Brock & Blackwell LLP
40 King Street West
Scotia Plaza, Suite 2100
Toronto, ON M5H 3C2

Dear Sirs/Mesdames:

Re: AUX Canada Acquisition 3 S.à r.l. (the Applicant) – application for a decision under the securities legislation of Ontario, Alberta, Manitoba, Saskatchewan, Manitoba, New Brunswick, Nova Scotia and Prince Edward Island (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.

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

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 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of 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"
Manager, Corporate Finance
Ontario Securities Commission

2.1.4 Queenston Mining Inc.

Headnote

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

Applicable Legislative Provisions

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

February 1, 2013

Fraser Milner Casgrain LLP
77 King Street West
Suite 400
Toronto, Ontario M5K 0A1
Attention: Karen Slater

Dear Sirs/Mesdames:

Re: Queenston Mining Inc. (the Applicant) – application for a decision under the securities legislation of Ontario, Alberta, Manitoba and Quebec (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.

In this decision, "securityholder" means, for a security, the beneficial owner of the security.

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 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

(b) no securities of the Applicant, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

(c) the Applicant is applying for a decision that it is not a reporting issuer in all of the jurisdictions of 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"
Manager, Corporate Finance
Ontario Securities Commission

2.1.5 GCIC Ltd. and Scotia Asset Management L.P.

Headnote

National Policy 11-203, Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from conflict of interest provisions to allow mutual funds to purchase equity securities pursuant to offerings made in the United States in which a related dealer acts as underwriter – relief required as growing status of filer's related dealers in equity underwriting activities in the United States was limiting ability of funds to acquire securities in the United States pursuant to a distribution – all purchases subject to independent review committee approval and securities must be distributed pursuant to prospectus qualified in the United States or by private placement of securities of a reporting issuer in the United States.

Applicable Legislative Provisions

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

January 31, 2013

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
GCIC LTD. ("GCICL" or a "Filer") and
SCOTIA ASSET MANAGEMENT L.P.
("SAM" or a "Filer" and, collectively with GCICL, the "Filers")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers on behalf of the existing mutual funds subject to National Instrument 81-102 – *Mutual Funds* ("**NI 81-102**") for which a Filer or an affiliate or associate of a Filer acts as manager or portfolio adviser or both, and any other mutual funds subject to NI 81-102 which may be created in the future for which a Filer or an affiliate or associate of a Filer may act as manager or portfolio advisor or both (each a "Fund" and collectively the "Funds") for a decision (the "**Exemption Sought**") under the securities legislation of the Jurisdiction of the principal regulator ("Legislation") exempting the Funds from the prohibition in subsection 4.1(1) of NI 81-102 (the "**Prohibition**") to enable the Funds to invest in equity securities (the "Securities") of an issuer that is a registrant in the United States but a non-reporting issuer in the Jurisdictions (as defined below) during the period of the distribution (the "**Distribution**") and/or during the period of 60 days after the Distribution (the "**60-Day Period**"), notwithstanding that an associate or affiliate of a Filer acts as an underwriter in the Distribution.

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

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

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

Interpretation

Unless otherwise defined herein, terms defined in National Instrument 14-101 – *Definitions*, NI 81-102 and National Instrument 81-107 – *Independent Review Committee for Investment* Funds ("**NI 81-107**") have the same meaning in this application.

Representations

1. GCICL is a corporation existing under the laws of the Province of Ontario, is registered with the OSC as a portfolio manager in the category of adviser, is further registered in that category in each of British Columbia, Alberta, Manitoba, Saskatchewan, Quebec, New Brunswick, Prince Edward Island, Nova Scotia and the Northwest Territories and is registered as a commodity trading manager and investment fund manager with the OSC.

2. SAM is a limited partnership established under the laws of Ontario and is registered as a portfolio manager, investment fund manager, exempt market dealer and commodity trading manager in Ontario; as a portfolio manager and exempt market dealer in British Columbia, Alberta, Manitoba, Quebec, New Brunswick, Nova Scotia, and Newfoundland and Labrador; and as a portfolio manager in Saskatchewan, Prince Edward Island and Yukon.

3. GCICL and SAM are affiliates.

4. A Filer, or an affiliate or associate of a Filer, is or will be the manager and/or portfolio adviser of the Funds. In addition, from time to time, third parties who are registered as portfolio managers may act as portfolio advisers to a Fund.

5. Each of the Funds is or will be an open-ended mutual fund trust or corporation established under the laws of the Province of Ontario. The securities of each of the Funds are or will be qualified for

distribution in the Jurisdictions pursuant to simplified prospectuses and annual information forms prepared and filed in accordance with the securities legislation of the Jurisdictions.

6. Each Filer is or will be a "dealer manager" with respect to the Funds for which they act as a portfolio manager and/or portfolio advisor and each Fund is or will be a "dealer managed mutual fund", as such terms are defined in Section 1.1 of NI 81-102.

7. Neither the Filers nor any existing Fund is in default of securities legislation in any of the Jurisdictions.

8. Each Filer has appointed or will appoint an independent review committee ("**IRC**") under NI 81-107 for each of the Funds that they manage.

9. At the time of purchase by a Fund, the Securities will either be (i) equity securities of a registrant in the United States (or an entity that will become a registrant in the United States at the time of purchase of the Securities by the Fund) or (ii) convertible securities, such as special warrants, which automatically permit the holder to purchase, convert or exchange such convertible securities into other equity securities of the issuer once such other equity securities are listed and traded on an exchange.

10. The investment objective of each Fund permits or will permit an investment in the Securities.

11. Each Filer is currently an affiliate of Scotia Capital Inc. (USA) and Scotia Capital Inc. and may be an associate or affiliate of one or more other dealers (each, a **Related Underwriter**), who may act as an underwriter in a Distribution. The Related Underwriters carry on investment banking business in the United States and/or Canada.

12. Since February 4, 2011 there have been several Distributions in the United States in which a Related Underwriter acted and in which the Funds could not purchase Securities during the Distribution or during the 60-Day Period because the Distribution was not made by a prospectus filed with one or more securities regulatory authorities in a Jurisdiction or the issuers were not reporting issuers in a Jurisdiction.

13. It is anticipated that the Related Underwriters will remain active in the United States equity markets and, without the Exemption Sought being granted, the Funds will be restricted from purchasing Securities during the Distributions and 60-Day Periods and may therefore miss further investment opportunities.

14. Each Filer considers that the Funds have been negatively impacted by not being able to purchase during a Distribution, or in the 60-Day Period, Securities that are consistent with its investment objective. Forgoing participation in these investment opportunities represents a significant opportunity cost for the relevant Funds, as they are being denied access to investment opportunities as a result of the coincidental participation of a Related Underwriter in the transaction.

15. The Prohibition is detrimental for the Funds in so far as it also serves to prevent the Funds from supplementing existing positions, when issuers that the Funds may already hold securities in, are raising capital by distributing additional securities. This prevents the Funds from maintaining their strategic percentage holdings in a given issuer relevant to the overall portfolio holdings.

16. The prejudice that results for a Fund that is restricted from purchasing Securities is that the portfolio manager's discretion with respect to managing the portfolio is negatively impacted because if he/she cannot make appropriate commitments or expressions of interest in respect of Securities, he/she can also not make appropriate decisions with respect to other securities of a Fund. The prejudice that results for a Fund also puts the Funds at a competitive disadvantage to almost all other Canadian funds since the Filers are among the few firms with a related party dealer that is involved on a frequent basis in these types of underwritings.

17. The Funds have generally, to date, been made aware of Distributions and invited to participate by an underwriter which is not a Related Underwriter.

18. Despite the affiliation between a Filer and the Related Underwriter, they operate independently of each other. In particular, the investment banking and related dealer activities of the Related Underwriter and the investment portfolio management activities of each Filer on behalf of the Funds are separated by "ethical" walls. Accordingly, no information flows from one to the other concerning their respective business operations or activities generally, except in the following or similar circumstances:

    (a) in respect of compliance matters (for example, a Filer and the Related Underwriter may communicate to enable the Filer to maintain an up to date restricted-issuer list to ensure that the Filer complies with applicable securities laws); and

    (b) a Filer and the Related Underwriter may share general market information such as discussion on general economic conditions, bank rates, etc.

19. The Funds will not be required or obligated to purchase any Securities under a Distribution or during the 60-Day Period

20. A Distribution will be made by means of a prospectus, or similar public offering document, (a "**Public Offering**"), or by means of a private placement (a "**Private Placement**") in the United States. The Securities issued in the Distribution will be listed on a stock exchange that is a "recognized stock exchange" within the meaning of section 248(1) of the *Income Tax Act* (Canada) (a "**Recognized Exchange**").

21. A Distribution may also be made in the Jurisdictions by Private Placement.

22. The Funds would not be restricted by the Prohibition if, in accordance with subsection 4.1(4) of NI 81-102, certain conditions are met, including that the distribution is made by a prospectus filed in one or more of the Jurisdictions and the IRC of the Funds has approved the transaction in accordance with subsection 5.2(2) of NI 81-107.

23. As a prospectus will not be filed in any Jurisdiction in connection with a Distribution, the Funds cannot rely on the exemption from the Prohibition contained in subsection 4.1(4) of NI 81-102. However, the issuer of the Distribution will be, or will concurrently with the closing of the Distribution become, a registrant in the United States (and will therefore be required to maintain a continuous disclosure record that is publicly available as it would be required to if it was a reporting issuer in a Jurisdiction) and the Filers will comply with subparagraphs 4.1(4)(a), (c)(ii) and (d) of NI 81-102 when purchasing Securities.

24. The Filers previously received exemptions from the Prohibition in connection with Distributions by The Williams Companies, Inc. and The Carlyle Group L.P. in decisions dated April 13, 2012 and April 26, 2012 respectively. In most Distributions, however, a Related Underwriter's involvement will not be known by a Filer, or an associate or affiliate of a Filer, sufficiently long enough in advance to make an application for relief on a case-by-case basis.

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:

(i) the investment will be in compliance with the investment objectives of the Fund;

(ii) the Securities issued in the Distribution must be listed on a Recognized Exchange;

(iii) if the Securities are acquired in the 60-Day Period, they must be acquired on a Recognized Exchange;

(iv) the IRC of the Fund will have approved the investment in accordance with subsections 4.1(4)(a) of NI 81-102 and 5.2(2) of NI 81-107;

(v) the Fund complies with paragraph 4.1(4)(d) of NI 81-102; and

(vi) appropriate disclosure of the terms of the Exemption Sought is made.

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

2.1.6 Schneider Electric S.A.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from the prospectus and dealer registration requirements for certain trades made in connection with an employee share offering by a French issuer – The offering involves the use of collective employee shareholding vehicles, each a fonds communs de placement d'entreprise (FCPE) – The Filer cannot rely on the employee prospectus exemption in section 2.24 of National Instrument 45-106 Prospectus and Registration Exemptions and the Manager cannot rely on the plan administrator exemption in section 8.16 of National Instrument 31-103 Registration Requirements and Exemptions as the shares are not being offered to Canadian employees directly by the issuer but through the FCPEs – Canadian employees will receive disclosure documents – The FCPEs are subject to the supervision of the French Autorité des marchés financiers – Relief granted, subject to conditions.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 25, 53 and 74.
National Instrument 31-103 Registration Requirements and Exemptions, s. 8.16.
National Instrument 45-102 Resale of Securities, s. 2.14.
National Instrument 45-106 Prospectus and Registration Exemptions, s. 2.24.

February 1, 2013

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
SCHNEIDER ELECTRIC S.A.
(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 (the "**Legislation**") for

1. an exemption from the prospectus requirements of the Legislation (the "**Prospectus Relief**") so that such requirements do not apply to

   (a) trades in:

      (i) units (the "**Principal Classic Units**") of an FCPE named Schneider Actionnariat Mondial (the "**Principal Classic FCPE**"), which is a *fonds commun de placement d'entreprise* or "FCPE," a form of collective shareholding vehicle commonly used in France for the conservation of shares held by employee-investors; and

      (ii) units (together with the Principal Classic Units, the "**Units**") of a temporary FCPE named Schneider Relais International 2013 (the "**Temporary Classic FCPE**"), which will merge with the Principal Classic FCPE following the Employee Share Offering (as defined below) as further described in paragraph 12 of the Representations;

   made pursuant to the Employee Share Offering (as defined below) to or with Qualifying Employees (as defined below) resident in the Jurisdiction and in the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, and Nova Scotia (collectively, the "Canadian Employees," and Canadian Employees who subscribe for Units, the "**Canadian Participants**"); and

(b) trades of ordinary shares of the Filer (the "**Shares**") by the Principal Classic FCPE and/or the Temporary Classic FCPE to or with Canadian Participants upon the redemption of Units thereof as requested by Canadian Participants;

2. an exemption from the dealer registration requirements of the Legislation (the "**Registration Relief**") so that such requirements do not apply to the Schneider Electric Group (as defined below and which, for clarity, includes the Filer and the Local Affiliates (as defined below)), the Temporary Classic FCPE, the Principal Classic FCPE and NATIXIS Asset Management (the "**Management Company**") in respect of:

(a) trades in Units made pursuant to the Employee Share Offering to or with Canadian Employees; and

(b) trades in Shares by the Temporary Classic FCPE and/or the Principal Classic FCPE to or with Canadian Participants upon the redemption of Units as requested by Canadian Participants.

(the Prospectus Relief and the Registration Relief, collectively, the "**Offering 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 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, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick and Nova Scotia.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning as 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 formed under the laws of France. It is not, and has no current intention of becoming, a reporting issuer under the Legislation or under the securities legislation of any other jurisdiction of Canada. The head office of the Filer is located in France and the Shares are listed on Euronext Paris. The Filer is not in default under the Legislation or under the securities legislation of any other jurisdiction of Canada.

2. The Filer carries on business in Canada through certain affiliated companies that employ Canadian Employees, including Schneider Electric Canada Inc., Power Measurement Ltd., Juno Lighting Ltd., Schneider Electric IT Corporation, Control Microsystems Inc., Telvent Canada Ltd. and Viconics Technologies Inc. (collectively, the "**Local Affiliates**," together with the Filer and other affiliates of the Filer, the "**Schneider Electric Group**"). None of the Local Affiliates is in default under the Legislation or the securities legislation of any other jurisdiction of Canada.

3. Each of the Local Affiliates is a direct or indirect-controlled subsidiary of the Filer and is not, and has no current intention of becoming, a reporting issuer under the Legislation or under the securities legislation of any other jurisdiction of Canada. The head office of the Schneider Electric Group in Canada is located in Toronto, Ontario, more senior management of the Schneider Electric Group in Canada reside in Ontario than in any other Province, there are more assets of the Schneider Electric Group in Canada in Ontario than in any other Province and there are more clients of the Schneider Electric Group in Canada in Ontario than in any other Province.

4. As of the date hereof and after giving effect to the Employee Share Offering (as defined below), Canadian residents do not and will not beneficially own (which term, for the purposes of this paragraph, is deemed to include all Shares held by the Principal Classic FCPE and the Temporary Classic FCPE on behalf of Canadian Participants) more than 10% of the Shares and do not and will not represent in number more than 10% of the total number of holders of the Shares as shown on the books of the Filer.

5. The Filer has established a global employee share offering for employees of the Schneider Electric Group (the "**Employee Share Offering**"). The Employee Share Offering involves an offering of Shares to be subscribed through the Principal Classic FCPE via the Temporary Classic FCPE (as further described in paragraph 12) (the "**Classic Plan**").

6. Only persons who are employees of a member of the Schneider Electric Group during the subscription period for the Employee Share Offering and who meet other employment criteria (the "**Qualifying Employees**") will be allowed to participate in the Employee Share Offering.

7. The Temporary Classic FCPE has been established for the purpose of implementing the Employee Share Offering. The Principal Classic FCPE has been established for the purpose of implementing employee share offerings of the Filer. There is no current intention for either the Principal Classic FCPE or the Temporary Classic FCPE to become a reporting issuer under the Legislation or the securities legislation of any other jurisdiction of Canada.

8. Each of the Temporary Classic FCPE and the Principal Classic FCPE is an FCPE which is a shareholding vehicle of a type commonly used in France for the conservation and custodianship of shares held by employee investors. The Principal Classic FCPE and the Temporary Classic FCPE have been registered with the French Autorité des marchés financiers (the "**French AMF**"). Only Qualifying Employees will be allowed to hold Units issued pursuant to the Employee Share Offering.

9. All Units acquired in the Employee Share Offering by Canadian Participants will be subject to a hold period of approximately five years (the "**Lock-Up Period**"), subject to certain exceptions prescribed by French law and provided for in the Schneider Electric International Employee Shareholding Plan (such as a release on death or termination of employment, or the exception that the Canadian Participant's employer ceases to be an affiliate of the Filer).

10. Under the Classic Plan, Canadian Participants will subscribe for Units in the Temporary Classic FCPE, and the Temporary Classic FCPE will then subscribe for Shares on behalf of Canadian Participants using the Canadian Participants' contributions and the employer contributions from Local Affiliates that employ the Canadian Participants, as described in paragraph 11. The subscription price will be the Canadian dollar equivalent equal to the average of the opening price of the Shares (expressed in Euros) on Euronext Paris on the 20 trading days preceding the date of fixing of the subscription price by the Management Board of the Filer, less a 20% discount.

11. As indicated above, the Local Affiliate employing a Canadian Participant will also contribute on behalf of such Canadian Participant an amount into the Classic Plan. The exact amount of the contribution thresholds has not yet been determined, but they will be equal to or less than the amounts in the following description. For each contribution that a Canadian Participant makes into the Classic Plan up to the Canadian dollar equivalent of 1,000 Euros, the Local Affiliate employing such Canadian Participant will contribute 100% of such amount into the Classic Plan on behalf of such Canadian Participant. If applicable, for the portion of each contribution that a Canadian Participant makes in the Classic Plan that is greater than the Canadian dollar equivalent of 1,000 Euros and up to and including 2,200 Euros, the Local Affiliate employing such Canadian Participant will contribute 50% of such additional amount into the Classic Plan on behalf of such Canadian Participant. For clarity, the maximum contribution by a Local Affiliate in respect of a Canadian Participant is the Canadian dollar equivalent of 1,600 Euros (i.e., 100% of the first 1,000 Euro contribution and 50% of the next 1,200 Euro contribution). If a Canadian Participant contributes more than the Canadian dollar equivalent of 2,200 Euros, then the Local Affiliate that employs such Canadian Participant will not contribute any amount in respect of the portion of the Canadian Participant's contribution that exceeds the Canadian dollar equivalent of 2,200 Euros.

12. Initially, the Shares subscribed for will be held in the Temporary Classic FCPE and the Canadian Participant will receive Units in the Temporary Classic FCPE. Following the completion of the Employee Share Offering, the Temporary Classic FCPE will be merged with the Principal Classic FCPE (subject to the approval of the supervisory board of the FCPEs and the French AMF). Units of the Temporary Classic FCPE held by Canadian Participants will be replaced with Units of the Principal Classic FCPE on a pro rata basis and the Shares subscribed for under the Employee Share Offering will be held in the Principal Classic FCPE (the "**Merger**").

13. The term "**Classic FCPE**" used herein means, prior to the Merger, the Temporary Classic FCPE, and following the Merger, the Principal Classic FCPE.

14. Under the Classic Plan, at the end of the Lock-Up Period a Canadian Participant may

    (a) request the redemption of Units in the Classic FCPE in consideration for the underlying Shares or a cash payment equal to the then market value of the Shares, or

    (b) continue to hold Units in the Classic FCPE and request the redemption of those Units at a later date in consideration for the underlying Shares or a cash payment equal to the then market value of the Shares.

15. In the event of an early unwind resulting from the Canadian Participant exercising one of the exceptions to the Lock-Up Period prescribed by French law and meeting the applicable criteria, a Canadian Participant may request the

redemption of Units in the Classic FCPE in consideration for a cash payment equal to the then market value of the Shares held by the Classic FCPE.

16. Dividends paid on the Shares held in the Classic FCPE will be contributed to the Classic FCPE and used to purchase additional Shares. To reflect this reinvestment, no new Units will be issued. Instead, the reinvestment will increase the asset base of the Classic FCPE as well as the value of the Units held by Canadian Participants.

17. The subscription price will not be known to Canadian Employees until after the end of the subscription period. However, this information will be provided to Canadian Employees prior to the start of the revocation period, during which Canadian Participants may choose to revoke all (but not part) of their subscription under the Classic Plan and thereby not participate in the Employee Share Offering.

18. Each of the Temporary Classic FCPE and the Principal Classic FCPE is an FCPE, which is a limited liability entity under French law. The portfolio of each of the Principal Classic FCPE and the Temporary Classic FCPE will consist almost entirely of Shares, but may, from time to time, include cash in respect of dividends paid on the Shares which will be reinvested in Shares. From time to time, each portfolio may also include cash or cash equivalents that the Principal Classic FCPE and the Temporary Classic FCPE may hold pending investments in Shares and for the purposes of Unit redemptions.

19. The Management Company is a portfolio management company governed by the laws of France. The Management Company is registered with the French AMF to manage investments and complies with the rules of the French AMF. To the best of the Filer's knowledge, the Management Company is not, and has no current intention of becoming, a reporting issuer under the Legislation or the securities legislation of any other jurisdiction of Canada.

20. The Management Company's portfolio management activities in connection with the Employee Share Offering and the Principal Classic FCPE and the Temporary Classic FCPE are limited to subscribing for Shares from the Filer, selling such Shares as necessary in order to fund redemption requests and investing available cash in cash equivalents.

21. The Management Company is also responsible for preparing accounting documents and publishing periodic informational documents as provided by the rules of each of the Principal Classic FCPE and the Temporary Classic FCPE. The Management Company's activities do not affect the underlying value of the Shares and the Management Company will not be involved in providing advice to any Canadian Employees with respect to an investment in the Units. To the best of the Filer's knowledge, the Management Company is not in default of the Legislation or the securities legislation of any other jurisdiction of Canada.

22. Shares issued in the Employee Share Offering will be deposited in the Classic FCPE through CACEIS Bank (the "**Depositary**"), a large French commercial bank subject to French banking legislation.

23. Under French law, the Depositary must be selected by the Management Company from among a limited number of companies identified on a list maintained by the French Minister of the Economy, Finance and Industry and its appointment must be approved by the French AMF. The Depositary carries out orders to purchase, trade and sell securities in the portfolio and takes all necessary action to allow each of the Principal Classic FCPE and the Temporary Classic FCPE to exercise the rights relating to the securities held in its respective portfolio.

24. The Unit value of the Classic FCPE will be calculated and reported to the French AMF on a regular basis, based on the net assets of the Classic FCPE divided by the number of Units outstanding. The value of Classic FCPE Units will be based on the value of the underlying Shares, but the number of Units of the Classic FCPE will not correspond to the number of the underlying Shares (e.g., dividends will be reinvested in additional Shares and increase the value of each Unit).

25. All management charges relating to the Classic FCPE will be paid from the assets of the Classic FCPE or by the Filer, as provided in the regulations of the Classic FCPE.

26. Participation in the Employee Share Offering is voluntary, and the Canadian Employees will not be induced to participate in the Employee Share Offering by expectation of employment or continued employment.

27. The total amount invested by a Canadian Employee in the Employee Share Offering cannot exceed 25% of his or her gross annual compensation for the 2012 calendar year. Notwithstanding the foregoing, the employer of a Canadian Employee shall have the discretion to permit a Canadian Employee to use his or her estimated gross annual compensation for the 2013 calendar year instead of actual 2012 gross annual compensation for the above-mentioned limits.

28. None of the Filer, the Management Company, the Local Affiliates or any of their employees, agents or representatives will provide investment advice to the Canadian Employees with respect to an investment in the Shares or the Units.

29. The Canadian Employees will receive or may request an information package in the French or English language, according to their preference, which will include a summary of the terms of the Employee Share Offering and a tax notice containing a description of Canadian income tax consequences of subscribing to and holding Units of the Classic FCPE and requesting the redemption of such Units for cash or Shares at the end of the Lock-Up Period. These documents will be available in both English and French.

30. Canadian Participants will have access to the Filer's French *Document de Référence* filed with the French AMF in respect of the Shares and a copy of the rules of the Temporary Classic FCPE and the Principal Classic FCPE. The Canadian Employees will also have access to copies of the continuous disclosure materials relating to the Filer that are furnished to holders of the Shares.

31. Canadian Participants will receive an initial statement of their holdings under the Classic Plan, together with an updated statement at least once per year.

32. There are approximately 2,142 Canadian Employees resident in the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick and Nova Scotia (with the greatest number, approximately 676 and 538, resident in British Columbia and Ontario, respectively), who represent, in the aggregate, less than 2% of the number of employees in the Schneider Electric Group worldwide.

33. The Units will not be listed on any exchange.

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 Offering Relief is granted provided that the prospectus requirements of the Legislation will apply to the first trade in any Units or Shares acquired by Canadian Participants pursuant to this decision unless the following conditions are met:

(a) the issuer of the security

  (i) was not a reporting issuer in any jurisdiction of Canada at the distribution date, or

  (ii) is not a reporting issuer in any jurisdiction of Canada at the date of the trade;

(b) at the distribution date, after giving effect to the issue of the security and any other securities of the same class or series that were issued at the same time as or as part of the same distribution as the security, residents of Canada

  (i) did not own, directly or indirectly, more than 10% of the outstanding securities of the class or series, and

  (ii) did not represent in number more than 10% of the total number of owners, directly or indirectly, of securities of the class or series; and

(c) the first trade is made

  (i) through an exchange, or a market, outside of Canada, or

  (ii) to a person or company outside of Canada.

"Edward P. Kerwin"
Commissioner
Ontario Securities Commission

"Judith Robertson"
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 Paul Donald – 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
PAUL DONALD

ORDER
(Sections 127 and 127.1 of the Act)

WHEREAS this proceeding was commenced by a Notice of Hearing issued by the Ontario Securities Commission (the "Commission") on May 20, 2010 in connection with a Statement of Allegations filed by Staff of the Commission on the same date;

AND WHEREAS following a hearing on the merits, the Commission issued its Reasons and Decision on August 1, 2012, *Re Donald* (2012), 35 O.S.C.B. 7383;

AND WHEREAS a subsequent hearing was held on September 13, 2012 to consider whether it is in the public interest to make an order with respect to sanctions against the respondent, Paul Donald ("Donald");

AND WHEREAS the Commission issued its Reasons and Decision on Sanctions and Costs on January 30, 2013;

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

IT IS ORDERED that:

(a) Pursuant to paragraph 8 of subsection 127(1) of the *Securities Act,* R.S.O. 1990, c. S.5, as amended (the "Act"), Donald is prohibited from becoming or acting as a director or officer of a reporting issuer for a period of five years;

(b) Pursuant to paragraph 6 of subsection 127(1) of the Act, Donald is reprimanded; and

(c) Pursuant to section 127.1 of the Act, Donald shall pay to the Commission the Commission's costs of the investigation and hearing of this matter in the amount of $150,000.

Dated at Toronto this 30th day of January, 2013.

"Christopher Portner"

"Paulette L. Kennedy"

2.2.2 Goldpoint Resources Corporation et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF
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

ORDER
(Sections 127 and 127.1 of the Act)

WHEREAS on December 19, 2008, a Notice of Hearing was issued by the Ontario Securities Commission (the **"Commission"**) pursuant to sections 37, 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") in connection with an Amended Statement of Allegations filed by Staff of the Commission ("**Staff"**) on December 18, 2008 in respect of Goldpoint Resources Corporation ("**Goldpoint**"), Pasqualino Novielli also known as Lee or Lino Novielli ("**Novielli**"), Brian Patrick Moloney also known as Brian Caldwell ("**Moloney**") and Zaida Pimentel also known as Zaida Novielli ("**Pimentel**") (collectively, the "**Respondents**").

AND WHEREAS on September 21, 22, 23, 24, 25, 28 and 30, 2009, October 1, 2009 and December 16, 2009, the Commission held the hearing on the merits in this matter;

AND WHEREAS on May 5, 2011, the Commission issued its Reasons and Decision on the merits in this matter (the "Merits Decision");

AND WHEREAS the Commission is satisfied that the Respondents carried out a fraudulent investment scheme, and that the Respondents have not complied with Ontario securities law and have acted contrary to the public interest, as described in the Merits Decision;

AND WHEREAS on August 15, 2012, the Commission held a hearing with respect to the sanctions and costs to be imposed in this matter;

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

IT IS ORDERED THAT:

(a) pursuant to paragraph 2 of subsection 127(1) of the Act, the trading in any securities by Goldpoint, Novielli, Moloney and Pimentel cease permanently;

(b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Goldpoint, Novielli, Moloney and Pimentel is prohibited permanently;

(c) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Goldpoint, Novielli, Moloney and Pimentel permanently;

(d) pursuant to paragraph 6 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel are reprimanded;

(e) pursuant to paragraph 7 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel resign any positions that they may hold as a director or officer of an issuer;

(f) pursuant to paragraph 8 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel are prohibited permanently from becoming or acting as a director or officer of any issuer;

(g) pursuant to paragraph 8.2 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel are prohibited permanently from becoming or acting as a director or officer of any registrant;

(h) pursuant to paragraph 8.4 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel are prohibited permanently from becoming or acting as a director or officer of any investment fund manager;

(i) pursuant to paragraph 9 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel shall pay an administrative penalty in the amount of $300,000 each which is designated for allocation or for use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(j) pursuant to paragraph 10 of subsection 127(1) of the Act, Goldpoint, Novielli and Moloney shall jointly and severally disgorge to the Commission the amount of $1,110,188 obtained as a result of their non-compliance with Ontario securities law which is designated for allocation or for use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(k) pursuant to paragraph 10 of subsection 127(1) of the Act, Pimentel, Goldpoint, Novielli and Moloney shall jointly and severally disgorge to the Commission the amount of $586,562 obtained as a result of their non-compliance with Ontario securities law which is designated for allocation or for use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(l) pursuant to section 127.1 of the Act, Goldpoint, Novielli, Moloney and Pimentel shall jointly and severally pay costs in the amount of $210,241.39.

DATED at Toronto at this 1st day of February, 2013.

"Mary G. Condon"

2.2.3 Ground Wealth Inc. et al. – ss. 127(1), (7), (8)

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

AND

GROUND WEALTH INC., ARMADILLO ENERGY INC., PAUL SCHUETT, DOUG DEBOER, JAMES LINDE, SUSAN LAWSON, MICHELLE DUNK, ADRION SMITH, BIANCA SOTO AND TERRY REICHERT

TEMPORARY ORDER
(Subsections 127(1), (7) and (8) of the Securities Act)

WHEREAS the Ontario Securities Commission (the "Commission") issued a temporary order on July 27, 2011 (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") that:

1. pursuant to paragraph 2 of subsection 127(1), all trading in the securities of Armadillo Energy Inc. ("the Armadillo Securities") shall cease;

2. pursuant to paragraph 2 of subsection 127(1), Armadillo Energy Inc. ("Armadillo), Ground Wealth Inc. ("GWI"), Paul Schuett ("Schuett"), Doug DeBoer ("DeBoer"), James Linde ("Linde"), Susan Lawson ("Lawson"), Michelle Dunk ("Dunk"), Adrion Smith ("Smith"), Bianca Soto ("Soto") and Terry Reichert ("Reichert") (collectively, the "Respondents") shall cease trading in all securities; and

3. pursuant to subsection 127(6), the Temporary Order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission;

AND WHEREAS on August 11, 2011, the Commission held a hearing to consider whether it was in the public interest to extend the Temporary Order, and heard submissions from Staff of the Commission ("Staff") and counsel for the Respondents;

AND WHEREAS on August 11, 2011, the Commission extended the Temporary Order to February 13, 2012, (the "Amended Temporary Order") on the same terms and conditions as provided for in the Temporary Order; provided that the Temporary Order shall not prevent a Respondent from trading for the Respondent's own account, solely through a registered dealer or a registered dealer in a foreign jurisdiction (which dealer must be given a copy of the Amended Temporary Order), in (a) any "exchange traded security" or "foreign exchange traded security" within the meaning of National Instrument 21-101, provided the Respondent does not own beneficially or exercise control or direction over more than 5 per cent of the voting or equity securities of the issuer of any such securities, or (b) any security issued by a mutual fund that is a reporting issuer; and provided the Respondent provides Staff with the particulars of the accounts in which such trading is to occur before any trading in such accounts occurs;

AND WHEREAS on February 8, 2012, the Commission held a hearing to consider whether it was in the public interest to extend the Amended Temporary Order pursuant to subsections 127(7) and 127(8), and heard submissions from Staff and from counsel for the Respondents;

AND WHEREAS on February 8, 2012, the Commission extended the Amended Temporary Order to August 8, 2012, (the "February 2012 Temporary Order") on the following terms: pursuant to paragraph 2 of subsection 127(1), all trading in the Armadillo Securities shall cease; pursuant to paragraph 2 of subsection 127(1), the Respondents shall cease trading in Armadillo Securities and/or in securities of a nature similar to Armadillo Securities, which are securities evidencing an interest in the production of barrels of oil still in the ground; and this Order shall not prevent Staff from applying to the Commission for a variation of this Order if Staff considers that doing so is in the public interest;

AND WHEREAS on August 2, 2012, the Commission held a hearing to consider whether it was in the public interest to extend the February 2012 Temporary Order pursuant to subsections 127(7) and 127(8), and heard submissions from Staff and from counsel for the Respondents;

AND WHEREAS on August 2, 2012, the Commission extended the February 2012 Temporary Order until February 4, 2013, and ordered that the matter return before the Commission on February 1, 2013;

AND WHEREAS on February 1, 2013, the Commission held a hearing to consider whether it was in the public interest to extend the February 2012 Temporary Order pursuant to subsections 127(7) and 127(8);

AND WHEREAS on February 1, 2013, Staff appeared, made submissions and requested that the February 2012 Temporary Order be extended against GWI, Armadillo, DeBoer, Dunk and Smith only;

AND WHEREAS Staff advised that they will be initiating proceedings in this matter under section 127 of the Act shortly and will not be naming Schuett, Linde, Lawson, Soto or Reichert as respondents;

AND WHEREAS on February 1, 2013, counsel for the Respondents did not appear, but email correspondence setting out his position and advising that he did not oppose the further extension of the February 2012 Temporary Order to March 6, 2013 was filed by Staff;

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

IT IS ORDERED pursuant to subsections 127(1), 127(7) and 127(8) of the Act that:

1. the February 2012 Temporary Order is extended to March 6, 2013, or until further order of the Commission, as against the respondents GWI, Armadillo, DeBoer, Dunk and Smith; and

2. a further hearing shall be held before the Commission on March 5, 2013, at 2:00 p.m. or on such other date as set by the Office of the Secretary.

DATED at Toronto this 1st day of February, 2013.

"Mary Condon"

2.2.4 iShares S&P Global Consumer Discretionary Index Fund and iShares S&P Global Industrials Index Fund. – s. 1.1 of OSC Rule 48-501 Trading During Distributions, Formal Bids and Share Exchange Transactions

Headnote

Certain mutual funds designated as exchange-traded funds for the purposes of OSC Rule 48-501.

Rules Cited

Ontario Securities Commission Rule 48-501 Trading During Distributions, Formal Bids and Share Exchange Transactions, s. 1.1.

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION RULE 48-501
TRADING DURING DISTRIBUTIONS, FORMAL BIDS
AND SHARE EXCHANGE TRANSACTIONS
(the Rule)

AND

IN THE MATTER OF
iShares S&P Global Consumer
Discretionary Index Fund (CAD-Hedged)
iShares S&P Global Industrials Index Fund
(CAD-Hedged) (the Funds)

DESIGNATION ORDER
Section 1.1

WHEREAS each of the Funds is or will be listed on the Toronto Stock Exchange;

AND WHEREAS under the Universal Market Integrity Rules (UMIR), each Fund is considered an Exempt Exchange-traded Fund that is not subject to prohibitions related to trading during certain securities transactions;

AND WHEREAS the definition of "exchange-traded fund" in the Rule is substantially similar to the definition of Exempt Exchange-traded Fund in UMIR, and the purpose of the Rule and UMIR are substantially similar;

THE DIRECTOR HEREBY DESIGNATES each of the Funds as an exchange-traded fund for the purposes of the Rule.

DATED February 1, 2013

"Susan Greenglass"
Director, Market Regulation

2.3 Rulings

2.3.1 OMERS Administration Corporation – s. 74(1)

Headnote

Relief from adviser registration requirements under section 25(3) of the Securities Act (Ontario) for pension fund administrator to provide portfolio management services to certain third parties that have been authorized by Orders in Council and incorporated into filer's governing statute.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 25(3) and 74(1).

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

(the Act)

AND

IN THE MATTER OF
OMERS ADMINISTRATION CORPORATION

RULING
(Subsection 74(1) of the Act)

Background

The Ontario Securities Commission (the **Commission**) has received an application from OMERS Administration Corporation (**OAC**) for a ruling pursuant to subsection 74(1) of the Act that each of OAC and its directors, officers and employees is not subject to the requirement to register as an adviser under subsection 25(3) of the Act in respect of its provision of portfolio management services to the Third Party Administered Funds (as defined below) under agreements that have been authorized by specified Orders in Council pursuant to subsection 35.2(3) of the *Ontario Municipal Employees Retirement System Act, 2006*, R.S.O. 2006, c. 2, as amended from time to time (the **OMERS Act**) (the **Requested Relief**).

Representations

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

1. OAC (previously the Ontario Municipal Employees Retirement Board) is the administrator of the OMERS pension plans, which includes the OMERS Primary Pension Plan (the **Plan**). OAC was continued as a corporation without share capital under the OMERS Act. Its head office is in Toronto, Ontario. OAC is not registered in any capacity under the securities legislation of any jurisdiction.

2. OAC and the Plan are regulated by the OMERS Act, the *Pension Benefits Act* (Ontario) (the **PBA**) and the *Income Tax Act* (Canada) (the **ITA**), and are subject to supervision by the Financial Services Commission of Ontario (**FSCO**) as well as the Registered Plans Division of the Canada Revenue Agency (**CRA**). The regulatory oversight and supervision by FSCO is pursuant to the PBA and the regulatory supervision by the CRA is pursuant to the ITA. Pursuant to the PBA, the Plan pension fund investments are subject to a codified prudent person standard of care (section 22 of the PBA) and various quantitative and related party investment restrictions which are set out in the federal *Pension Benefits Standards Regulations, 1985* (the **federal investment regulations**). The federal investment regulations are incorporated into the PBA and are fully applicable to OAC and the Plan. The PBA also requires that OAC (as administrator of the Plan) establish and adhere to a written statement of investment policies and procedures (**SIP&P**). FSCO has under the PBA general authority to supervise and monitor the investment activities of a pension plan that is registered under the PBA including the Plan. Under the PBA, OAC (in its capacity as administrator of the Plan) is required, among other things, to certify annually its compliance with the PBA including the investment regulations thereunder. OAC and the Plan are also subject to various investment limitations imposed under the ITA including prohibitions against various types of investments relating to employers which participate in the Plan (Income Tax Regulation 8514) and strict limitations on borrowing money (Income Tax Regulation 8502(i)). Such limitations are enforced by the CRA and if not complied with would (like any other registered pension plan) jeopardize the registration of the Plan under the ITA.

3. The Plan was established in 1962 as the pension plan for employees of local governments (and various agencies of local governments) in Ontario. As of November 30, 2012 there were approximately 966 employers participating in the Plan. As administrator of the Plan, OAC manages as part of the Plan a diversified portfolio of stocks and bonds, as well as real estate, infrastructure and private equity investments, holding more than $55 billion in net assets as of December 31, 2011.

4. The Ontario Municipal Employees Retirement System was created by the Ontario Government for the purpose of aggregating investment assets held in pension plans for the benefit of local government employees in order that they may be managed with a high level of investment expertise in a cost-effective manner. As administrator of those assets, OAC is not subject to registration under the Act for this purpose, but is subject to supervision and regulation under the PBA and the ITA. The investment by OAC of the Plan is also subject to common law fiduciary duties.

5. In addition to acting as administrator of the Plan, OAC provides portfolio management services to The Ryerson Retirement Pension Plan Trust Fund (**Ryerson**), the Ontario Hydro Guarantee Fund and The Contributory Pension Plan for Employees of Transit Windsor (collectively, the **Third Party Administered Funds**) pursuant to agreements authorized by Orders in Council 808/80, 2211/95 and 368/2003. The first of these arrangements was made with Ryerson on February 1, 1965.

6. OAC invests funds on behalf of the Third Party Administered Funds under contractual agreements approved by the Ontario Lieutenant-Governor in Council. OAC is authorized under the terms of the various agreements to recover its expenses for administering such funds. OAC does not receive a management fee from the Third Party Administered Funds nor does it otherwise generate any profit from providing its investment management services. In each of these arrangements, OAC makes investments on the basis of the investment criteria of the Plan without taking into account the investment criteria of the Third Party Administered Funds. Further, OAC is under no contractual obligation with the Third Party Administered Funds to make investments in a particular manner or in particular asset classes.

7. There are two categories of investment powers provided under the OMERS Act; namely (i) the authority given to OAC to administer and invest the OMERS pension plans under sections 34(1) and 35(2)(a) (the **administrator powers**), and (ii) the provision of eligible services by authorized subsidiaries to enumerated categories of clients under sections 34(3) and 35.1 of the OMERS Act and the provision of services by OAC pursuant to 35.2 of the OMERS Act (the **third party services powers**).

8. In amending the OMERS Act in 2009, the Ontario Government expressly approved the arrangements with the Third Party Administered Funds in subsection 35.2(3), which states that OAC "itself may continue to provide eligible services to clients under agreements that were authorized by Orders in Council 808/80, 2211/95 and 368/2003, as those agreements read on the day this section comes into force and, for that purpose, [OAC] has the powers of an authorized subsidiary under subsections 35.1(4), (5) and (7)". Subsection 35.1(5) of the OMERS Act provides that "each of the following is an eligible service if it is carried out in compliance with all applicable laws:

    1. Providing advice to an administrator of a pension plan regarding the administration of the pension plan or the investment policies for the pension fund maintained to provide benefits in respect of that pension plan.

    2. Providing advice to a client on investing in, holding, buying or selling securities or other assets.

    3. Buying, selling, holding and managing investments for a client, with or without discretionary authority granted by the client to manage the client's investment portfolio.

    4. Activities and services ancillary to the services listed in paragraphs 1 to 3, including,

        i. activities relating to the distribution or sale to clients of securities issued by an investment entity [incorporated, established, managed or operated by an authorized subsidiary of OAC for the purpose of providing eligible services], and

        ii. entering into derivative contracts in which the return is based in whole or in part of the performance of all or part of the pension fund maintained to provide benefits in respect of any of the OMERS pension plans or of any of pension fund's investments.

    5. Providing administrative services to an administrator of a pension plan."

9. Under the Act, the requirement to register as an adviser is imposed on a person or company that engages in the business of, or holds himself, herself or itself out as engaging in the business of, advising anyone with respect to investing in, buying or selling securities.

10. OAC manages the assets of the Third Party Administered Funds as an extension of its management of the Plan and accordingly OAC may be subject to a requirement to register as an adviser under the Act.

11. The assets of the Third Party Administered Funds represent less than two per cent of the assets managed by OAC. Permitting OAC to provide portfolio management services to the Third Party Administered Funds, as authorized by the OMERS Act, enables those funds to receive the benefit of the same pension fund investment expertise as members of the OMERS pension plans. These benefits include greater access to investments in private market assets, such as infrastructure, real estate and private equity and lower costs than would otherwise generally be available in respect of such investments.

Ruling

The Commission, being satisfied that to do so would not be prejudicial to the public interest, hereby rules that the Requested Relief is granted.

January 25, 2013

"Judith Robertson"
Commissioner
Ontario Securities Commission

"Paulette Kennedy"
Commissioner
Ontario Securities Commission

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1. OSC Decisions, Orders and Rulings

3.1.1 Paul Donald – 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
PAUL DONALD

REASONS AND DECISION
ON SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Act)

Hearing:	September 13, 2012	
Decision:	January 30, 2013	
Panel:	Christopher Portner	- Commissioner and Chair of the Panel
	Paulette L. Kennedy	- Commissioner
Appearances:	Cullen Price	- For Staff of the Commission
	Joseph Groia Kevin Richard Tatsiana Okun	- For Paul Donald

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REASONS AND DECISION ON SANCTIONS AND COSTS

I. BACKGROUND

A. Introduction

[1] This was a hearing (the "**Sanctions and Costs Hearing**") before 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**") to consider whether it is in the public interest to make an order with respect to sanctions and costs against Paul Donald ("**Donald**" or the "**Respondent**").

[2] Staff of the Commission ("**Staff**") had alleged that Donald purchased securities of Certicom Corp. ("**Certicom**") in August and September 2008 while he was a person in a special relationship with Certicom and while he had knowledge of material facts with respect to Certicom that had not been generally disclosed, contrary to subsection 76(1) of the Act and contrary to the public interest.

[3] Following a hearing to consider the merits of Staff's allegations (the "**Merits Hearing**"), Reasons and Decision on the merits were issued on August 1, 2012 (*Re Donald* (2012), 35 O.S.C.B. 7383) (the "**Merits Decision**"). As set out in the Merits Decision, the Panel concluded that, although Donald did not breach subsection 76(1) of the Act, his conduct was contrary to the public interest.

[4] On September 13, 2012, counsel for Staff and counsel for the Respondent appeared and made submissions at the Sanctions and Costs Hearing.

B. The Merits Decision

[5] Staff's allegations related to Donald's conduct while he was a Vice President of Research in Motion ("**RIM**"). On August 20, 2008, Donald attended a golf tournament and dinner that RIM hosted for its executives (the "**2008 RIM Golf Event**"). At the 2008 RIM Golf Event, Donald had a conversation regarding Certicom with Chris Wormald ("**Wormald**"), RIM's Vice President of Strategic Alliances. On the following day, August 21, 2008, Donald instructed his broker to purchase $300,000 worth of Certicom shares and, by September 15, 2008, Donald had acquired 200,000 shares of Certicom at a total cost of $305,000 (Merits Decision at paras. 5 to 7).

[6] As set out in the Merits Decision, the Panel concluded that, as a result of his conversation at the 2008 RIM Golf Event, Donald had knowledge of material facts with respect to Certicom that were not generally disclosed (the "Three Facts", as defined in the Merits Decision) when he purchased Certicom shares, but that he was not in a special relationship with Certicom at the time. Consequently, as described below, the Panel concluded that Donald did not breach subsection 76(1) of the Act:

> We find that (i) Donald was in possession of material facts that were not generally disclosed when he purchased Certicom shares in August and September 2008; (ii) RIM had been interested in acquiring Certicom, but Certicom was not interested in pursuing a transaction at that time; (iii) RIM personnel were in the process of recommending to RIM's senior management that RIM take steps to acquire Certicom; and (iv) Certicom was undervalued based on RIM's valuation of its patents and licensing agreements and how important Certicom's ECC technology was to technology providers that required security for their electronic devices, including RIM.
>
> We cannot, however, find that Donald was a person in a special relationship with Certicom at the time that he purchased Certicom shares. To reach such a conclusion, RIM would have to have been proposing to make a take-over bid for Certicom, or proposing some other arrangement or business combination with Certicom as of August 21, 2008. Although RIM's acquisition of Certicom was a serious possibility as of August 21, 2008, RIM had not at that time reached the stage of proposing to make a bid to acquire Certicom securities.

We must therefore conclude that Donald did not breach subsection 76(1) of the Act when he purchased Certicom shares in August and September 2008.

(Merits Decision at paras. 286 to 288)

[7] With respect to the allegation that Donald's conduct was contrary to the public interest, the Merits Decision states as follows:

> Donald, who was an officer and employee of RIM, learned of material facts about Certicom in the context of a confidential discussion with another RIM Vice President. Not only did Donald learn the Three Facts on August 20, 2008, but he learned of them directly from Wormald, the RIM officer who was the head of the Strategic Alliances Group. Donald was an experienced investor who had sophisticated knowledge of the wireless industry.

> Market participants and the officers of public companies, such as Donald, are expected to adhere to a high standard of behaviour. In our view, by purchasing securities with knowledge of material facts which had not been generally disclosed, Donald clearly failed to meet that standard and did so in a manner that impugns the integrity of Ontario's capital markets.
>
> (Merits Decision at paras. 318-319)

[8] The Panel concluded that, although Donald did not breach subsection 76(1) of the Act, his purchases of Certicom shares while he was in possession of undisclosed material facts constituted conduct contrary to the public interest and his conduct was abusive of the capital markets and confidence in the capital markets (Merits Decision at para. 324).

II. SANCTIONS ANALYSIS

A. Sanctions requested by Staff

[9] Staff seeks the following sanctions against Donald and submits that they are appropriate in view of his serious misconduct, namely, that:

(a) Pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities by him cease for a period of 10 years;

(b) Pursuant to paragraph 2.1 of subsection 127(1) of the Act, acquisition of any securities by him cease for a period of 10 years;

(c) Pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Donald for a period of 10 years;

(d) Pursuant to paragraph 8 of subsection 127(1) of the Act, he be prohibited from becoming or acting as an officer or director of a reporting issuer for a period of 10 years;

(e) Pursuant to paragraph 6 of subsection 127(1) of the Act, he be reprimanded; and

(f) Pursuant to subsection 127.1 of the Act, he be required to pay a portion of Staff's costs incurred in investigating and litigating this matter in the amount of $150,000.

[10] Staff submits that the allegation proven in this case involves serious conduct contrary to the public interest that deserves a severe sanction. Staff refers to our finding in the Merits Decision that Donald's conduct was abusive and impugned the integrity of Ontario's capital markets and directly engaged the fundamental principles of securities regulation and the purposes of the Act (Merits Decision at para. 323).

[11] Staff further submits that Donald has not recognized the seriousness of his misconduct and his failure to differentiate between confidential business information and casual discussion suggests that there is a real risk of future abuses by Donald if his participation in the capital markets is not restrained.

[12] Staff contends that, given the serious nature of the misconduct, significant sanctions are appropriate to deter Donald and like-minded individuals in similar positions. Staff submits that the role of an officer of a reporting issuer is one of great trust and requires great integrity to ensure responsible conduct and confidence in the capital markets.

[13] Staff submits that conduct that is abusive of the capital markets and to confidence in the capital markets (Merits Decision at para. 324) is a serious allegation that should be taken seriously. Further, Staff submits that the allegation of conduct contrary to the public interest was not a "secondary" allegation, and refers to the Particulars of Allegations provided to Donald prior to the Merits Hearing. Staff also submits that, despite the fact that there was no technical breach of the Act, the underlying conduct was just as serious; Staff treated the allegation of conduct contrary to the public interest seriously and so did the Commission in the Merits Decision.

[14] Staff submits that, unlike Staff and the Commission, Donald takes the position that conduct contrary to the public interest is less serious than a breach of the Act, which further lends support to Staff's submission that he has not appreciated the seriousness of his misconduct.

[15] Staff contests Donald's submission that he acted reasonably and honestly and submits that the Commission found to the contrary and that he had to have known the Three Facts were confidential and material.

B. Donald's submissions on sanctions

[16] Donald submits that a more appropriate conclusion to this case would be that:

(a) No order under subsection 127(1) of the Act be made as Donald is prepared to undertake to comply with Ontario securities law in the future and to take the Partners, Directors and Senior Officers Course (the "PDO Course") offered by the Canadian Securities Institute; or alternatively that

(b) Donald be reprimanded pursuant to paragraph 6 of subsection 127(1) of the Act; and

(c) Donald undertake not to become or act as an officer or director of a reporting issuer until his successful completion of a course such as the PDO Course.

[17] Donald submits that, when considering an appropriate sanction in this case, and in considering both general and specific deterrence, we must consider that:

(a) The Board of Directors of Certicom had at least the same information as reflected in the Three Facts when it approved the granting of options to employees and Board members of Certicom in June 2008;

(b) Karna Gupta ("**Gupta**") had at least knowledge of the Three Facts, and more, at the time he purchased 10,000 shares of Certicom on July 11, 2008;

(c) No proceedings have been taken against the foregoing parties by Staff; and

(d) Donald honestly and reasonably did not believe that the Three Facts were material, and it is only with the benefit of hindsight and additional information, not within Donald's knowledge, that the Panel came to a different conclusion.

(Respondent's Written Submissions on Sanctions and Costs at para. 8)

[18] Donald submits that a fair reading of the evidence would suggest that none of Donald, RIM or Certicom considered the Three Facts to be material. Further, Donald submits that there is no prohibition under the Act against buying or selling shares with knowledge of a material undisclosed fact when not in a special relationship with a reporting issuer.

[19] Donald notes that he has had no history of regulatory misconduct and no prior violations of the Act and submits that this matter has already had a substantial effect on his livelihood and reputation. He submits that there is no evidence that he poses a threat to the integrity of the capital markets.

[20] Donald further notes that there are no rules or legislation outlining what is and what is not conduct contrary to the public interest and that severely punishing a market participant such as Donald for what may amount to differing views about what is material and what is in the public interest would send a terrible message to the public markets and would cause damage to the integrity of the Canadian capital markets.

[21] Donald submits that the Commission's public interest powers should be used sparingly in these circumstances. He submits that when Staff choses to argue a breach of the Act and is unsuccessful, the Commission should be extremely reluctant to then penalize a respondent for conduct which it has just found to be lawful. Donald notes that the allegation of a breach of the Act was dismissed and that the Act does not preclude a person from trading in a company with knowledge of material facts unless that person is in a special relationship.

[22] Further, Donald submits that the Three Facts were also known to the directors of Certicom prior to and at the time of the grant of options and their purchases of Certicom shares in the summer of 2008 and that the seriousness of Donald's conduct has to be assessed in relation to the actions of Certicom's directors.

[23] Donald submits that to impose severe sanctions for conduct contrary to the public interest, in a case where the conduct was honestly and reasonably considered by the respondent to be proper at the time, and where others carried out similar conduct without incident or regulatory comment, would be to impose an almost impossible standard on market participants.

C. The Law

[24] The Commission's mandate as set out at section 1.1 of the Act is to (i) provide protection to investors from unfair, improper or fraudulent practices; and (ii) foster fair and efficient capital markets and confidence in capital markets.

[25] The primary means for achieving the purposes of the Act as set out at paragraph 2 of section 2.1 of the Act are:

(a) Requirements for timely, accurate and efficient disclosure of information;

(b) Restrictions on fraudulent and unfair market practices and procedures; and

(c) Requirements for the maintenance of high standards of fitness and business conduct to ensure honest and responsible conduct by market participants.

[26] In exercising its public interest jurisdiction, the Commission must act in a protective and preventative manner. The role of the Commission is to impose sanctions that will protect investors and the capital markets from exposure to similar conduct in the future. As stated by the Commission in *Re Mithras Management Ltd.*:

> …[u]nder sections 26, 123 and 124 of the Act, the 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. And in so doing, we may well conclude that a person's past conduct has been so abusive of the capital markets as to warrant our apprehension and intervention, even if no particular breach of the Act has been made out.
>
> (*Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 at 1610-1611 ("***Mithras***"))

[27] The Supreme Court of Canada in *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission),* [2001] 2 S.C.R. 132 ("***Asbestos***") commented on the Commission's public interest jurisdiction. The Court described it, in part, as follows:

> … I agree with Laskin J.A. that "[t]he purpose of the Commission's public interest jurisdiction is neither remedial nor punitive; it is protective and preventive, intended to be exercised to prevent likely future harm to Ontario's capital markets". …
>
> …The 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: Re Mithras Management Ltd. (1990), 13 O.S.C.B. 1600. In contradistinction, it is for the courts to punish or remedy past conduct under ss. 122 and 128 of the Act respectively…
>
> …
>
> In summary, 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. In exercising its discretion, the OSC should consider the protection of investors and the efficiency of, and public confidence in, capital markets generally. In addition, s. 127(1) is a regulatory provision. The sanctions under the section are preventive in nature and prospective in orientation. …
>
> (*Asbestos, supra* at paras. 42-43 and 45)

[28] In addition, the Commission should consider general deterrence as an important factor when determining appropriate sanctions. In *Re Cartaway Resources Corp.,* [2004] 1 S.C.R. 672 ("***Cartaway***"), the Supreme Court of Canada 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" (at para. 60).

[29] In determining the appropriate sanctions in this matter, we must ensure that the sanctions imposed are proportionate to the conduct of the Respondent (*Re M.C.J.C. Holdings Inc.* (2002), 25 O.S.C.B. 1133 ("***M.C.J.C. Holdings***") at 1136).

[30] The Commission has previously identified the following as some of the factors that it should be considering 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 reputation and prestige of the respondent;

(j) The effect any sanction might have on the livelihood of the respondent;

(k) The shame, or financial pain, that any sanction would reasonably cause to the respondent;

(l) The remorse of the respondent; and

(m) Any mitigating factors.

(See *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 at 7746 and *M.C.J.C. Holdings, supra* at 1136)

[31] The Commission did point out, however, that these were only some of the factors that might be considered, observing that "there may be others, and perhaps all of the factors we have mentioned may not be relevant in this or another particular case" (*M.C.J.C. Holdings, supra* at 1136).

[32] The sanctions imposed must be sufficient both to respond to the specific misconduct of the Respondent and to send a message to other market participants about the importance of fulfilling their statutory duties.

[33] As stated by the Divisional Court in *Erikson v. Ontario (Securities Commission)*, [2003] O.J. No. 593, "participation in the capital markets is a privilege and not a right" (at para. 55).

D. Application of the factors

[34] Having regard to the factors that are summarized in paragraph [30] above, we consider the following to be of particular relevance:

(i) The seriousness of the conduct

[35] Although we concluded that Donald did not breach subsection 76(1) of the Act, we did find that his conduct was abusive of the capital markets and to confidence in the capital markets. As we stated in the Merits Decision:

> We find that Donald's purchases of Certicom shares in August and September 2008, while he was in possession of undisclosed material facts regarding RIM's interest in Certicom, constituted conduct contrary to the public interest. We find that Donald's conduct was abusive of the capital markets and to confidence in the capital markets.
>
> (Merits Decision at para. 324)

[36] In his submissions, Donald stated that he did not believe that the information provided to him was material and that his evidence was honest and forthright. It was our finding in the Merits Decision that Donald's suggestion that his decision to purchase Certicom shares was based solely on his independent analysis of Certicom undertaken immediately prior to placing his purchase order was simply not credible (Merits Decision at para. 311).

[37] Donald also submitted that the seriousness of his conduct has to be assessed in relation to the actions of Certicom's directors who, Donald submits, granted options to purchase Certicom shares to themselves and employees of Certicom with knowledge of at least the same information that was provided to Donald. We agree with Staff's view that Donald's submissions relating to the knowledge of, or imputed to, Certicom's directors including Gupta, the Chief Executive Officer, are simply not relevant to this matter.

(ii) The Respondent's experience and knowledge

[38] Donald is an experienced investor who has a deep understanding of the stock market and maintains an active portfolio of publicly-traded securities.

[39] As an officer of RIM, which was a reporting issuer during the period of Donald's employment, Donald was a market participant as defined by subsection 1(1) of the Act.

(iii) Recognition of the seriousness of the improprieties and remorse

[40] Donald has demonstrated no recognition of the fact that his activities were inappropriate and continues to assert that he honestly and reasonably believed that the Three Facts were not material when he acquired shares of Certicom.

[41] Given Donald's assertion that he reasonably believed he was acting appropriately at the time, it follows that Donald shows no remorse, a factor that should not be given much, if any, weight in a contested proceeding such as this.

(iv) The size of any profit obtained

[42] As noted in the Merits Decision, the value of the Certicom shares purchased by Donald, although high at $305,000, was not inconsistent with his previous trading patterns. That said, the size of the profit realized by Donald from the sale of the shares was substantial. Following the implementation of RIM's plan of arrangement relating to Certicom, Donald received the proceeds from the sale of his Certicom shares in the amount of $600,000 which represented a gross profit of $295,000.

(v) The reputation of the Respondent and effect of sanctions on livelihood

[43] Donald's counsel made submissions on his behalf to the effect that the "proceeding has had a significant impact on Mr. Donald and his reputation and ability to earn a living" (Respondent's Written Submissions on Sanctions and Costs at para. 67). Although it would be reasonable to expect that allegations of insider trading would have a serious and adverse effect on Donald's reputation, no evidence was provided to the Panel in this regard. Similarly, no evidence was provided as to the effect that any sanction might have on Donald's livelihood.

(***vi) The effect any sanctions might have on the ability of the Respondent to participate without check in the capital markets***

[44] It is Staff's submission that the serious nature of Donald's misconduct justifies significant sanctions for the purposes of both specific and general deterrence.

[45] In Donald's submission, the sanctions sought by Staff are grossly excessive and wholly disproportionate to the Commission's findings in the Merits Hearing. He also submits that there is no risk that he will repeat the conduct which was the subject of this proceeding.

[46] Donald also indicated in his submissions that a more appropriate outcome would be a reprimand and that he provide undertakings to the Commission to comply with Ontario securities law and to take the PDO Course offered by the Canadian Securities Institute.

[47] While we do not accept Donald's submission that his actions in this matter were the result of honest mistakes of fact and law, we are inclined to accept his counsel's submission that there is no (or, in our view, little) risk that Donald would repeat the conduct which has been the subject matter of this proceeding in the future.

(vii) Mitigating Factors

[48] Although no material mitigating factors were in evidence, Donald did cooperate with Staff in connection with the Merits Hearing, including in the preparation of a statement of agreed facts.

(viii) Deterrence of the Respondent and like-minded people

[49] The sanctions imposed should serve to deter Donald, as well as other like-minded individuals, from engaging in similar conduct in the future. As we noted in paragraph [47], we find that there is little risk that Donald will repeat the conduct at issue in this proceeding.

[50] Although the conduct of Donald that we found to be contrary to the public interest in the Merits Decision involved trading in securities, the conduct was more related to his role as an officer of RIM than to his general trading activities in the capital markets. Our concern was with Donald's use of confidential information he obtained as a result of his position as an

officer of RIM, and the sanctions we impose should serve to deter such behaviour by Donald and others in similar positions of trust in the future. Accordingly, we consider a prohibition on acting as an officer or director of a reporting issuer more appropriate in this case than a prohibition on trading securities.

E. Previous sanctions decisions

[51] Staff refers to previous Commission decisions that Staff submits should provide guidance as to the scope of sanctions appropriate in this case and support the submission that significant sanctions are appropriate and necessary. Staff provides examples of decisions in the insider trading cases *Re Suman* (August 22, 2012), (Ontario Securities Commission) ("***Suman***"), *Re Donnini* (2002), 25 O.S.C.B. 6225 ("***Donnini***") and *Re Landen* (2010), 33 O.S.C.B. 6225 ("***Landen***"). Having reviewed the cases, we find that this case is distinguishable.

[52] Donald provides examples of other cases which he submits are more comparable to the circumstances in this case. We consider the sanctions in the cases cited by Staff and Donald below.

(i) Insider trading cases – Donnini and Landen

[53] Although the allegation in this case was a breach of subsection 76(1) of the Act, we found in the Merits Decision that Donald's conduct and the circumstances of this case did not provide a basis for a finding that subsection 76(1) of the Act had been breached. Staff submits that we should consider sanctions in the range ordered in *Donnini and Landon*, 15-year and 12-year bans, respectively. We disagree. In *Donnini*, the Commission determined that subsection 76(1) had been breached; in *Landen,* the respondent had been convicted of insider trading in a quasi-criminal proceeding.

[54] Given our finding that Donald's conduct was not contrary to Ontario securities law, we do not consider that sanctions orders resulting from breaches of Ontario insider trading law provide guidance as to the appropriate sanctions in this case.

(ii) Suman

[55] In *Suman,* the Panel presiding at the merits hearing determined that one of the respondents, Mr. Suman, breached subsection 76(2) of the Act (tipping) and that he and the other respondent, Ms. Rahman, engaged in conduct contrary to the public interest in purchasing securities with knowledge of a material fact that was not generally disclosed (*Suman, supra* at para. 9). Mr. Suman was permanently prohibited from trading and acquiring securities, Ms. Rahman was prohibited from trading and acquiring securities for five years and both respondents were permanently prohibited from becoming or acting as an officer or director of reporting issuers. Mr. Suman was also ordered to disgorge the amount he obtained as a result of his non-compliance with the Act and pay an administrative penalty (*Suman, supra* at para. 53).

[56] Staff submits that the five-year trading and acquiring prohibitions against Ms. Rahman in *Suman* should be balanced against the fact that she was also permanently prohibited from acting as a director or officer of a reporting issuer. Staff further submits that the position occupied by Ms. Rahman in the capital markets (the wife of an information technology professional employed by a reporting issuer) was of far less significance than Donald's position as an officer of a reporting issuer. Accordingly, having regard for the importance of specific and general deterrence, there is a sound basis for ordering a more severe prohibition in the case of Donald than was ordered in the case of Ms. Rahman.

[57] Donald submits that, with respect to his conduct, this case is closer to cases such as *Re Nash,* 2012 ABASC 253 ("***Nash***"), in which less severe sanctions were ordered, than to *Suman.* He submits that his conduct can be distinguished from the conduct in *Suman,* in which harsh credibility findings were made about the respondents and the Panel found that they had destroyed evidence and traded substantial volumes of shares and options in the target company in a manner that was completely inconsistent with their prior trading habits. In particular, Donald notes that he made no attempt to conceal his purchases of Certicom shares:

> … Donald did not attempt to hide his purchases of Certicom shares, but traded in his customary manner… Donald did not attempt to conceal the purchases from RIM later in 2008 and disclosed them when RIM announced its intention to make an offer for Certicom in December 2009.
>
> The value of Certicom shares purchased by Donald, although high at $305,000, was not inconsistent with his previous trading patterns. It was by no means an insignificant investment, but we do note that the value of Donald's portfolio at the time exceeded $10 million. It may be that Donald did not consider that his trading was improper, however, we have come to a different conclusion.
>
> (Merits Decision at paras. 312 to 313)

(iii) Insider trading cases from other jurisdictions referred to by Donald

[58] In *Nash,* the Alberta Securities Commission (the "**ASC**") found that the elements of illegal insider trading were proved against the respondent in breach of the *Alberta Securities Act,* notwithstanding the fact that the Panel found that the respondent was operating under honestly held but erroneous and misguided assumptions (at paras. 39 and 40). The Panel in Nash determined that, in what it described as highly unusual and unique circumstances, appropriate protection of the public would be achieved were the respondent to provide an undertaking to comply with all Alberta securities laws in future (*Nash, supra* at para. 47). The decision states:

> Although we have found that Nash contravened section 147(2) of the Act and acted contrary to the public interest, his trading was not, in our view, the type of improper insider trading with which securities regulation is primarily concerned. This was an isolated incident – apparently an intense emotional response made under a misapprehension. This was not a planned and deliberate attempt to use undisclosed material information for personal gain (by either making a profit or avoiding a loss).
>
> (*Nash, supra* at para. 43)

[59] Donald refers to cases in which respondents did not engage in intentional misconduct or mistakenly believed material information had been generally disclosed (*Re Torudag,* 2009 BCSECCOM 339 (CanLII), *Re Conrad,* 2009 ABASC 69 and *Re Gorrie,* 2006 ABASC 1087). Donald submits that, if there is no intentional misconduct and little or no profit made as a result of the trading, minimal or no sanctions should be imposed. In contrast to the cases cited by Donald, in this case, we found that:

> … Donald had to have known that (i) the information he received from Wormald was confidential and had not been made public; (ii) if the information had been generally disclosed, it would have had a significant effect on the market price or value of Certicom shares; and (iii) the information was provided to him on a confidential basis in the expectation that he would not use the information for personal gain.
>
> (Merits Decision at para. 314)

[60] In *Re Seto,* [2003] A.S.C.D. No. 270 ("***Seto***"), the ASC considered joint sanctions submissions of the parties. On the remaining issue to be resolved, whether the conduct of the respondent contravened the Alberta Securities Act or was conduct contrary to the public interest, the ASC found that there was a "technical gap in the legislation" and concluded that the respondent's conduct was prejudicial to the capital markets and contrary to the public interest (*Seto, supra* at paras. 43 and 55). The parties in Seto jointly submitted that, if the ASC found it in the public interest to make an order, the appropriate order should be that the respondent cease trading in securities for one year, be prohibited from acting as a director an officer of an issuer for two years, pay an administrative penalty of $5,000 and costs of $10,000. The ASC was satisfied that the jointly proposed sanctions were in the public interest (*Seto, supra* at paras. 64 to 66).

(iv) Other cases where there was no technical breach of the Act

[61] In *Re Albino* (1991), 14 O.S.C.B., 365, cited by Staff, the Commission ordered sanctions for conduct that was abusive of the capital markets though the Panel did not agree that there had been a technical breach of the illegal insider trading prohibition. The Commission found that the respondent's conduct was "so abusive of the capital markets as to warrant our apprehension of future harm and our intervention to prevent such harm" (*Re Albino, supra* at 31).

[62] Staff also referred to the Commission's finding in *Re Banks* (2003), 26 O.S.C.B. 3377 in which the Commission permanently prohibited the respondent from trading in securities and becoming or acting as a director or officer of an issuer following a finding of conduct contrary to the public interest. In that case, the Commission noted:

> Banks pleaded guilty to intentionally engaging in a scheme constituting a systematic ongoing course of conduct with intent to defraud. This was criminal conduct and it was securities-related. This conduct arose in Banks' capacity as a director and officer of an issuer. Together with his conduct in connection with the Roll Program, the criminal conduct demonstrated to us that Banks should be restricted from acting as a director and officer of any issuer and be prevented from participating in our capital markets.
>
> In addition, Banks' admission of criminal guilt in a securities-related matter calls for a vigorous package of preventative sanctions. If we do not restrain Banks properly, confidence in our markets would be weakened.
>
> (*Re Banks, supra* at paras. 126 and 127)

F. Conclusion as to trading and other bans

[63] As stated by the Supreme Court in Asbestos, "In exercising its discretion, the OSC should consider the protection of investors and the efficiency of, and public confidence in, capital markets generally. In addition, s. 127(1) is a regulatory provision. The sanctions under the section are preventative in nature and prospective in orientation…." (*Asbestos, supra* at para. 45).

[64] We are also mindful of the Supreme Court's statement in Cartaway that "it is reasonable to view general deterrence as an appropriate, and perhaps necessary, consideration in making orders that are both protective and preventative" (at para. 60).

[65] The conduct of Donald which was the subject of the Merits Decision and which we found improper arose from his misuse of confidential information of which he became aware in his capacity as an officer of RIM. While we acknowledge the Divisional Court's view in *Erikson v. Ontario (Securities Commission)*, [2003] O.J. No. 593 at para. 55, cited by Staff, that, when assessing sanctions, it should be remembered that "participation in the capital markets is a privilege and not a right", banning Donald from trading while at the same time severely constraining his ability to earn a livelihood would not be warranted in the circumstances.

[66] In our view, the 10-year bans sought by Staff exceed that which is required to ensure that we exercise our public interest jurisdiction by acting in a protective and preventative manner and continue to communicate the Commission's concerns with respect to improper trading.

[67] We are also of the view that, notwithstanding Donald's apparent lack of appreciation that his conduct was improper, there is no evidence before us that would suggest that there is a serious risk of future abuses by him if he is not banned from participating in the public markets for such a lengthy period of time. At the same time, Donald's proposed sanctions, which are summarized above, would be patently inadequate given his prior failure to comply with an undertaking he provided pursuant to RIM's Business Standards and Principles which, among other things, banned the unauthorized use of confidential information.

[68] We do not find it appropriate to prohibit Donald from trading in or acquiring securities. We find that a five-year prohibition on his participation in the capital markets as a director or officer of a reporting issuer more appropriately reflects our concerns with Donald's conduct contrary to the public interest and sufficiently addresses the protective and preventative requirements for sanctions ordered by the Commission, including principles of general and specific deterrence. We should note that, in concluding that a five-year prohibition is appropriate, we took into account the passage of time since the commencement of this proceeding.

III. COSTS ANALYSIS

A. Staff's costs request

[69] Staff seeks the amount of $150,000 in costs, inclusive of fees and disbursements. The amount represents approximately 69% of the total fees and disbursements of $217,084.55 described in Staff's Bill of Costs filed with the August 31, 2012 Affidavit of Julia Ho. The Bill of Costs includes the hours worked and hourly rates for two individuals involved in the investigation and hearing, namely, Marcel Tillie, Senior Forensic Accountant for Staff, and Cullen Price, Senior Litigation Counsel for Staff.

[70] Staff submits that the allegations in this matter were serious and Staff had a good faith basis for advancing the subsection 76(1) allegation. Staff submits that, notwithstanding that Staff ultimately was not successful with respect to the allegation of a breach of subsection 76(1), Staff would have led the same evidence if the case was only one alleging conduct contrary to the public interest, so no more time was required or used with respect to proving the allegation of conduct contrary to the public interest.

[71] Staff submits that the request for costs takes into account the fact that Donald agreed to a statement of agreed facts, and that the costs sought are reasonable given the relative complexity of the matter. Staff notes that they are only seeking discounted costs relating to the time of two Staff professionals who worked on the matter, despite the fact that many individual members of Staff assisted with the assessment, investigation and litigation of this matter.

B. Donald's submissions on costs

[72] Donald submits that Staff's request for $150,000 in investigation and litigation costs is excessive and unreasonable in the circumstances.

[73] Donald submits that he demonstrated the utmost respect for the Commission's procedure and cooperated with Staff and the Commission during the investigation and hearing, including the preparation of a statement of agreed facts and agreeing to the majority of the exhibits, all of which contributed to a shorter, more efficient and more effective proceeding.

[74] Donald notes that Staff was not successful with respect to their insider trading allegation and cannot be awarded costs of an investigation and a hearing with respect to an allegation that was dismissed. Donald submits that the majority of the evidence led by Staff directly touched on work that RIM was doing of which Donald had no knowledge. He submits that most of the evidence was intended to show that RIM and Wormald were in a special relationship with Certicom.

[75] Donald submits that it is apparent that some amount of work done by Staff prior to the issuance of the Notice of Hearing on May 20, 2010 was investigation work undertaken in relation to people other than Donald. Donald refers to an Enforcement Notice sent to Wormald on October 15, 2009 and Staff correspondence which states that Staff held without prejudice discussions with Wormald's counsel. Thereafter, Staff exercised its discretion not to bring proceedings against Wormald in relation to this matter and Wormald and RIM agreed to provide their full cooperation, consistent with OSC Staff Notice 15-702, Credit for Cooperation. Donald notes that approximately two-thirds of Mr. Tillie's time spent on this matter was prior to May 20, 2012.

[76] Donald submits that the fact that there is no provision in the Act to award costs to a respondent is a relevant factor to consider when a significant allegation is dismissed, and if there was such a provision, the Commission would have to determine the costs to be awarded to Donald for the dismissal of Staff's core allegation.

[77] Donald further submits that if a costs award is made, such an award should be significantly less than in other cases where actual breaches of insider trading provisions were found to have occurred, with no intentional misconduct. Donald refers specifically to the following decisions on costs: no costs order in Nash, supra; no costs order in *Re Torudag,* 2009 BCSECCOM 339; $10,000 in *Seto, supra*; $3,000 in *Re Gorrie*, 2006 ABASC 1087; and $15,000 in *Re Conrad,* 2009 ABASC 69.

C. The law on costs

[78] Section 127.1 of the Act permits the Commission to order a person to pay costs of or related to the hearing that are incurred by or on behalf of the Commission if, after conducting the hearing, the Commission is satisfied that the person has not complied with or is not complying with Ontario securities law or considers that the person has not acted in the public interest.

[79] In *Re Ochnik,* the Commission lists the following criteria that have been considered in awarding costs:

(a) Failure by staff to provide early notice of an intention to seek costs may result in a reduced costs award, as early notice may have facilitated early settlement, thereby reducing overall costs (see *Re Tindall* (2000), 23 O.S.C.B. 6889 at para. 74);

(b) The seriousness of the charges and the conduct of the parties (see *Re YBM Magnex International Inc*. (2003), 26 O.S.C.B. 5285 at para. 608)

(c) Abuse of process by a respondent may be a factor in increasing the amount of costs (see *Re YBM Magnex International Inc.* cited above at para. 606);

(d) The greater investigative/hearing costs that the specific conduct of a respondent tends to require in the case (Re YBM Magnex International Inc. cited above at para. 606);

(e) The reasonableness of the costs requested by staff (see Re Lydia Diamond Exploration of Canada,(2003), 26 O.S.C.B. 2511 at para. 217).

(*Re Ochnik* (2006), 29 O.S.C.B. 5917 at para. 29)

[80] The Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071[1] also sets out factors to be considered with respect to costs:

> **18.2 Factors Considered When Awarding Costs –** In exercising its discretion under section 127.1 of the Act to award costs against a person or company, a Panel may consider the following factors:
>
> (a) whether the respondent failed to comply with a procedural order or direction of the Panel;
>
> (b) the complexity of the proceeding;
>
> (c) the importance of the issues;

[1] This is the current version of the Rules of Procedure which came into force on October 25, 2012. There has been no change to Rule 18.

(d) the conduct of Staff during the investigation and during the proceeding and how Staff's conduct contributed to the costs of the investigation and the proceeding;

(e) whether the respondent contributed to a shorter, more efficient, and more effective hearing, or whether the conduct of the respondent unnecessarily lengthened the duration of the proceeding;

(f) whether any step in the proceeding was taken in an improper, vexatious, unreasonable, or negligent fashion or in error;

(g) whether the respondent participated in the proceeding in a way that helped the Commission understand the issues before it;

(h) whether the respondent participated in a responsible, informed and well-prepared manner;

(i) whether the respondent co-operated with Staff and disclosed all relevant information;

(j) whether the respondent denied or refused to admit anything that should have been admitted; or

(k) any other factors the Panel considers relevant.

D. Analysis and conclusion as to costs

[81] Although Staff was not successful with respect to their insider trading allegations against Donald, the facts of this matter were complex and a significant amount of time and effort was required on the part of Staff to introduce the evidence necessary for the Panel to reach an informed conclusion. Staff proceeded with the Merits Hearing efficiently and the costs requested are not excessive in the circumstances.

[82] Allegations of insider trading are not, and should not be, made lightly and are obviously consequential to a respondent. Although Donald and his counsel participated in the proceedings in a responsible, informed and competent manner, we are satisfied that Staff is justified in their request for costs and that their proposal to seek the payment of $150,000 which, as noted above, is less than 70% of the costs incurred which already do not include all time spent by Staff in connection with the matter is reasonable.

IV. CONCLUSIONS

[83] For the reasons set out above, we have concluded that it is in the public interest to make the following orders, namely, that:

(a) Pursuant to paragraph 8 of subsection 127(1) of the Act, Donald be prohibited from becoming or acting as an officer or director of a reporting issuer for a period of five years;

(b) Pursuant to paragraph 6 of subsection 127(1) of the Act, Donald be reprimanded; and

(c) Pursuant to section 127.1 of the Act, Donald be required to pay a portion of Staff's costs incurred in investigating and litigating this matter in the amount of $150,000.

Dated at Toronto this 30th day of January, 2013.

"Christopher Portner"

"Paulette L. Kennedy"

3.1.2 Fast Track Capital Inc. – s. 28

IN THE MATTER OF
THE REGISTRATION OF
FAST TRACK CAPITAL INC.

SUSPENSION OF REGISTRATION
UNDER SECTION 28 OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

1. Fast Track Capital Inc. (**Fast Track**) is registered under the *Securities Act* (Ontario) (the **Act**) as a dealer in the category of exempt market dealer.

2. Fast Track was also registered under the securities laws of Alberta, British Columbia, Manitoba, and Saskatchewan.

3. On September 17, 2012, staff of the Alberta Securities Commission provided Fast Track with a report (the **Report**) setting out the findings of a compliance review of Fast Track conducted pursuant to the *Securities Act* (Alberta). The Report identified numerous significant deficiencies in Fast Track's compliance with Alberta securities laws.

4. On December 31, 2012, Fast Track consented to a suspension of its registration in Alberta, British Columbia, Manitoba, and Saskatchewan.

5. The deficiencies identified in the Report raised serious concerns regarding whether Fast Track had the requisite integrity, proficiency, and solvency of a registered firm under the Act.

6. On January 18, 2013, on behalf of staff of the Ontario Securities Commission (**Staff**), George Gunn, Manager, Registrant Conduct and Risk Analysis, notified Fast Track in writing that Staff had recommended to the Director that the registration of the firm be suspended (the **Notice**).

7. The Notice advised Fast Track that it was entitled to an opportunity to be heard before the Director decided to accept Staff's recommendation.

8. On January 25, 2013, Fast Track advised Staff that it was not exercising its right to an opportunity to be heard in relation to Staff's recommendation to suspend its registration.

Decision

9. My decision is that the registration of Fast Track be suspended, effective January 30, 2013. I communicated my decision to Fast Track on January 30, 2013, and advised that these written reasons would follow.

February 1, 2013

"Marrianne Bridge", FCA
Deputy Director
Compliance and Registrant Regulation

3.1.3 Trafalgar Associates – s. 31

IN THE MATTER OF
STAFF'S RECOMMENDATION FOR TERMS AND CONDITIONS
ON THE REGISTRATION OF
TRAFALGAR ASSOCIATES LIMITED

OPPORTUNITY TO BE HEARD BY THE DIRECTOR
Section 31 of the Securities Act (Ontario)

Decision

1. For the reasons outlined below, my decision is to impose the recommended terms and conditions on Trafalgar Associates Limited (TAL) for a minimum period of six months.

Overview

2. TAL is a dealer registered under the *Securities Act* (Act) in the category of exempt market dealer.

3. The fiscal year end for TAL is December 31. Under paragraph 12.12(1)(a) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103), the annual audited financial statements of TAL for the fiscal year ending December 31, 2011 were due no later than March 30, 2012. TAL delivered its annual audited financial statements on December 18, 2012, 181 business days after they were due.

4. By letter dated December 20, 2012, Staff of the Ontario Securities Commission (OSC) advised TAL that it was recommending to the Director that terms and conditions be imposed on TAL's registration in relation to the late delivery of its annual audited financial statements. The terms and conditions (Terms and Conditions) required (a) the delivery of monthly year-to-date unaudited financial statements and capital calculations for a minimum period of six months starting January 31, 2013, and (b) TAL to review its procedures for compliance with Ontario securities law and to provide a report to the OSC by February 22, 2013.

5. A similar letter was sent to TAL on May 9, 2012. No response was provided by TAL by May 24, 2012, which would normally have resulted in the Director imposing terms and conditions on TAL's registration immediately thereafter. However, since there was some confusion regarding whether TAL had requested an OTBH on a timely basis, the May terms and conditions were not imposed.

Process for requesting an opportunity to be heard

6. Under section 31 of the Act, if a registrant wants to oppose Staff's recommendation for terms and conditions, the registrant may request an opportunity to be heard (OTBH). By email dated January 3, 2013, Ron Olsthoorn, the Chief Compliance Officer of TAL, requested an OTBH. The in person OTBH occurred on January 28, 2013. My decision is based on the oral submissions of Michael Denyszyn (Senior Legal Counsel, Compliance and Registrant Regulation Branch) and Ron Olsthoorn on behalf of TAL.

Submissions

7. Staff submits that the delivery of annual audited financial statements by registrants is a serious regulatory obligation placed on registrants and that financial statements are the principal tool enabling Staff to monitor a registrant's financial viability and capital position. For these reasons, Staff regularly recommends the imposition of terms and conditions on the registration of registrants that do not deliver their annual audited financial statements on a timely basis. Only in rare and extenuating circumstances would Staff not recommend imposing terms and conditions on a registrant that delivered its financial statements late.

8. TAL explained that the late delivery of its financial statements was due to its auditor waiting for the completion of a Canada Revenue Agency (CRA) audit. In May 2012, TAL's auditor (AL) advised Staff that she had been "unable to complete the audited financial statements as the company is waiting for the completion of a CRA audit", that the CRA audit "is likely to have a significant and material affect [sic] on the financial statements", and that "[w]ithout this information I have a serious scope limitation that precludes me from expressing an opinion."

9. Staff contacted AL in early November 2012 and advised her that, rather than waiting until the CRA audit process is complete, she should prepare TAL's audited financial statements with appropriate disclosures under Canadian Auditing Standard 570 – *Going Concern* (CAS 570). She advised that she had completed the audit and agreed to deliver TAL's

financial statements to the OSC within a few days. After further correspondence between Staff and AL, TAL's financial statements were finally delivered to the OSC on December 18, 2012.

Decision and reasons

10. My decision is to impose the recommended Terms and Conditions on the registration of TAL (as set out in the letter from Staff dated December 20, 2012), except that the date in the first Term and Condition is February 28, 2013 instead of January 31, 2013 and the date in the second Term and Condition is March 1, 2013 instead of February 22, 2013.

11. It is Staff's longstanding position that it is the responsibility of the registrant, and only the registrant, to ensure that its annual audited financial statements are delivered to the OSC on a timely basis. In this case, the audited financial statements were delivered 181 business days late. Thus the delivery requirements of section 12.12(1)(a) of NI 31-103 have not been met and, in accordance with decided cases, including *Re Hill Harris Hunt Capital Limited* (2011) 34 O.S.C.B. 6753, and *Re AIG Global Investment Corp (Canada)* (2008) 31 O.S.C.B. 4639, the Terms and Conditions (as modified in paragraph 10) should be applied to the registration of TAL.

12. Staff submitted, and I agree, that the explanation provided by TAL does not constitute rare and extenuating circumstances such that the Terms and Conditions should not be imposed. Although there is a CRA audit in progress, this should not preclude an AL from preparing annual audited financial statements for TAL. CAS 570 clearly sets out that if adequate disclosure of a material uncertainty (in this case the CRA audit) is made in the financial statements, the auditor shall express an unmodified opinion and include an "Emphasis of Matter" paragraph in the auditor's report. Staff stated that AL did not seem to be aware of CAS 570. And, although TAL's audited financial statements include a subsequent events note about the CRA audit, there is no Emphasis of Matter paragraph in the auditor's report. As well, no notice of reassessment from CRA had been received as at December 10, 2012 (the date of the auditor's report on TAL's annual audited financial statements). Nor had it been received as of the date of the OTBH.

"Marrianne Bridge" FCPA, FCA
Deputy Director
Compliance and Registrant Regulation Branch
Ontario Securities Commission
February 1, 2013

3.1.4 Goldpoint Resources Corporation et al. – ss. 127, 127.1

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

AND

IN THE MATTER OF
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

REASONS FOR DECISION ON SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Act)

Hearing:	August 15, 2012	
Decision:	February 1, 2013	
Panel:	Mary G. Condon	- Vice Chair and Chair of the Panel
Appearances:	Cameron Watson	- For Staff of the Commission
	Pasqualino Novielli	- For himself and Goldpoint Resources Corporation
	No one appeared for Brian Patrick Moloney or Zaida Pimentel	

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REASONS FOR DECISION ON SANCTIONS AND COSTS
(Sections 127 and 127.1 of the Act)

I. INTRODUCTION

[1] This was a hearing before 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**") to consider whether it is in the public interest to make an order with respect to sanctions and costs against Pasqualino Novielli ("**Novielli**"), Brian Patrick Moloney ("**Moloney**"), Zaida Pimentel ("**Pimentel**") (collectively, the "**Individual Respondents"**) and Goldpoint Resources Corporation ("**Goldpoint**") (collectively, the "**Respondents**").

[2] The hearing on the merits (the "**Merits Hearing**") in this matter took place on September 21, 22, 23, 24, 25, 28 and 30, 2009, October 1, 2009 and December 16, 2009. The Commission issued the decision on the merits in this matter on May 5, 2011 (*Re Goldpoint Resources Corporation* (2011), 34 O.S.C.B. 5478) (the "**Merits Decision**"). Following the issuance of the Merits Decision, the Commission held a separate hearing to consider sanctions and costs on August 15, 2012 (the "**Sanctions and Costs Hearing**").

[3] Staff of the Commission ("**Staff**") appeared at the Sanctions and Costs Hearing and made oral submissions, supported by Staff's written submissions, a brief of authorities, a supplementary brief of authorities, a bill of costs, the Affidavit of Charlene Rochman, sworn June 23, 2011, in relation to the bill of costs, and the Affidavit of Service of Peaches A. Barnaby, sworn August 14, 2012.

[4] Staff represented that Novielli appeared on his own behalf and on behalf of Goldpoint, of which he was President and a director, and Novielli did not dispute Staff's submission. Novielli made oral submissions and submitted an order issued by the Ontario Court of Justice regarding certain funds seized. Neither Moloney nor Pimentel appeared.

II.THE MERITS DECISION

[5] In the Merits Decision, the Commission found that the Respondents contravened the Act as follows:

(a) Goldpoint, Novielli, Moloney and Pimentel traded in Goldpoint securities without being registered to trade in securities, contrary to subsection 25(1)(a) of the Act and contrary to the public interest;

(b) Goldpoint, Novielli, Moloney and Pimentel distributed Goldpoint securities without a preliminary prospectus and prospectus having been filed and receipted by the Director, contrary to subsection 53(1) of the Act and contrary to the public interest;

(c) Goldpoint, through its employees, agents or representatives, made prohibited representations that Goldpoint securities would be listed on a stock exchange, contrary to subsection 38(3) of the Act and contrary to the public interest;

(d) Goldpoint, Novielli, Moloney and Pimentel perpetrated a fraud on Goldpoint investors, contrary to subsection 126.1(b) of the Act and contrary to the public interest;

(e) Novielli and Moloney, as directors or officers or *de* facto directors or officers of Goldpoint who authorized, permitted or acquiesced in Goldpoint's contraventions of subsections 25(1)(a), 53(1), 38(3) and 126.1(b) of the Act, are deemed under section 129.2 also to have contravened subsections 25(1)(a), 53(1), 38(3) and 126.1(b) of the Act; and

(f) Pimentel made statements to Staff of the Commission, during her compelled examination, that in a material respect and at the time and in the light of the circumstances under which they were made, were misleading or untrue, contrary to subsection 122(1)(a) of the Act and contrary to the public interest.

(Merits Decision, *supra*, at para. 253)

[6] The Commission found that the Respondents were involved in a fraudulent scheme to market and issue securities of Goldpoint. The Respondents actively promoted and solicited investments in Goldpoint, traded previously unissued Goldpoint shares and raised $1,696,750 from over 110 investors without meeting registration and prospectus requirements, contrary to subsections 25(1)(a) and 53(1) of the Act and contrary to the public interest (Merits Decision, *supra*, at para. 248).

[7] It was found that, when promoting its shares and soliciting investors, Goldpoint made prohibited representations to investors that it would be listed on a stock exchange, contrary to subsection 38(3) of the Act and contrary to the public interest. These prohibited representations were employed in conjunction with other high pressure sales tactics, such as representations

to investors relating to the future value or price of Goldpoint securities, which the Commission found to be contrary to the public interest (Merits Decision, *supra*, at para. 249).

[8] The Commission further found that the Respondents knowingly engaged in fraud, contrary to subsection 126.1(b) of the Act and contrary to the public interest. Even knowing that Goldpoint had no underlying legitimate business, the Respondents engaged in the activities referenced in paragraphs [6] and [7] above, made false and misleading statements that Goldpoint had profitable mining operations in Ghana and engaged in unauthorized diversion of investor funds by spending a significant portion of investor funds for purposes unrelated to Goldpoint's operations. More specifically, the Commission found that, of the total $1,696,750 raised by the Respondents, $1,681,750 was deposited into an account at the Royal Bank of Canada in the name of Goldpoint (the "**Goldpoint RBC Account**"). The Commission further found that, of that $1,681,750, only $104,288, or approximately 6% of those funds, could be traced to Goldpoint's projects or operating expenses. A total of $1,481,201, or approximately 88% of those funds, was withdrawn by the Respondents or transferred to accounts controlled directly or indirectly by them. Banking records show that the $1,481,201 was withdrawn in the form of cash, transferred to other accounts, or used by the Respondents to fund their personal expenditures. The Commission made the following findings with respect to the flow of investor funds from the Goldpoint RBC Account:

(a) From October 26, 2007 to April 24, 2008, $513,260 was transferred through a series of 24 transactions to an account at TD Canada Trust in the name of 1112086 Ontario Inc., a company of which Moloney was administrator and the sole director (the "**Moloney TD Account**");

(b) On February 28, 2008 and March 7, 2008, $25,000 and $40,000, respectively, were transferred to an HSBC account controlled by Moloney;

(c) From November 2, 2007 to April 29, 2008, $311,879 was withdrawn in a series of 53 transactions by way of cheques made payable to "Cash" and signed by Moloney on behalf of Goldpoint;

(d) From November 6, 2007 to May 5, 2008, $584,562 was transferred in a series of 32 transactions to an account jointly held by Novielli and Pimentel at TD Canada Trust (the "**Novielli-Pimentel Joint Account**");

(e) On January 16, 2008, $4,500 was withdrawn by a cheque payable to "Cash" and signed by Novielli; and

(f) From February 22, 2008 to April 21, 2008, $2,000 was paid to Pimentel and deposited in two Royal Bank accounts controlled solely by her.

(Merits Decision, *supra*, at para. 172)

As a result of the Respondents' fraudulent misconduct, more than 110 investors were wrongfully deprived of $1,696,750 (Merits Decision, *supra*, at para. 250).

[9] As directors or officers of Goldpoint, Novielli and Moloney authorized, permitted or acquiesced in the contraventions by Goldpoint of sections 25, 53, 38 and 126.1 of the Act. They were found to be liable for these contraventions by Goldpoint pursuant to section 129.2 of the Act (Merits Decision, *supra*, at para. 251).

[10] The Commission noted in the Merits Decision that funds in various accounts associated with Novielli, Moloney and Pimentel were frozen pursuant to directions issued by the Commission under subsection 126(1) of the Act. The following funds were frozen:

(a) $96,259.97 in the Goldpoint RBC Account;

(b) US$11,420.34 in an account in the name of Novielli;

(c) $239,472.34 in the Moloney TD Account;

(d) $65,841.35 in the Novielli-Pimentel Joint Account;

(e) $53,991.46 in an account at National Bank of Canada in the name of Moloney; and

(f) $100,000 of undeclared cash in the possession of Novielli and Moloney that was seized by the Canadian Border Services when these Respondents were refused entry to the U.S. on February 7, 2009.

(Merits Decision, *supra*, at paras. 174 and 175)

[11] A further $15,000 is held in the trust account of a Canadian lawyer who had agreed to treat the funds as being subject to a freeze order (Merits Decision, *supra*, at para. 175).

III. PRELIMINARY ISSUES

A. Non-attendance at the Sanctions and Costs Hearing

[12] As referenced in paragraph [4] above, Novielli appeared on his own behalf and on behalf of Goldpoint, and no one appeared for the remaining Respondents, Moloney and Pimentel. Based on the Affidavit of Service of Peaches A. Barnaby, sworn August 14, 2012, and Novielli's appearance on his own behalf and on behalf of Goldpoint, I was satisfied that the Respondents were given notice of the Sanctions and Costs Hearing in accordance with section 6 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended (the "**SPPA**"). In accordance with subsection 7(1) of the SPPA, I was entitled to proceed in the absence of Moloney and Pimentel.

B. Request for Standing as Intervenor

[13] At the commencement of the Sanctions and Costs Hearing, Matthew Valitutti ("**Valitutti**"), a lawyer from Solmon Rothbart Goodman LLP ("**Solmon**"), the law firm holding $15,000 in trust referred to in paragraph [11] above, appeared and indicated that he wished to make submissions on behalf of his law firm regarding the $15,000 that the firm is treating as subject to a freeze order. As the law firm is not a party to these proceedings, I invited submissions from Valitutti and the parties regarding his standing to intervene in the Sanctions and Costs Hearing.

[14] Valitutti submitted that his standing is based on his request, namely, that the Commission either (i) adjourn the issue of disbursement of frozen funds until the determination of the civil application before the Superior Court of Justice; or (ii) make sanctions orders conditional on the outcome of the civil application. Valitutti submitted that, in considering his firm's standing to intervene in the Sanctions and Costs Hearing, the Commission should consider the factors set out below, and made the following submissions with respect to those factors.

(a) the nature of the matter – Valitutti submitted that the nature of the matter relates to funds that were obtained fraudulently, as found by the Commission. He submitted that Solmon has an interest in those funds.

(b) the issues – Valitutti submitted that the issue is whether or not the specific funds should be put on hold until the determination of the court proceeding.

(c) whether the person or company is directly affected – Valitutti took the position that Solmon is directly affected. Valitutti submitted that, pursuant to the Supreme Court of Canada's decision in *ITrade Finance Inc. v. Bank of Montreal*, [2011] 2 S.C.R. 360, the law firm has a solicitor's lien over those funds that takes priority over any other claims, and there is an outstanding civil application before the Superior Court of Justice to determine that issue. He submitted that the law firm would be directly affected by any order made by the Commission affecting the law firm's rights to those funds.

(d) the likelihood that the person or company will be able to make a useful and unique contribution to the Panel's understanding of the issues – Valitutti submitted that the Commission should have the full picture before it as to what it is being asked to decide and his submissions regarding the frozen funds would be a useful contribution to the Commission in that they present the Commission with the entire picture.

(e) any delay or prejudice to the parties – Valitutti submitted that his request would not cause any delay. It would not preclude the Commission from doing anything with the money or affect the parties' submissions on sanctions and costs.

(h) any other factors the Panel considers relevant – Valitutti reiterated that there is an outstanding civil proceeding before the Superior Court with respect to whether the law firm has rights to those funds. He referred to *Re Magna International Inc.* (2011), 34 O.S.C.B. 800 at para. 51, citing *Re Albino* (1991), 14 O.S.C.B. 365, for the proposition that "[w]here a would-be intervenor has a direct financial interest, in that that person may acquire a benefit or incur a loss as an immediate result of a Commission decision, full standing is appropriate".

[15] Staff opposed Valitutti's request on the grounds that the motion was not filed in accordance with the Ontario Securities Commission *Rules of Practice* (1997), 20 O.S.C.B. 1947 (the *"**Rules of Practice**"*), and more specifically, the time requirement of five days set out in subrule 6.1(1). Staff submitted that it only received motion materials from the law firm the day before the Sanctions and Costs Hearing, and the motion materials were insufficient to address the serious issues of law raised. Staff further submitted that if Solmon were truly an interested party, it would have reviewed the decision when it was released publicly on May 5, 2011 and advised Staff of its interest in becoming an intervenor. It was Staff's position that the Commission should

refuse to hear the motion in accordance with subrule 6.4(2) of the *Rules of Practice* and "the chips will fall where they may in the Superior Court" (Hearing Transcript dated August 15, 2012 at p. 19).

[16] Novielli submitted that the $15,000 was not given to Solmon for the purpose of a retainer and that he used separate funds to retain the law firm.

[17] In response to Staff's submissions regarding the time requirement, Valitutti took the position that as an intervenor or an interested party, his law firm should have been given a copy of the Merits Decision as well as notice of the Sanctions and Costs Hearing. He submitted that his law firm was not given notice of the Sanctions and Costs Hearing.

[18] Although Solmon did not comply with the time requirement for filing a motion set out in subrule 6.1(1) of the Rules of Practice, I considered the submissions from the parties and Valitutti and made an oral ruling dismissing Valitutti's request for standing to make submissions in the Sanctions and Costs Hearing for the following reasons. Staff and the Respondents are parties to the Sanctions and Costs Hearing and would make submissions on sanctions and costs, including on the issue of whether a disgorgement order would be appropriate in this case. The question of how to satisfy such order, if one were made, and in particular, whether any frozen funds would be available to satisfy any disgorgement order is a matter before the Superior Court and is not a matter that I would address in my decision on sanctions and costs. In other words, it is not a question that directly relates to the matters at issue in the Sanctions and Costs Hearing. Accordingly, I did not grant standing to Valitutti as a representative of Solmon to make submissions at the Sanctions and Costs Hearing.

IV. POSITIONS OF THE PARTIES

A. Staff

1. Specific Sanctions and Costs Requested

[19] Staff requests the following sanctions and costs orders against the Respondents.

[20] With respect to Goldpoint, Staff requests:

(a) pursuant to paragraph 2 of subsection 127(1) of the Act, an order that Goldpoint cease trading in securities permanently;

(b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, an order that the acquisition of any securities by Goldpoint is prohibited permanently;

(c) pursuant to paragraph 3 of subsection 127(1) of the Act, an order that any exemptions contained in Ontario securities law do not apply to Goldpoint permanently;

(d) pursuant to paragraph 10 of subsection 127(1) of the Act, an order making Goldpoint jointly and severally liable, together with the Individual Respondents, to disgorge to the Commission $1,696,750 obtained as a result of their non-compliance with Ontario securities law, to be allocated to or for the benefit of third parties pursuant to subsection 3.4(2)(b) of the Act;

(e) pursuant to section 127.1 of the Act, an order requiring payment by Goldpoint and the Individual Respondents on a joint and several basis of $257,368.89 representing the costs and disbursements incurred in the investigation and hearing of this matter.

[21] With respect to the Individual Respondents, Staff requests:

(a) pursuant to paragraph 2 of subsection 127(1) of the Act, an order that the Individual Respondents cease trading in securities permanently;

(b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, an order that the acquisition of any securities by the Individual Respondents is prohibited permanently;

(c) pursuant to paragraph 3 of subsection 127(1) of the Act, an order that any exemptions contained in Ontario securities law do not apply to the Individual Respondents permanently;

(d) pursuant to paragraph 6 of subsection 127(1) of the Act, an order that the Individual Respondents be reprimanded;

(e) pursuant to paragraph 7 of subsection 127(1) of the Act, an order that the Individual Respondents resign all positions as a director or officer of an issuer;

(f) pursuant to paragraph 8 of subsection 127(1) of the Act, an order that the Individual Respondents are permanently prohibited from becoming or acting as a director or officer of any issuer;

(g) pursuant to paragraph 8.2 of subsection 127(1) of the Act, an order that the Individual Respondents are permanently prohibited from becoming or acting as a director or officer of any registrant;

(h) pursuant to paragraph 8.4 of subsection 127(1) of the Act, an order that the Individual Respondents are permanently prohibited from becoming or acting as a director or officer of any investment fund manager;

(i) pursuant to paragraph 9 of subsection 127(1) of the Act, an order requiring Novielli to pay an administrative penalty of $300,000, to be allocated to or for the benefit of third parties pursuant to subsection 3.4(2)(b) of the Act;

(j) pursuant to paragraph 9 of subsection 127(1) of the Act, an order requiring Moloney to pay an administrative penalty of $300,000, to be allocated to or for the benefit of third parties pursuant to subsection 3.4(2)(b) of the Act;

(k) pursuant to paragraph 9 of subsection 127(1) of the Act, an order requiring Pimentel to pay an administrative penalty of $300,000, to be allocated to or for the benefit of third parties pursuant to subsection 3.4(2)(b) of the Act;

(l) pursuant to paragraph 10 of subsection 127(1) of the Act, an order making the Individual Respondents jointly and severally liable, together with Goldpoint, to disgorge to the Commission $1,696,750 obtained a result of their non-compliance with Ontario securities law, to be allocated to or for the benefit of third parties pursuant to subsection 3.4(2)(b) of the Act;

(j) pursuant to section 127.1 of the Act, an order requiring payment by the Individual Respondents and Goldpoint on a joint and several basis of $257,368.89 representing the costs and disbursements incurred in the investigation and hearing of this matter;

[22] Staff also requests:

(a) an order that all frozen funds were obtained as a result of the Respondents' contraventions of the Act; and

(b) an order that Staff may take all appropriate steps to obtain the frozen funds (together with interest). The frozen funds (together with interest) obtained shall be applied to the payment of the disgorgement orders made against the Respondents.

[23] Staff submits that any amounts paid to the Commission in compliance with the disgorgement, administrative penalty and freeze orders shall be allocated to or for the benefit of third parties, including investors who lost money as a result of investing in the investment schemes, in accordance with subsection 3.4(2)(b) of the Act, and that such amounts are to be distributed to investors who lost money as a result of investing in the fraudulent investment schemes on such basis, on such terms and to such investors as Staff in its discretion determines to be appropriate in the circumstances.

2. Staff's Submissions on Sanctions and Costs

[24] Staff submits that, while not one of the most egregious cases, this case nonetheless involved significant misconduct by the Respondents who perpetrated a fraudulent scheme that deprived over 110 investors of $1,696,750. It is Staff's submission that, without a complete expulsion from the capital markets, the Respondents may once again engage in conduct which is detrimental to others and abusive of the capital markets.

[25] Staff acknowledges that Pimentel is in a different position than Novielli and Moloney because she was not found to be a director or officer of Goldpoint. However, Staff submits that she was heavily involved in the operation of the scheme and the scheme would not have persisted as long or as effectively as it did without her involvement. Staff submits that the Respondents acted in concert with a common purpose in the execution of the investment scheme and that each of the Respondents was integral to its success. Accordingly, it is Staff's submission that Pimentel should be sanctioned in a manner similar to the other two Individual Respondents.

[26] Staff takes the position that there is no mitigating factor in this case. First, Staff submits that the actions of the Individual Respondents demonstrate that they have not recognized the seriousness of their improprieties. Staff submits that, for

example, Novielli's submission that he wanted a fraudulent company to succeed, as set out in paragraph [31] below, demonstrates a lack of insight about the Commission's findings of fraud.

[27] Staff also submits that the Respondents demonstrated a clear lack of remorse. According to Staff, although the Respondents appeared personally at the Merits Hearing, none of the Respondents expressed remorse for what happened, nor did their conduct at the Merits Hearing in any way expedite the hearing. While thirteen witnesses were called by Staff over nine hearing days, none of the Respondents testified or led evidence. Staff further submits that despite clear evidence to the contrary, Pimentel in closing submissions continued to deny she worked for Goldpoint.

[28] In addition, Staff submits that the fact that Novielli is a former registrant is an aggravating factor in this case because he ought to have known better. Staff notes that although Moloney and Pimentel had never been registered under the Act, this fact does not give rise to any mitigating factors.

[29] Staff submits that a respondent's inability to pay is not a mitigating factor to reduce any monetary sanctions. According to Staff, the danger is that respondents will hide behind potential financial difficulties and skate away from their responsibilities. Furthermore, Staff submits that, in this case, the Respondents' past conduct which led them to make submissions that they are in a disadvantaged financial position is one of dishonesty and deprivation. Staff submits that the Respondents may have the ability to pay in the future and therefore it is necessary to impose monetary sanctions on the Respondents to protect the public.

B. Submissions of Novielli

[30] Novielli acknowledges that he was a registrant, that he held a life insurance license with the Financial Services Commission of Ontario which has been revoked, that he had 22 years of experience in the financial services industry, and "That's the only thing I've done. For 20-odd years of my life I've been around the markets" (Hearing Transcript dated August 15, 2012 at p. 92). He submits that, as a result of the proceedings against him, his reputation has been tarnished and he will never be able to obtain a license with any financial regulatory agency again. Accordingly, "the biggest issue what to do for the rest of my life…is still up in the air". He submits that, meanwhile, he has been "doing…jobs here and there in the cleaning services" (Hearing Transcript dated August 15, 2012 at p. 94). He submits that he lives modestly and that his "liabilities far exceed [his] assets" (Hearing Transcript dated August 15, 2012 at p. 97).

[31] Novielli submits that there were no regulatory proceedings against him prior to this matter and while his "ultimate goal was to have Goldpoint succeed", "it was obviously ultimately a bad decision that took place" (Hearing Transcript dated August 15, 2012 at p. 94).

[32] Novielli submits that Staff's characterization that he did not express remorse is not accurate. He makes the following submissions on this point:

> I do sincerely, you know, regret what has taken place, what I put the Commission through, and what I put the investors through. I do regret the way this has worked out.
>
> …
>
> …And whether I made good decisions or bad decisions, I regret decisions where I am at this point. I could have done things better in terms of procedure and what I should have followed in terms of getting to where my ultimate goal was to be with Goldpoint. Obviously, it was a situation gone wrong. So I admit that. It went very, very wrong.
>
> I do regret that I didn't consult more advice of the Commission before I proceeded down this road with Goldpoint. Being the fact that I had been in the markets before, I relied on making decisions on people that were not as knowledgeable as I thought they were, both on the accounting side and the legal side.
>
> (Hearing Transcript dated August 15, 2012 at pp. 91 and 93)

[33] He also submits that he attended the Merits Hearing everyday and was cooperative with the Commission. He submits that he did not testify because he was not represented by counsel and "didn't want to put myself in a situation where I was vulnerable to something that I couldn't protect myself about or something I would say" (Hearing Transcript dated August 15, 2012 at p. 93).

[34] Novielli takes issue with the accuracy of the amount received, namely, $1,696,750, as well as the disbursement and use of investor funds. He submits that although the Commission found that the Respondents retained 88% of investor funds, he did not spend any of those funds on himself personally as "a lot of those funds are still available to the Commission, are seized" (Hearing Transcript dated August 15, 2012 at p. 92).

[35] Novielli also submits that Pimentel teaches at a daycare, which had been "her whole life", and she had no knowledge of the capital markets (Hearing Transcript dated August 15, 2012 at p. 96). Novielli takes the position that it is unfair to characterize Pimentel's involvement as being at the same level as that of himself or Moloney. He submits that the Commission found, and Staff agrees, that Pimentel was not a director or officer of Goldpoint. He submits that she never had signing authority for Goldpoint and was "not there a hundred percent of the time" (Hearing Transcript dated August 15, 2012 at p. 95). He further submits that she had nothing to do with the business of Goldpoint and submits by way of example that she did not travel with him to Ghana.

[36] He made the following submissions regarding the funds received by Pimentel:

> The money that was allocated to her or that she received was not the funds of a supervisor. If you look at the funds that came, they were all traceable to where they went and where they were spent. Nothing went to her hands, nothing was spent in her hands. Everything had my name on it.
>
> (Hearing Transcript dated August 15, 2012 at p. 95)

V. SANCTIONS

A. The Law on Sanctions

[37] The Commission's mandate, set out in section 1.1 of the Act, 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.

[38] In *Committee for the Equal Treatment of Asbestos Minority Shareholders v. Ontario (Securities Commission)*, [2001] 2 S.C.R. 132 ("***Asbestos***"), the Supreme Court of Canada described the purpose of an order made by the Commission under section 127 of the Act:

> …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.
>
> (*Asbestos*, *supra*, at para. 43)

[39] The Commission's objective when imposing sanctions is not to punish past conduct, but rather to restrain future conduct that may be harmful to investors or Ontario's capital markets. The Commission described this objective in *Re Mithras Management Ltd.* (1990), 13 O.S.C.B. 1600 (*"**Mithras**"*):

> …the 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…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.
>
> (*Mithras, supra,* at pp. 1610 and 1611)

[40] The Commission has identified a number of factors to be considered when determining the appropriate sanctions to be imposed. They include:

(a) the seriousness of the allegations;

(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 a recognition of the seriousness of the improprieties;

(e) the need to deter a respondent and other like-minded individuals from engaging in similar abuses of the capital markets in the future;

(f) whether the violations are isolated or recurrent;

(g) the size of any profit obtained or loss avoided from the illegal conduct;

(h) any mitigating factors, including the remorse of the respondent;

(i) the effect any sanction might have on the livelihood of the respondent;

(j) the effect any sanction might have on the ability of a respondent to participate without check in the capital markets;

(k) in light of the reputation and prestige of the respondent, whether a particular sanction will have an impact on the respondent and be effective; and

(l) the size of any financial sanctions or voluntary payment when considering other factors.

(see, for example, *Re Belteco Holdings Inc.* (1998), 21 O.S.C.B. 7743 (*"**Belteco**"*) at p. 7746; and *Re M.C.J.C. Holdings Inc.* (2002), 25 O.S.C.B. 1133 (*"**M.C.J.C. Holdings**")* at p. 1136)

[41] General deterrence is an important factor that the Commission should consider when determining appropriate sanctions. In *Re Cartaway Resources Corp*., [2004] 1 S.C.R. 672 at para. 60, the Supreme Court of Canada 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".

[42] In determining the appropriate sanctions to be ordered, the Commission will also consider the specific circumstances of each case and ensure that the sanctions are proportionate to those circumstances (*M.C.J.C. Holdings, supra*, at p. 1134). Sanctions should also be proportionate to past decisions of the Commission and to the responsibilities of each of the respondents in the circumstances (*Re Coventree Inc.* (2012), 35 O.S.C.B. 119 at paras. 46, 66 and 93).

[43] Further, in imposing administrative penalties and disgorgement, the overall financial sanctions imposed on each respondent is a relevant consideration (*Re Sabourin* (2010), 33 O.S.C.B. 5299 ("***Sabourin Sanctions and Costs***") at para. 59). The Commission has also held that ability to pay, while not a predominant or determining factor, is relevant in determining the appropriate financial sanctions to be imposed (*Sabourin Sanctions and Costs*, *supra*, at para. 60).

B. Specific Sanctioning Factors Applicable in this Matter

[44] Overall, the sanctions imposed in this matter must protect investors and Ontario capital markets by barring or restricting the Respondents from participating in those markets in the future and by sending a strong message of specific and general deterrence.

[45] In considering the sanctioning factors set out in paragraph [40] above, I find the following specific factors and circumstances to be relevant in this matter, based on the findings made in the Merits Decision.

1. The seriousness of the proven allegations

[46] The conduct of the Respondents, which the Commission found to include various contraventions of the Act, was clearly serious. The sale and distribution of Goldpoint securities were carried out in contravention of the registration and prospectus requirements set out in subsections 25(1)(a) and 53(1) of the Act. When promoting its shares and soliciting investors, Goldpoint made prohibited representations to investors that it would be listed on a stock exchange, contrary to subsection 38(3) of the Act. These prohibited representations were employed in conjunction with other high pressure sales tactics, such as representations to investors relating to the future value or price of Goldpoint securities, contrary to the public interest (Merits Decision, *supra*, at paras. 248 and 249).

[47] Further, the Respondents were found to have perpetrated a fraud on Goldpoint investors, contrary to subsection 126.1(b) of the Act, by making false and misleading statements that Goldpoint had profitable mining operations in Ghana knowing that Goldpoint had no legitimate business. They also engaged in unauthorized diversion of investor funds and spent a significant portion of investor funds for purposes unrelated to Goldpoint's operations. This fraudulent distribution of Goldpoint securities wrongfully deprived over 110 investors of $1,696,750 (Merits Decision, *supra*, at para. 250).

[48] The Commission has previously held that fraud is "one of the most egregious securities regulatory violations", as it is both "an affront to the individual investors directly targeted" and something that "decreases confidence in the fairness and efficiency of the entire capital market system" (*Re Al-Tar Energy Corp.* (2010), 33 O.S.C.B. 5535 at para. 214).

[49] In the case of Pimentel, the Merits Hearing Panel found that she misled Staff in its investigation about her role in Goldpoint (Merits Decision, *supra*, at para. 247). In my view, this conduct is a serious contravention of the Act.

2. The Respondents' experience in the marketplace

[50] Novielli was registered as a salesperson of a mutual fund dealer from May 5, 2006 to June 26, 2008 and could be assumed to have some familiarity with the expectations imposed on registrants (Merits Decision, *supra*, at para. 9). In his submissions, Novielli acknowledged that "Yes, I've been in the market. That's the only thing I've done. For 20-odd years of my life I've been around the markets…I've been 22 years in the business of investments. That's my experience" (Hearing Transcript dated August 15, 2012 at pp. 92 and 96).

[51] Moloney and Pimentel have not been registered under the Act in any capacity (Merits Decision, supra, at paras. 10 and 11). I consider this to be a neutral factor when determining the appropriate sanctions to be imposed on Moloney and Pimentel.

3. The level of the Respondents' activity in the marketplace

[52] In the Merits Decision, the Commission found that all of the Respondents actively promoted and solicited investments in Goldpoint in furtherance of this fraudulent distribution over a period of approximately 10 months, from August 2007 to May 2008 (Merits Decision, supra, at paras. 4 and 248).

4. The size of any profit obtained or loss avoided from the illegal conduct

[53] The Respondents raised $1,696,750 from over 110 investors. $1,481,201, or approximately 88% of the funds, was withdrawn by the Individual Respondents or transferred to accounts controlled directly or indirectly by them (Merits Decision, *supra*, at para. 173).

[54] In my view, while the investor losses in this case fall neither at the most nor the least serious end of the spectrum, they have the capacity to result in a loss of investor confidence in the integrity of the capital markets.

5. Remorse: the Respondents' recognition of the seriousness of their conduct

[55] I do not accept Staff's submission, set out in paragraph [27] above, that the fact that the Respondents did not testify or that they did not express remorse at the Merits Hearing for what happened attests to a lack of remorse or failure to recognize the seriousness of their conduct in these circumstances. As the Commission stated in *Re Norshield Asset Management (Canada) Ltd.* (2010), 33 O.S.C.B. 7171 at para. 104, respondents are "entitled to defend themselves against the allegations before them, and we do not consider their lack of stated remorse under these circumstances to be a factor to be weighed against them". Accordingly, I find the way in which the Respondents participated in the Merits Hearing, including their choice not to testify, to be a neutral factor in this case.

[56] During the Sanctions and Costs Hearing, Novielli made the following submissions indicating his remorse: "I do sincerely, you know, regret what has taken place, what I put the Commission through, and what I put the investors through. I do regret the way this has worked out" (Hearing Transcript dated August 15, 2012 at p. 91). Novielli also submitted that his "ultimate goal was to have Goldpoint succeed" (Hearing Transcript dated August 15, 2012 at p. 94). In determining the appropriate sanctions, I am taking into consideration Novielli's submissions indicating his remorse and that he may have been influenced by his desire to have Goldpoint succeed.

6. Deterrence

[57] As noted above, specific deterrence has been held by the Commission to be a significant factor in determining the appropriate sanctions to be ordered, and it is relevant here. Goldpoint was the investment vehicle through which the fraudulent scheme was perpetrated. Novielli and Moloney, simply put, orchestrated the fraudulent investment scheme and diverted a significant amount of investor funds to accounts that they controlled. The Commission found that both Novielli and Moloney were involved in virtually all of Goldpoint's activities (Merits Decision, *supra*, at paras. 225 and 233). Moloney's role involved soliciting investors using an alias, participating in the development of promotional materials, authorizing the issuance of Goldpoint shares, accepting investor funds and diverting them in an unauthorized manner (Merits Decision, *supra*, at para. 197). Novielli's involvement included soliciting investors, signing Goldpoint share certificates, developing promotional materials, accepting investor funds and diverting them in an unauthorized manner (Merits Decision, *supra*, at para. 186). I am also troubled by the fact that Novielli engaged in this conduct as a former registrant who should have some understanding about the obligations of Ontario securities law.

[58] Although Pimentel was not found to be a director or officer of Goldpoint, she was found to have had an integral role in the scheme and to have knowingly engaged in fraud (Merits Decision, *supra*, at para. 216). She was found, among other things, to have actively solicited investors as a qualifier and later to have overseen the investor qualification process, including providing qualifiers with a script containing false and misleading statements, in her capacity as a supervisor or manager of the qualifiers (Merits Decision, *supra*, at paras. 72 and 246). She was also involved in the unauthorized diversion of investor funds as a significant amount of investor funds, over $586,562, were transferred to accounts held solely by her or jointly by her and Novielli

(Merits Decision, *supra*, at paras. 172 and 209). Moreover, during Staff's investigation of this matter, she denied her involvement in Goldpoint and misled Staff, which as noted in paragraph [49], is a serious contravention of the Act.

[59] This sanctions order must effectively prevent and deter the Respondents from engaging in any further illegal or fraudulent conduct in the market place.

7. Ability to Pay

[60] At the Sanctions and Costs Hearing, Novielli made submissions regarding his ability to pay. However, Novielli provided no evidence to support these claims. In these circumstances, I place limited weight on Novielli's submissions about his financial situation in determining the appropriate monetary sanctions to be ordered.

C. Appropriate Sanctions in this Matter

1. Market Participation Orders

[61] Staff submits that given their conduct, the Respondents should be subject to permanent trading, acquisition, exemption, director and officer bans. Staff further submits that the trading and acquisition bans applicable to the Respondents should not be subject to a "carve out" for personal trading in an RRSP account because their fraudulent misconduct demonstrates that they cannot be trusted to participate in the capital markets in even a limited capacity.

[62] Novielli submits that he has no intention to trade in the future and does not object to the imposition of permanent market participation orders. In particular, he made the following oral submissions at the Sanctions and Costs Hearing:

> I feel that I didn't conduct myself properly, and I don't intend to go down this road again. So I don't intend to trade or put myself in this position again.
>
> (Hearing Transcript dated August 15, 2012 at p. 98)

[63] I find that, taking into account the factors enumerated above, it is appropriate to impose permanent trading, acquisition and exemption bans, without a carve-out, on the Respondents. This will serve to remove them from the capital markets and protect the investing public. The Respondents were involved in a fraudulent distribution of securities which raised $1,696,750 from over 110 investors in contravention of the registration and prospectus requirements. This fraudulent distribution was conducted through, among other things, making false and misleading statements and engaging in unauthorized diversion of investor funds. In addition, Goldpoint securities were sold to investors purportedly in reliance on the accredited investor exemption. The Commission found that the accredited investor exemption was not available because the investors did not meet the criteria to be accredited and the Respondents failed to take appropriate steps to ascertain the status of the investors as accredited investors (Merits Decision, *supra*, at para. 110). In my view, the Respondents cannot be trusted to participate in the capital markets in any way (*Re St. John* (1998), 21 O.S.C.B. 3851 at p. 3867).

[64] I also find that it is appropriate in the circumstances to impose permanent director and officer bans on the Individual Respondents. This fraudulent scheme was perpetrated by Novielli and Moloney through Goldpoint of which they were the directing minds, and they were found to have authorized, permitted or acquiesced in Goldpoint's contraventions of the Act. Although Pimentel was not found to be a director or officer of Goldpoint, she acted in a managerial or supervisory capacity at Goldpoint. I accept Staff's submission that, given her misconduct in her supervisory role, she should not be allowed to act as a director or officer of any issuer, registrant or investment fund manager. I find that the imposition of permanent director and officer bans will ensure that the Individual Respondents will not be placed in a position of control or trust with respect to any issuer, registrant or investment fund manager in the future.

2. Reprimand

[65] I find it appropriate to reprimand the Respondents, pursuant to paragraph 6 of subsection 127(1) of the Act, in order to reaffirm that the Commission will not tolerate future illegal and fraudulent conduct such as occurred in this case. The Respondents' actions caused harm to investors and the capital markets generally, and there is a need for a reminder that the Commission expects a higher standard of conduct from those accessing the privilege of involvement in the capital markets.

3. Disgorgement

[66] Staff seeks an order that the Respondents jointly and severally disgorge to the Commission $1,696,750 obtained as a result of their non-compliance with Ontario securities law pursuant to paragraph 10 of subsection 127(1) of the Act.

[67] As referenced at paragraph [34] above, in the Sanctions and Costs Hearing, Novielli disputed the accuracy of the total amount received. He also submitted an order issued by the Ontario Court of Justice which purportedly deals with the amount of

$100,000 seized by the Canadian Border Services, as referenced in paragraph [10] above. In his submission, the order supports the proposition that he does not have anything to do with the money and that certain charges against him were withdrawn.

[68] Paragraph 10 of subsection 127(10) of the Act provides that a person or company that has not complied with Ontario securities law can be ordered to disgorge to the Commission "any amounts obtained" as a result of the non-compliance. The relevant factors to be taken into account when determining a disgorgement order are set out in *Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 12030 at para. 52.

[69] I accept Staff's submission that the entire amount that the Merits Hearing Panel found was raised in the distribution of Goldpoint securities should be disgorged on a joint and several basis, to ensure that no financial benefit is retained from the Respondents' non-compliance with Ontario securities law. The purpose here is to achieve specific and general deterrence (*Sabourin Sanctions and Costs*, *supra*, at para. 65).

[70] In the Merits Decision, the Commission found that Goldpoint received $1,696,750 as a result of the fraudulent distribution of Goldpoint securities and the majority of those funds were dispensed fraudulently by its directors and/or officers, namely, Novielli and Moloney, either by way of cash withdrawals or by transfer to accounts directly or indirectly controlled by the Individual Respondents (Merits Decision, supra, at paras. 171 and 172). Novielli and Moloney should disgorge the entire amount raised jointly and severally with Goldpoint through which they acted.

[71] In the case of Pimentel, the Commission found that Pimentel received $586,562 from Goldpoint through an account jointly held by her and Novielli and through an account in her name only. While she was not found to be a director or officer of Goldpoint and did not have signing authority for accounts in the name of Goldpoint, she was nevertheless integral to the execution of the fraudulent scheme. In recognition of her distinct role in the investment scheme, it is appropriate to order that Pimentel disgorge the amount she personally obtained as a result of her non-compliance with Ontario securities law, in the amount of $586,562, jointly and severally with Goldpoint, Novielli and Moloney.

[72] Accordingly, I order that:

(a) Goldpoint, Novielli and Moloney shall jointly and severally disgorge to the Commission the amount of $1,110,188; and

(b) Pimentel, Goldpoint, Novielli and Moloney shall jointly and severally disgorge to the Commission the amount of $586,562.

[73] With respect to Staff's request set out in paragraph [22] above, I simply note that the Merits Hearing Panel made findings in paragraph 172 of the Merits Decision as to the flow of investor funds from the Goldpoint RBC Account into bank accounts held by the Individual Respondents, as set out in paragraph [8] above. The Merits Hearing Panel also found that certain funds were frozen in accounts associated with the Individual Respondents pursuant to directions issued by the Commission under subsection 126(1) of the Act, as set out in paragraph [10] above.

[74] The amounts paid to the Commission in satisfaction of the disgorgement order are designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) of the Act.

4. Administrative Penalty

[75] Staff seeks an order that the Individual Respondents each pay an administrative penalty of $300,000. Staff submits that the Individual Respondents committed multiple and repeated violations of the Act, including fraud, which caused harm to investors, and a substantial administrative penalty is necessary to deter the Individual Respondents from engaging in the same or similar conduct in the future and to send a clear deterrent message to other market participants. Staff submits that the administrative penalties requested are appropriate in the circumstances, considering the amount of disgorgement requested and balancing the magnitude of the harm committed by the Individual Respondents.

[76] Novielli submits that he considers the administrative penalty in the amount of $300,000 requested by Staff to be excessive.

[77] The Commission in *Re Lyndz Pharmaceuticals Inc.* (2012), 35 O.S.C.B. 7357 (*"**Lyndz Sanctions and Costs**"*) at para. 95, having considered a number of prior cases of the Commission, noted as follows with respect to administrative penalties: "the goals of specific and general deterrence are most effectively met by administrative penalties that are proportional to each respondent's culpability in the matter, take all the circumstances into account, consider administrative penalties imposed in similar cases, and have regard to any aggravating and mitigating factors".

[78] In these circumstances, I am of the view that significant administrative penalties against the Individual Respondents are necessary to achieve the goals of specific and general deterrence. The Individual Respondents engaged in a fraudulent

distribution of Goldpoint securities and deprived investors of $1,696,750. As discussed above, Novielli and Moloney orchestrated this fraudulent investment scheme. They were responsible for the dissemination of false and misleading information, both in their solicitation of investors and through Goldpoint's website and promotional materials, and the unauthorized diversion of investor funds to uses unrelated to the operations of Goldpoint. I find that significant administrative penalties should be imposed on Novielli and Moloney given their role as perpetrators of the fraudulent scheme in this case.

[79] I am mindful that Pimentel played a lesser role in this investment scheme. Once again, she was not found to be a director or officer of Goldpoint and did not exercise control over investor funds while they were in accounts in the name of Goldpoint. She nevertheless played an integral role in the scheme as a supervisor or manager of the qualifiers and received a significant portion of the funds raised. In addition, she misled Staff during its investigation about her role in Goldpoint, which is a significant infraction. Given her misconduct, I find that a substantial administrative penalty is also appropriate with respect to Pimentel.

[80] I have also considered the previous cases relied on by Staff, including *Sabourin Sanctions and Costs*, *Re Rowan* (2010), 33 O.S.C.B. 91, appeal dismissed, *Rowan v. Ontario (Securities Commission)*, 2012 ONCA 208, affirming [2010] O.J. No. 5681 (Div. Ct.), *Re Lehman Cohort Global Group Inc.* (2011), 34 O.S.C.B. 2999, *Re Sulja Brothers Building Supplies, Ltd*. (2011), 34 O.S.C.B. 7515, *Re Maple Leaf Investment Fund Corp.* (2012), 35 O.S.C.B. 3075, and *Lyndz Sanctions and Costs*, for the range of administrative penalties that have been ordered by the Commission against respondents involved in similar misconduct. Based on all of the foregoing, I accept that the administrative penalties requested by Staff are appropriate and proportionate in the circumstances. Accordingly, I order that Novielli pay an administrative penalty in the amount of $300,000, Moloney pay an administrative penalty in the amount of $300,000 and Pimentel pay an administrative penalty in the amount of $300,000. The amounts paid to the Commission in satisfaction of the administrative penalties are designated for allocation or for use by the Commission pursuant to subsection 3.4(2)(b) of the Act.

[81] Staff did not request that Goldpoint pay an administrative penalty. Accordingly, no such order will be made.

VI. COSTS

[82] Staff requested that the Respondents pay, on a joint and several basis, the amount of $257,368.89, representing the costs and disbursements incurred in relation to Staff's investigation and the hearing on the merits in this matter. Staff submits that this request for costs is proportionate and reasonable in the circumstances.

[83] Staff filed a bill of costs and the Affidavit of Charlene Rochman, sworn June 23, 2011, in support of its costs claim. The bill of costs shows that Staff is requesting $117,463.75 in relation to its investigation of this matter, $126,087.50 in relation to the hearing on the merits, and $13,817.64 for disbursements. It shows that the costs in the amount of $117,463.75 requested for Staff's investigation include time spent by three Staff counsel, three Staff investigators and an assistant manager. It further shows that the costs in the amount of $126,087.50 requested for the hearing on the merits include time spent by three Staff counsel and three Staff investigators. Staff submits that it is not claiming all of the costs incurred in this matter, as Staff is only claiming for the time of "senior" Staff members and not "junior" Staff members, and that Staff is not claiming for any time spent in relation to the Sanctions and Costs Hearing.

[84] Novielli made the following submissions with respect to costs:

> I had no control about the costs. It was a procedure. There are many people involved on the Commission's side going through the procedure. I had no say. I just followed along with what was expected of me through these hearings.
>
> So in terms of costs, it had nothing to do with me. The costs were all 'beared' upon the Commission and what they spent.
>
> (Hearing Transcript dated August 15, 2012 at p. 98)

[85] Pursuant to subsections 127.1(1) and 127.1(2) of the Act, the Commission has discretion to order a person or company to pay the costs of an investigation and hearing if the Commission is satisfied that the person or company has not complied with the Act and has not acted in the public interest. In exercising the discretion to award costs against the Respondents, I find the considerations discussed in paragraphs [86] and [87] below to be relevant.

[86] I find that it is appropriate to order that the Respondents be jointly and severally liable for costs in the total amount of $210,241.39, which include $42,691.25 for the time spent by Matthew Boswell, the primary litigation counsel, during the investigation phase of this matter, $62,715.00 for the time spent by Wayne Vanderlaan, the primary investigator, during the investigation phase, $76,772.50 for the time spent by Boswell during the litigation phase, $14,245.00 for the time spent by Vanderlaan in attending hearings during the litigation phase and $13,817.64 for disbursements. In my view, it is reasonable in the circumstances to award costs for the time spent by the primary investigator during the investigation and to attend and testify at the hearing and for the time spent by the primary Staff counsel of this matter. I would also order the Respondents to pay any

disbursements incurred by Staff. However, I do not find it appropriate in the circumstances to order costs for time spent by Staff members who played a minor role in the investigation or the litigation phase of this matter.

[87] In my view, the Respondents should be jointly and severally liable for the costs ordered. While the Respondents did not obstruct the Merits Hearing, they did not contribute to a more efficient or effective hearing which raised complex and important issues. They did not participate in a way that helped the Commission understand the issues before it or in a well-prepared manner. Following a nine-day hearing, Staff withdrew certain allegations relating to subsections 38(2) and 38(3) of the Act and proved all but two of the remaining allegations against the Respondents, who all played an integral role in the scheme.[2] In ordering costs, I also note that while Pimentel was not found to be a director or officer of Goldpoint as alleged by Staff, she misled the Commission during the investigation in an attempt to hide her involvement.

[88] Accordingly, I order that the Respondents jointly and severally pay costs in the amount of $210,241.39.

VII. CONCLUSION

[89] For the reasons above, I find that it is in the public interest to order the following sanctions, which are proportionate to the Respondents' conduct, reflect the seriousness of the Respondents' non-compliance with Ontario securities law and are intended to deter the Respondents and other like-minded people from engaging in similar misconduct.

[90] I will issue a separate order giving effect to the decision on sanctions and costs, as follows:

(a) pursuant to paragraph 2 of subsection 127(1) of the Act, the trading in any securities by Goldpoint, Novielli, Moloney and Pimentel cease permanently;

(b) pursuant to paragraph 2.1 of subsection 127(1) of the Act, the acquisition of any securities by Goldpoint, Novielli, Moloney and Pimentel is prohibited permanently;

(c) pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Goldpoint, Novielli, Moloney and Pimentel permanently;

(d) pursuant to paragraph 6 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel are reprimanded;

(e) pursuant to paragraph 7 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel resign any positions that they may hold as a director or officer of an issuer;

(f) pursuant to paragraph 8 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel are prohibited permanently from becoming or acting as a director or officer of any issuer;

(g) pursuant to paragraph 8.2 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel are prohibited permanently from becoming or acting as a director or officer of any registrant;

(h) pursuant to paragraph 8.4 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel are prohibited permanently from becoming or acting as a director or officer of any investment fund manager;

(i) pursuant to paragraph 9 of subsection 127(1) of the Act, Novielli, Moloney and Pimentel shall pay an administrative penalty in the amount of $300,000 each which is designated for allocation or for use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(j) pursuant to paragraph 10 of subsection 127(1) of the Act, Goldpoint, Novielli and Moloney shall jointly and severally disgorge to the Commission the amount of $1,110,188 obtained as a result of their non-compliance with Ontario securities law which is designated for allocation or for use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(k) pursuant to paragraph 10 of subsection 127(1) of the Act, Pimentel, Goldpoint, Novielli and Moloney shall jointly and severally disgorge to the Commission the amount of $586,562 obtained as a result of their non-compliance with Ontario securities law which is designated for allocation or for use by the Commission in accordance with subsection 3.4(2)(b) of the Act;

(l) pursuant to section 127.1 of the Act, Goldpoint, Novielli, Moloney and Pimentel shall jointly and severally pay costs in the amount of $210,241.39.

[2] Staff alleged that Goldpoint made prohibited undertakings with respect to the price of Goldpoint shares contrary to subsection 38(2) of the Act. Staff also alleged that Pimentel was a director or officer of Goldpoint and was therefore liable for Goldpoint's contraventions of the Act pursuant to section 129.2 of the Act. Neither of these allegations was proven.

DATED at Toronto this 1st day of February, 2013.

"Mary G. Condon"

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
Online Hearing Inc.	04 Feb 13	15 Feb 13		
The Phoenician Fund Corporation 1	04 Feb 13	15 Feb 13		
Priszm Income Fund	24 Jan 13	05 Feb 13	05 Feb 13	

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order

There are no items for this week.

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order

There are no items for this week.

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Chapter 7

Insider Reporting

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
12/18/2012	61	6543082 Manitoba Ltd. - Common Shares	2,400,000.00	2,400,000.00
12/12/2012	1	AcelRx Pharmaceuticals, Inc. - Common Shares	82,000.00	25,000.00
01/01/2012 to 12/31/2012	43	Acker Finely Select US Value 50 Fund - Units	430,155.14	134,132.42
01/01/2012 to 12/31/2012	33	Acker Finley Select Canada Focus Fund - Units	133,533.30	16,304.29
12/31/2012	36	ACM Commercial Mortgage Fund - Units	9,314,607.94	N/A
03/08/2012 to 12/07/2012	34	Act II New Media Fund - Units	2,399,255.07	198,518.60
01/01/0012 to 12/31/2012	1	ACWI Ex-US Superfund A - Units	91,035.35	5,014.85
01/01/2012 to 12/31/2012	1	ACWI ex-U.S. Superfund B - Units	2,700,000.00	131,645.12
01/10/2013 to 01/13/2013	5	Alamos Gold Inc. - Common Shares	110,308,865.95	6,584,380.00
02/24/2012 to 11/13/2012	2	AllianceBernstein Global Style Blend (CAD Half-Hedged) Fund - Units	540,597.23	33,680.36
12/27/2012	4	American Solar Direct Holdings Inc. - Units	1,350,000.00	675,000.00
01/08/2013	3	American Tower Corporation - Notes	10,282,161.80	10,500,000.00
01/07/2013	5	AMERRA Capital Management , LLC - Units	7,362,000.00	N/A
11/22/2012	12	Amex Exploration Inc. - Flow-Through Shares	181,850.00	667,000.00
07/01/2012 to 12/31/2012	8	Anson Catalyst Fund Ltd. - Units	9,481,248.82	N/A
01/01/2012 to 12/31/2012	10	Anson Investments Offshore Fund Ltd. - Units	4,198,009.23	N/A
01/08/2013	101	Archer Petroleum Corp. - Units	968,550.00	19,371,000.00
12/21/2012	6	Aroway Energy Inc. - Units	219,825.00	401,500.00
04/30/2012	2	Arrow Advantage Fund - Units	1,600,000.00	525,520.59
02/29/2012 to 03/30/2012	2	Arrow Canadian Arbitrage Fund - Units	249,972.52	14,586.21
08/31/2012 to 10/31/2012	2	Arrow Debt Opportunities Fund - Units	495,320.91	66,282.95

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/13/2012 to 12/14/2012	159	Arrow Diversified Fund - Units	4,909,086.27	364,850.67
05/31/2012 to 12/31/2012	9	Arrow East Coast Fund - Units	55,625,000.00	5,551,880.96
03/30/2012	2	Arrow EM UCITS Fund - Units	749,587.73	9,765.35
01/31/2012	1	Arrow F Global Macro Fund - Units	250,712.02	15,300.29
01/06/2012 to 12/31/2012	53	Arrow High Yield Fund - Units	4,633,542.02	567,756.00
02/10/2012 to 10/26/2012	21	Arrow Macro Fund - Units	1,934,177.97	299,741.77
09/28/2012 to 11/30/2012	3	Arrow MMCAP Risk Arbitrage Fund - Units	523,000.00	48,992.08
01/31/2012	1	Arrow Navigator Fund - Units	250,000.00	18,195.05
04/30/2012	2	Arrow Pacific Macro Fund - Units	296,384.11	29,950.50
05/31/2012	17	Arrow Raven Rock Fund - Units	59,650,000.00	42,189,577.27
01/31/2012 to 03/30/2012	3	Arrow Risk Arbitrage Fund - Units	432,875.00	9,043.73
11/30/2012	1	Arrow V Relative Value Fund - Units	15,100.35	62,423.94
12/11/2012	6	AT&T Inc. - Notes	35,439,750.54	6.00
12/21/2012	139	Aurania Resources Ltd. - Special Warrants	335,744.80	839,362.00
01/17/2013	20	Avala Resources Ltd. - Units	8,000,000.00	40,000,000.00
12/13/2012	9	Banks Island Gold Ltd. - Units	2,704,088.60	3,219,153.00
12/31/2012	12	Banks Island Gold Ltd. - Units	782,520.48	931,572.00
12/28/2012	48	Bayfield Sources Limited Partnership - Units	22,750,000.00	22,600.00
12/28/2012	24	BCGold Corp. - Units	342,767.00	4,570,234.00
01/15/2013	13	Bellair Ventures Inc. - Units	1,267,246.00	2,534,492.00
01/14/2013	2	Bending Lake Iron Group Limited - Common Shares	120,000.00	60,000.00
12/31/2012	4	Bison Gold Resources Inc. - Common Shares	69,800.00	1,225,714.00
01/17/2013	9	Bison Gold Resources Inc. - Common Shares	365,000.00	7,300,000.00
01/09/2013	25	BL LP - Bonds	525,000,000.00	525,000.00
01/01/2012 to 12/31/2012	1	BlackRock Active Canadian Equity DC Fund - Units	48,392,183.28	2,071,628.16
01/01/2012 to 12/31/2012	4	BlackRock Active Canadian Equity Ex-Income Trusts Fund - Units	9,561,000.00	303,979.31
01/01/2012 to 12/31/2012	9	BlackRock Active Canadian Equity Fund - Units	97,215,714.43	3,051,633.11

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/01/2012 to 12/31/2012	3	BlackRock Balanced Aggressive Index DC Fund - Units	34,957,955.59	1,850,251.44
01/01/2012 to 12/31/2012	3	BlackRock Balanced Conservative Index DC Fund - Units	129,649,899.64	7,009,673.54
01/01/2012 to 12/31/2012	13	BlackRock Balanced Moderate Index DC Fund - Units	132,406,217.80	6,874,415.00
01/01/2012 to 12/31/2012	1	BlackRock Canada CoreActive Universe Bond Class A - Units	1,900,000.00	91,874.00
01/01/2012 to 12/31/2012	1	BlackRock Canada CorePlus Long Bond Fund - Units	75,000,000.00	4,787,996.15
01/01/2012 to 12/31/2012	1	BlackRock Canada CorePlus Universe Bond Fund - Units	1,350,000.00	128,753.03
01/01/2012 to 12/31/2012	3	BlackRock Canada Credit-Screened Bond Index Fund - Units	222,770,688.89	18,133,364.32
01/01/2012 to 12/31/2012	1	BlackRock Canada ex-BBB Universe Bond Index Fund - Units	60,000.00	32,180.10
01/01/2012 to 12/31/2012	1	BlackRock Canada Real Return Bond Index Class A - Units	2,759,997.23	83,361.13
01/01/2012 to 12/31/2012	1	BlackRock Canadian All Government bond Index Fund - Units	8,000,000.00	653,250.38
01/01/2012 to 12/31/2012	58	BlackRock Canadian Equity Index Fund - Units	783,045,487.64	N/A
01/01/2012 to 12/31/2012	4	BlackRock CDN Global Equity Focus Fund - Units	15,170,962.70	1,552,995.85
01/01/2012 to 12/31/2012	7	BlackRock CDN LifePath 2020 Index Fund - Units	282,538,809.23	25,558,748.27
01/01/2012 to 12/31/2012	6	BlackRock CDN LifePath 2025 Index Fund - Units	307,627,155.19	28,299,874.00
01/01/2012 to 12/31/2012	7	BlackRock CDN LifePath 2030 Index Fund - Units	263,506,755.45	25,601,535.00
01/01/2012 to 12/31/2012	7	BlackRock CDN LifePath 2045 Index Fund - Units	122,673,359.09	12,287,040.91
01/01/2012 to 12/31/2012	1	BlackRock CDN LifePath Retirement Index Fund I - Units	73,253,470.26	6,067,736.00
01/01/2012 to 12/31/2012	41	BlackRock CDN MSCI EAFE Equity Index Fund - Units	455,161,458.17	N/A
01/01/2012 to 12/31/2012	6	BlackRock CDN US Equity Index Hedged Non-Taxable Fund - Units	17,236,163.32	1,421,374.90
01/01/2012 to 12/31/2012	30	BlackRock CDN US Equity Index Non-Taxable Fund - Units	246,619,735.74	N/A
01/01/2012 to 12/31/2012	3	BlackRock CDN US Equity Index Plus Non-Taxable Fund - Units	54,153,914.00	4,193,593.72
01/01/2012 to 12/31/2012	1	BlackRock Fixed Income GlobalAlpha Offshore Fund Ltd. - Units	281,852,317.08	214,284.95

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
12/21/2012	100	Blackspur Oil Corp. - Common Shares	5,389,858.17	6,582,000.00
10/31/2012	2	BNY Trust Company of Canada - Notes	3,604,207.33	2.00
09/21/2012 to 09/24/2012	2	BNY Trust Company of Canada, as trustee of MOVE Trust - Notes	12,481,188.73	5.00
01/14/2013	17	Bombardier Inc. - Trust certificates	74,784,000.00	17.00
12/28/2012	21	Bowmore Exploration Ltd. - Common Shares	425,000.10	1,416,666.00
10/01/2012	10	BRC Minerals Ltd - Common Shares	1,740,241.81	3,496,756.00
12/20/2012	7	BTI Systems Inc. - Preferred Shares	8,460,339.40	26,782,409.00
12/21/2012	3	Buildscale, Inc. - Preferred Shares	6,035,003.00	395,435.00
01/16/2013	2	Canadian Imperial Bank of Commerce - Notes	527,715,520.00	76,000.00
01/13/2012 to 06/28/2012	1	Castor Cat Fund Ltd. - Common Shares	90,600,535.00	81,235.27
12/24/2012	8	CC Holdings GS V LLC and Crown Castle GS III Corp. - Notes	29,986,825.00	8.00
01/01/2012 to 12/31/2012	1	CC&L All Strategies Fund - Trust Units	524,694.02	5,026.65
01/01/2012 to 12/31/2012	1	CC&L American Equity Fund - Trust Units	791,542.63	104,155.91
01/01/2012 to 12/31/2012	17	CC&L Bond Fund - Trust Units	89,374,043.23	8,105,474.65
01/01/2012 to 12/31/2012	14	CC&L Canadian Equity Fund - Trust Units	35,113,169.72	4,072,494.82
01/01/2012 to 12/31/2012	11	CC&L Canadian Q Core Fund - Trust Units	90,647,989.84	9,475,252.02
01/01/2012 to 12/31/2012	1	CC&L Canadian Q Growth Fund - Trust Units	68,757,536.97	7,560,242.29
01/01/2012 to 12/31/2012	1	CC&L Canadian Small Cap Fund - Trust Units	20,321,196.15	1,595,311.08
01/01/2012 to 12/31/2012	2	CC&L EAFE Equity Fund - Trust Units	974,419.30	117,618.39
01/01/2012 to 12/31/2012	1	CC&L Equity Income & Growth Fund I - Trust Units	60,000,000.00	6,000,000.00
01/01/2012 to 12/31/2012	5	CC&L Genesis Fund - Trust Units	5,415,904.93	3,805,928.40
01/01/2012 to 12/31/2012	14	CC&L Global Fund - Trust Units	55,322,243.17	4,283,330.93
01/01/2012 to 12/31/2012	2	CC&L Group Balanced Plus Fund II - Trust Units	572,311,102.59	335,413,468.70
01/01/2012 to 12/31/2012	2	CC&L Group Bond Fund II - Trust Units	24,137,060.78	2,131,796.54

Transaction Date		No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/01/2012 12/31/2012	to	5	CC&L Group Canadian Equity Fund - Trust Units	235,875,173.85	13,282,170.65
01/01/2012 12/31/2012	to	2	CC&L Group Canadian Q Growth Fund - Trust Units	502,321,086.39	55,861,682.74
01/01/2012 12/31/2012	to	1	CC&L Group Global Fund - Trust Units	22,363,393.32	2,778,842.24
01/01/2012 12/31/2012	to	10	CC&L Group Money Market Fund - Trust Units	37,325,083.74	3,732,508.37
01/01/2012 12/31/2012	to	1	CC&L High Income Fund - Trust Units	10,268,861.90	657,269.91
01/01/2012 12/31/2012	to	22	CC&L Long Bond Fund - Trust Units	24,827,873.41	2,087,385.38
01/01/2012 12/31/2012	to	1	CC&L US Equity Fund - Trust Units	254,003.43	31,814.79
01/01/2012 12/31/2012	to	1	CC&L US Q Market Neutral Onshore Fund II - Trust Units	91,848,490.00	1,470,253.93
12/28/2012		14	Central Resources Corp. - Units	300,000.00	12,000,000.00
12/31/2012		3	Chibougamau Independent Mines Inc. - Common Shares	2,617,799.50	4,581,230.00
12/17/2012		1	CNSX Markets Inc. - Common Shares	1,600,000.00	4,000,000.00
12/31/2012 01/04/2013	to	3	Colwood City Centre Limited Partnership - Notes	18,524.00	18,524.00
01/08/2013		5	Comcast Corporation - Notes	60,619,370.92	10,021,088.00
01/14/2013		2	Comcast Corporation - Notes	26,388,213.36	3.00
12/18/2012		27	Conifex Timber Inc. - Units	9,306,962.00	1,329,566.00
12/21/2012 12/31/2012	to	21	Contact Exploration Inc. - Flow-Through Shares	2,270,570.00	9,460,500.00
01/31/2012 11/30/2012	to	47	COR US Equity Income Fund - Units	1,561,949.00	240,204.52
12/21/2012		1	Credit Suisse Securities (USA) LLC - Notes	253,381.99	253,381.99
01/06/2012 12/31/2012	to	349	Curvature Market Neutral Fund - Units	22,939,595.03	1,915,239.89
01/16/2013		34	Daimler Canada Finance Inc. - Notes	400,008,000.00	400,000,000.00
11/30/2012		2	Direct Media Technologies Inc. - Warrants	0.00	1,218,750.00
01/01/2012 to 12/31/2012		2	EAFE Equity Index Fund B - Units	1,547,845.24	31,669.00
12/21/2012		2	Eagle Hill Exploration Corporation - Flow-Through Shares	1,699,991.25	4,117,600.00
01/06/2012 to 12/31/2012		133	East Coast Investment Grade Fund - Units	12,217,963.91	1,297,186.97

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
05/31/2012	1	ECIFIF Trust - Units	129,000,000.00	10,750,000.00
01/01/2012 to 12/31/2012	3	Emerging Markets Alpha Advantage Fund Ltd. - Unit	239,210,000.00	235,826.00
01/14/2013	1	Encanto Potash Corp. - Debentures	1,000,000.00	1.00
01/31/2012 to 12/31/2012	29	Enso Global Fund - Units	334,756.97	50,723.52
01/01/2012 to 12/31/2012	1	Equity Index Fund - Units	129,001.46	311.71
01/22/2013	1	Eskay Mining Corp. - Common Shares	21,200.00	265,000.00
12/13/2012	131	Evans Value Fund - Units	4,165,450.93	28,005.93
01/01/2012 to 12/31/2012	3	ExxonMobil Canada Master Trust - Units	62,067,113.78	4,434,199.87
02/29/2012	3	Farallon Asia Special Situations II LP - Limited Partnership Interest	206,889,100.00	N/A
01/01/2012 to 12/31/2012	95	Fiera Absolute Bond Yield Fund - Units	41,423,908.00	413,443.68
01/01/2012 to 12/31/2012	70	Fiera Active Fixed Income Fund - Units	494,861,947.00	44,667,669.01
01/01/2012 to 12/31/2012	35	Fiera Balanced Fund - Units	46,413,470.00	4,254,597.65
01/01/2012 to 12/31/2012	40	Fiera Canadian Bond Fund- Ethical - Units	126,164,355.00	2,966,142.06
01/01/2012 to 12/31/2012	48	Fiera Canadian Equity Ethical Fund - Units	93,551,097.00	8,215,159.00
01/01/2012 to 12/31/2012	63	Fiera Canadian Equity Growth Fund - Units	55,275,507.00	7,993,937.23
01/01/2012 to 12/31/2012	38	Fiera Canadian Equity Value Fund - Units	72,791,358.00	6,030,156.54
01/01/2012 to 12/31/2012	98	Fiera Canadian High Income Equity Fund - Units	46,356,295.00	4,758,618.03
01/01/2012 to 12/31/2012	35	Fiera Diversified Balanced Fund - Units	7,818,006.00	768,394.20
01/01/2012 to 12/31/2012	5	Fiera Diversified Futures Fund - Units	5,535,040.00	553,129.01
01/01/2012 to 12/31/2012	84	Fiera Diversified Lending Fund - Units	83,065,488.00	8,233,947.27
01/01/2012 to 12/31/2012	84	Fiera Diversified Lending Fund - Units	83,065,488.00	8,233,947.27
01/01/2012 to 12/31/2012	117	Fiera Global Equity Fund - Units	231,401,384.00	26,002,430.81
01/01/2012 to 12/31/2012	7	Fiera Global Macro Fund - Units	7,600,000.00	761,634.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/01/2012 to 12/31/2012	106	Fiera Infrastructure Fund - Units	102,392,358.00	10,188,040.82
01/01/2012 to 12/31/2012	57	Fiera International Equity Fund - Units	14,578,736.00	1,005,533.12
01/01/2012 to 12/31/2012	2	Fiera LDI 3X Federal Real Return Bond Fund - Units	9,052,370.00	89,720.00
01/01/2012 to 12/31/2012	102	Fiera Market Neutral Equity Fund - Units	1,324,980.00	13,089.92
01/01/2012 to 12/31/2012	155	Fiera Money Market Fund - Units	50,945,931.00	4,496,436.60
01/01/2012 to 12/31/2012	18	Fiera Multi-Manager Fund - Units	8,135,985.00	813,598.48
01/01/2012 to 12/31/2012	57	Fiera North American Market Neutral Fund - Units	82,307,142.00	8,253,143.99
01/01/2012 to 12/31/2012	57	Fiera Private Wealth Canadian Equity Fund - Units	11,467,711.00	926,555.13
01/01/2012 to 12/31/2012	199	Fiera Private Wealth Income Fund - Units	87,066,436.00	11,230,987.44
01/01/2012 to 12/31/2012	1	Fiera Private Wealth Opportunities Fund - Units	54,956.00	6,129.83
01/01/2012 to 12/31/2012	28	Fiera Private Wealth US Equity Fund - Units	7,207,737.00	1,765,626.60
01/01/2012 to 12/31/2012	248	Fiera Short Term Investment Fund - Units	28,249,651.00	2,834,095.04
01/01/2012 to 12/31/2012	110	Fiera Tactical Fixed Income Fund - Units	251,730,558.00	22,477,918.11
01/01/2012 to 12/31/2012	26	Fiera US Equity Ethical Fund - Units	24,066,609.00	2,587,038.51
01/01/2012 to 12/31/2012	12	Fiera US Equity Fund - Units	2,250,544.00	32,071.39
01/15/2013	1	First Nickel Inc. - Common Shares	150,000.00	2,495,840.00
01/21/2013	24	Fission Energy Corp. - Common Shares	2,000,000.00	4,000,000.00
01/01/2012 to 12/31/2012	21	Fonds Hexavest Actions canadiennes (French) - Units	214,522,406.00	280,127.00
01/01/2012 to 12/31/2012	103	Fonds Hexavest Mondial - Units	1,144,190,703.00	2,745,856.00
01/01/2012 to 12/31/2012	23	Fonds Hexavest Mondial Tous les Pays (ACWI) - Units	362,454,696.00	485,930.00
12/28/2012	14	Freshii Inc. - Units	4,017,964.20	3,524.53
09/27/2012 to 11/30/2012	4	Galibier Canadian Equity Pool - Units	1,875,000.00	189,251.33
09/27/2012 to 11/30/2012	4	Galibier U.S. Equity Pool - Units	1,875,000.00	189,791.03

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/31/2012 to 12/31/2012	126	Garrison Hill Macro Fund - Units	5,048,459.46	508,384.21
01/02/2012 to 03/01/2012	10	Garrison Hill Macro Opportunities L.P. - Units	10,034,333.00	N/A
11/06/2012	12	General Dynamics Corporation - Notes	64,584,000.00	12.00
01/10/2013	1	General Electric Capital Corporation - Note	11,832,000.00	1.00
01/21/2013	1	Geomega Resources Inc. - Common Shares	315,000.00	1,000,000.00
12/28/2012	3	Glass Earth Gold Limited - Common Shares	535,000.00	3,343,750.00
01/01/2012 to 12/31/2012	1	Global ex-US Alpha Tilts Fund B - Units	18,818.22	1,202.07
12/27/2012	2	Gold Blullion Development Corp. - Common Shares	500,000.10	3,333,334.00
01/11/2013	9	Golden Dawn Minerals Inc. - Units	162,156.00	3,155,120.00
04/30/2012 to 11/30/2012	23	Goodwood Value Fund - Units	39,350.60	4,449.15
12/08/2011 to 07/31/2012	42	Greensoil Investment Fund I, LP - Limited Partnership Interest	5,622,861.00	N/A
01/01/2012 to 12/31/2012	70	GS+A Canadian Equity Trust - Trust Units	14,470,875.09	7,124,490.40
01/01/2012 to 12/31/2012	747	GS+A Credit Arbitrage Fund - Units	224,550,748.28	2,068,762.94
01/01/2012 to 12/31/2012	410	GS+A Enchanced Bond Fund - Units	225,755,491.97	2,100,218.14
01/01/2012 to 12/31/2012	92	GS+A Enchanced Credit Arbitrage Fund - Units	22,761,707.56	164,386.48
01/01/2012 to 12/31/2012	523	GS+A Enchanced Yield Fund - Units	166,383,048.45	784,765.27
01/01/2012 to 12/31/2012	11	GS+A Equity Long/Short Fund - Units	2,554,719.39	20,582.90
01/01/2012 to 12/31/2012	273	GS+A Focused Long/Short Fund - Units	93,655,895.07	579,157.83
01/01/2012 to 12/31/2012	74	GS+A Global Macro Fund - Units	3,171,919.87	34,707.55
01/01/2012 to 12/31/2012	289	GS+A Income Long/Short Fund - Units	334,307,702.99	1,292,296.31
01/01/2012 to 12/31/2012	408	GS+A Income Long/Short Trust - Units	208,894,664.97	2,029,272.74
01/01/2012 to 12/31/2012	225	GS+A International Fund - Units	42,479,462.36	471,256.77
01/01/2012 to 12/31/2012	244	GS+A Multi-Strategy Fund - Units	71,677,184.74	639,493.63

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/01/2012 to 12/31/2012	37	GS+A Multi-Strategy Opportunities Fund - Units	7,966,055.04	68,755.24
01/01/2012 to 12/31/2012	54	GS+A Multi-Strategy Opportunities Trust - Units	7,524,818.65	68,303.98
01/01/2012 to 12/31/2012	165	GS+A Multi-Strategy Trust - Units	18,361,494.87	170,717.24
01/01/2012 to 12/31/2012	545	GS+A Premium Income Trust - Units	125,364,636.01	1,110,813.59
01/01/2012 to 12/31/2012	653	GS+A Resource Fund - Units	119,970,040.75	1,271,592.32
01/01/2012 to 12/31/2012	64	GS+A Resource Long/Short Fund - Units	36,195,243.91	392,136.21
01/01/2012 to 12/31/2012	236	GS+A Short Term Bond Fund - Units	158,131,881.63	1,700,303.28
01/01/2012 to 12/31/2012	697	GS+A U.S. Equity Fund - Units	128,176,842.12	1,232,868.00
01/01/2012 to 12/31/2012	1322	GS+A U.S. Premium Income Fund - Units	584,482,362.23	5,720,206.80
12/24/2012	2	Gulfport Energy Corporation - Common Shares	19,750,500.00	525,000.00
01/16/2013	10	HD Supply, Inc. - Notes	6,993,500.00	10.00
12/27/2012	89	Highstreet King's Landing Limited Partnership - Units	5,650,650.00	565.07
12/28/2012	2	Homestake Resource Corporation - Units	380,000.00	1,900,000.00
01/11/2013	1	IFM Global Infrastructure (Canada) I-A, L.P. - Limited Liability Interest	110,000,000.00	1.00
12/31/2012	4	Imperial Capital Partners Ltd. - Capital Commitment	2,700,000.00	N/A
11/09/2012 to 12/27/2012	1	Imperial Valley Solar 1, LLC - Notes	49,773,500.00	1.00
10/02/2012 to 11/07/2012	3	Indo Terra Resources Corp. - Common Shares	450,100.80	391,391.00
09/01/2012 to 11/01/2012	3	Inflection Strategic Opportunities Fund - Trust Units	298,090.00	30,000.00
01/07/2013	14	Input Capital Corp. - Common Shares	685,000.00	685,000.00
12/20/2012	5	Integra Gold Corp. - Common Shares	1,729,750.75	5,322,310.00
01/01/2012 to 12/31/2012	5	International Alpha Tilts Fund B - Units	385,111.86	19,944.00
01/24/2013	17	Intertainment Media Inc. - Investment Trust Interests	2,525,000.00	2,525.00
01/06/2013	7	Intesa Sanpaola S.p.A - Notes	114,180,938.98	7.00
01/01/2012 to 12/31/2012	2	Intl Tilts Hedged CAD Fund B - Units	1,941.22	206.09

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
12/20/2012	1	inVentiv Health - Note	988,300.00	1.00
01/18/2013	1	Karmin Exploration Inc. - Common Shares	93,150.00	135,000.00
12/27/2012	11	Lakeside Minerals Inc. - Common Shares	63,000.00	1,270,000.00
12/21/2012	2	Landry's Holdings II, Inc. - Notes	12,741,300.00	2.00
12/17/2012 to 12/21/2012	40	League IGW Real Estate Investment Trust - Notes	959,748.01	959,748.01
11/19/2012 to 11/23/2012	7	League IGW Real Estate Investment Trust - Notes	716,573.16	716,573.00
12/10/2012 to 12/14/2012	21	League IGW Real Estate Investment Trust - Units	687,696.16	687,696.16
01/06/2012 to 12/31/2012	541	Letko Brosseau Balanced Fund - Units	29,173,144.48	2,809,528.72
01/20/2012 to 12/31/2012	94	Letko Brosseau Bond Fund - Units	3,358,730.46	318,088.47
01/06/2012 to 12/21/2012	1100	Letko Brosseau Emerging Markets Equity Fund - Units	128,457,235.59	15,818,794.00
01/27/2012 to 12/31/2012	22	Letko Brosseau Equity Fund- Global Investors - Units	392,005.26	49,115.53
01/06/2012 to 12/31/2012	319	Letko Brosseau Equity Fund - Units	31,203,163.18	2,935,969.99
12/31/2012	3	Letko Brosseau Equity Fund Inc.- CL B (Non-Vot) - Units	233,606.93	20,925.02
01/27/2012 to 12/31/2012	11	Letko Brosseau ESG Balanced Fund - Units	2,602,310.61	258,854.52
01/06/2012 to 12/31/2012	107	Letko Brosseau International Equity Fund - Units	28,889,481.95	3,332,218.88
01/06/2012 to 12/31/2012	504	Letko Brosseau RSP Balanced Fund - Units	94,923,759.59	9,243,748.25
01/06/2012 to 12/31/2012	139	Letko Brosseau RSP Bond Fund - Units	15,238,592.60	1,429,976.24
01/06/2012 to 12/31/2012	231	Letko Brosseau RSP Equity Fund - Units	25,748,316.88	2,596,454.48
01/13/2012 to 12/31/2012	96	Letko Brosseau RSP International Equity Fund - Units	21,938,147.34	2,789,172.51
01/01/2012 to 12/31/2012	7	Letko Brosseau Social Integrity Fund - Units	12,134,028.26	1,314,293.63
12/14/2012	16	Lufa Farms Inc. - Preferred Shares	4,550,000.00	8,125,001.00
12/28/2012	25	Marquest-EnergyFields 2012 Special Flow-Through Limited Partnership - Units	985,000.00	N/A
12/28/2012	26	Marquest-MineralFields 2012-II Super Flow-Through Limited Partnership - Limited Partnership Units	875,000.00	N/A

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
12/28/2012	38	Marquest-MineralFields 2012-III Super Flow-Through Limited Partnership - Limited Partnership Units	1,360,000.00	N/A
12/28/2012	596	Marquest-MineralFields 2012 Super Flow-Through Limited Partnership - Limited Partnership Units	19,370,000.00	N/A
01/06/2012 to 02/17/2012	3	Marret Resource Yield Fund - Units	140,300.00	22,049.91
12/31/2012	60	Maverick Energy Inc. - Preferred Shares	2,041,831.00	1,892,831.00
01/15/2013	9	Mercari Acquisition Corp. - Common Shares	195,000.00	5,800,000.00
01/01/2012 to 12/31/2012	1	Mid-Cap B Lendable - Units	1,349,882.53	18,305.00
10/17/2012 to 12/04/2012	4	Midwest Energy Emissions Corp. - Notes	170,000.00	170,000.00
12/28/2012 to 12/31/2012	9	Mineral Exploration Investment LP - Limited Partnership Units	561,400.00	56,140.00
12/18/2012	4	Minexoc Petroleum, Inc. - Debentures	1,100,000.00	1,100.00
12/19/2012	142	Miranda Gold Corp. - Units	4,700,000.00	20,000,000.00
12/18/2012 to 12/21/2012	5	MM Realty Partners LP - Units	950,000.00	95,000.00
01/08/2013 to 01/14/2013	2	MM Realty Partners LP - Units	500,000.00	50,000.00
12/19/2012	55	Mohawk Stratford Opportunity Partners (1) LP - Limited Partnership Units	2,453,000.00	24,530.00
01/09/2013	10	Montero Mining and Exploration Ltd. - Common Shares	643,077.00	5,144,616.00
02/27/2012 to 08/20/2012	1	Morgan Stanley International Equity Fund - Units	3,120,881.60	408,279.26
10/02/2012	2	MOVE Trust - Notes	11,542,769.43	4.00
01/08/2013 to 01/16/2013	3	Move Trust - Notes	16,802,518.48	4.00
12/19/2012 to 12/20/2012	3	MOVE TRUST - Notes	27,067,479.54	6.00
01/01/2012 to 12/31/2012	2	MSCI Emerging Markets Free B - Units	1,849,964,471.73	60,349,427.11
01/01/2012 to 12/31/2012	1	MSCI World ex-US Index Fund B - Units	19,504,472.34	1,321,898.88
01/24/2013	1	Mustang Minerals Corp. - Common Shares	300,000.00	5,000,000.00
01/01/2012 to 12/31/2012	79	Natcan Canadian Bond Fund - Units	88,137,620.00	978,811.00
01/01/2012 to 12/31/2012	34	Natcan Canadian Equity Fund - Units	32,824,584.00	95,011.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/01/2012 to 12/31/2012	1	Natcan Canadian Equity Growth Fund - Units	473,942.00	4,362.00
01/01/2012 to 12/31/2012	25	Natcan Global Equity Fund - Units	138,748,003.00	1,787,868.00
01/01/2012 to 12/31/2012	208	Natcan Money Market Fund - Units	165,076,130.00	164,906.00
01/01/2012 to 12/31/2012	17	Natcan Small Cap Equity Fund - Units	3,964,394.00	3,197.00
12/17/2012 to 12/31/2012	7	New Carolin Gold - Flow-Through Shares	226,510.00	2,059,182.00
12/21/2012	9	New World Mining Enterprises Inc. - Units	252,900.00	843,000.00
01/10/2013 to 01/18/2013	10	Newport Balanced Fund - Units	89,840.00	N/A
01/10/2013 to 01/18/2013	7	Newport Canadian Equity Fund - Units	462,876.00	N/A
01/10/2013 to 01/18/2013	7	Newport Fixed Income Fund - Units	134,000.00	N/A
01/10/2013 to 01/18/2013	4	Newport Global Equity Fund - Units	280,000.00	N/A
01/10/2013 to 01/18/2013	34	Newport Yield Fund - Units	782,394.00	N/A
12/28/2012	12	Northstar Gold Corp. - Units	555,000.00	1,525,000.00
01/16/2013	1	Novo Resources Corp. - Common Shares	1,000,000.00	1,428,571.00
01/01/2012 to 12/31/2012	1	NS Partners International Equity Fund (formerly, New Star EAFE Fund) - Trust Units	294,142.54	13,755.74
01/01/2012 to 12/31/2012	1	NS Partners International Equity Fund (formerly, New Star EAFE Fund) - Trust Units	1,679,570.82	78,152.33
07/12/2012 to 07/19/2012	1	Orbis SICAV- Global Equity Fund - Units	101,295,000.00	814,283.13
10/23/2012	117	Orestone Mining Corp - Units	2,000,000.00	19,175,000.00
01/01/2012 to 12/31/2012	139	Palos Income Fund L.P. - Units	5,086,531.21	584,423.56
01/12/2012 to 12/31/2012	65	Palos Merchant Fund L.P. (formerly, Palos Merchant Bank L.P.) - Units	1,021,300.01	N/A
01/01/2012 to 12/31/2012	75	Palos Rendez-vous Fund - Units	79,470.00	10,616.02
12/31/2012	3	Parkside Resources Corporation - Flow-Through Units	123,240.00	1,027,000.00
12/31/2012	2	Parkside Resources Corporation - Units	20,500.00	205,000.00
01/01/2012 to 12/31/2012	3	PCJ Canadian Equity Fund - Trust Units	1,897,475.10	199,989.32

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/01/2012 to 12/31/2012	2	PCJ Canadian Equity Fund - Trust Units	856,905.34	89,499.45
01/01/2012 to 12/31/2012	1	PCJ Canadian Small Cap Fund - Trust Units	130,871.28	12,237.17
12/28/2012	78	Petrolia Inc. (Amended) - Common Shares	1,148,460.00	957,050.00
12/14/2012	7	Phenomenome Discoveries Inc. - Preferred Shares	727,840.00	9,098.00
12/20/2012	8	Precision Castparts Corp. - Notes	17,789,400.00	8.00
10/26/2012 to 12/06/2012	455	Priviti Energy Limited Partnership 2012 - Limited Partnership Units	45,150,000.00	N/A
12/04/2012 to 12/21/2012	135	Quadrexx Secured Assets Inc. - Units	197,768.46	75.00
01/15/2013	2	Rainy River Resources Ltd. - Common Shares	67,952.64	14,000.00
10/26/2012	34	Ram River Coal Corp. - Common Shares	1,834,375.00	35,000,000.00
12/19/2012 to 12/20/2012	6	Ram River Coal Corp. - Common Shares	85,250,000.00	85,000,000.00
12/28/2012	7	Rapier Gold Inc. - Common Shares	334,075.00	954,500.00
01/13/2012 to 12/31/2012	344	Raven Rock Income Fund - Units	30,858,431.50	2,922,221.30
01/27/2012 to 04/30/2012	7	RCM Opportunities Fund - Units	346,275.41	36,637.62
12/20/2012	27	Redstar Gold Corp. - Units	733,800.00	4,892,000.00
01/17/2013	2	Regal Entertainment Group - Notes	1,237,500.00	2.00
12/20/2012	6	Ressources Cartier inc. - Common Shares	400,400.00	1,430,000.00
12/31/2012	5	Revdev Properties Kensington Investment Pool Inc. - Bonds	103,800.00	1,038.00
01/01/2013	6	Rideau Insights Ltd. - Common Shares	1,000,000.00	202.60
12/21/2012	4	Rio Silver Inc. - Units	180,000.00	2,000,000.00
01/01/2012 to 12/31/2012	22	Rosseau Limited Partnership - Limited Partnership Units	2,934,391.16	226.00
01/17/2013	21	Royal Bank of Canada - Notes	7,000,000.00	70,000.00
11/14/2012	115	Royal Bank of Canada (Amended) - Notes	4,217,578.00	42,100.00
11/19/2012	1	RRF Trust - Units	56,800,000.00	5,680,000.00
01/01/2012 to 12/31/2012	2	Russell 1000 Alpha Tilts Fd B - Units	24,223,812.19	777,997.65
01/01/2012 to 12/31/2012	1	Russell 3000 Alpha Tilts Fd B - Units	289,882.45	9,094.12
01/23/2012 to 12/27/2012	9	Sanford C. Bernstein Core Plus Bond Fund - Units	41,875,687.78	1,531,698.55

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/10/2012 to 12/28/2012	4	Sanford C. Bernstein International Value Equity (Cap-Weighted, Unhedged) Fund - Units	5,367,827.40	325,408.20
01/01/2012 to 12/31/2012	4	Scheer, Rowlett & Associates Balanced Fund - Trust Units	28,689,911.03	2,672,835.20
01/01/2012 to 12/31/2012	3	Scheer, Rowlett & Associates Bond Fund - Trust Units	9,931,923.60	9,711,468.11
01/01/2012 to 12/31/2012	9	Scheer, Rowlett & Associates Canadian Equity Fund - Trust Units	102,052,504.15	7,556,508.61
01/01/2012 to 12/31/2012	7	Scheer, Rowlett & Associates Canadian Equity Fund - Trust Units	7,693,584.05	571,255.97
01/01/2012 to 12/31/2012	2	Scheer, Rowlett & Associates EAFE Fund - Trust Units	945,156.33	146,482.33
01/01/2012 to 12/31/2012	1	Scheer, Rowlett & Associates Money Market Fund - Trust Units	130,051.93	13,005.19
01/01/2012 to 12/31/2012	1	Scheer, Rowlett & Associates Short Term Bond Fund - Trust Units	2,121,883.23	210,814.42
01/01/2012 to 12/31/2012	2	Scheer, Rowlett & Associates U.S. Equity Fund - Trust Units	521,734.80	78,895.39
11/01/2012	38	Scollard Energy Inc. - Common Shares	7,512,608.90	3,263,500.00
01/13/2012 to 12/31/2012	140	SG US Market Neutral Fund - Units	8,771,849.50	735,849.96
01/14/2013 to 01/17/2013	15	Shoal Point Energy Ltd. - Units	35,040.06	22,684,000.00
01/16/2013	219	Silver Standard Resources Inc. - Notes	246,250,000.00	250,000.00
12/17/2012	1	Simon Property Group, L.P. - Note	4,920,500.00	1.00
12/15/2012	7	Skyline Apartment Real Estate Investment Trust - Units	958,452.00	87,132.00
12/21/2012 to 02/01/2013	13	Smart Employee Benefits Inc. - Notes	554,000.00	13.00
12/13/2012	9	Sphere 3D Inc. - Common Shares	561,055.25	659,989.00
01/01/2012 to 12/31/2012	36	SPIF Balanced Core Section - Units	82,061,024.00	659,493.00
01/01/2012 to 12/31/2012	46	SPIF Canadian Equity Section - Units	42,928,065.00	167,293.00
01/01/2012 to 12/31/2012	6	SPIF EFT Section (Endowment, Foundation & Trust) - Units	23,378,459.00	64,604.00
01/01/2012 to 12/31/2012	22	SPIF Small Capitalization Section - Units	27,675,509.00	199,113.00
01/01/2012 to 12/31/2012	1	SRA/PCJ Canadian Equity Core Fund - Trust Units	5,580,521.95	760,619.00
01/01/2012 to 12/31/2012	7	SSGA Canadian Long Term Government Bond Index Fund - Units	58,499,845.29	4,728,401.30

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/01/2012 to 12/31/2012	15	SSGA Canadian Short Term Investment Fund - Units	611,968,317.16	61,196,831.72
01/01/2012 to 12/31/2012	12	SSGA Enchanced Canadian Long Term Bond Fund - Units	45,717,397.27	3,963,837.74
01/01/2012 to 12/31/2012	5	SSGA Enchanced Canadian Short Term Bond Fund - Units	36,127,622.77	3,514,885.11
01/01/2012 to 12/31/2012	32	SSGA Enchanced Canadian Universe Bond Fund - Units	103,504,404.27	8,759,007.28
01/01/2012 to 12/31/2012	2	SSGA MA Canadian Dividend Tilted Fund - Units	11,264,333.60	1,125,356.00
01/01/2012 to 12/31/2012	2	SSGA MA Canadian Long Term Bond Index Fund - Units	106,942,647.04	9,226,176.40
01/01/2012 to 12/31/2012	2	SSGA MA Canadian Managed Volatility Fund - Units	43,727,176.62	4,338,828.72
01/01/2012 to 12/31/2012	1	SSGA MA Canadian Universe Bond Index Fund - Units	39,282,024.93	3,900,082.99
01/01/2012 to 12/31/2012	1	SSGA MA International Alpha Select Fund - Units	209,586.70	20,640.60
01/01/2012 to 12/31/2012	7	SSGA MA S&P/TSX Capped Composite Index Fund - Units	36,317,871.71	4,124,536.70
01/01/2012 to 12/31/2012	36	SSGA MSCI EAFE Index Fund - Units	391,634,849.08	49,816,379.71
01/01/2012 to 12/31/2012	32	SSGA S&P 500 Index Fund for Canadian Pension Plans - Units	173,822,174.03	2,816,294.43
01/01/2012 to 12/31/2012	8	SSGA S&P 500 Index Fund Hedged to Canadian Dollars for Canadian Pension Plans - Units	121,062,051.97	14,102,093.53
01/01/2012 to 12/31/2012	21	SSGA S&P/TSX Composite Index Fund - Units	284,998,150.48	39,187,502.46
12/31/2012	33	StageVentures 2012 Premier Limited Partnership - Limited Partnership Units	1,375,000.00	1,375.00
01/09/2013	4	Standard Charterred PLC - Notes	38,441,918.95	4.00
01/17/2013	1	Starcore International Mines Ltd. - Common Shares	73,500.00	300,000.00
11/15/2012	1	Syncapse Corp. - Preferred Shares	8,976.13	464,466.00
01/18/2013 to 01/23/2013	3	Tempus Capital Inc. - Common Shares	28,000.05	373,334.00
01/14/2013	4	Tempus Capital Inc. - Common Shares	102,500.00	1,366,666.00
01/01/2012 to 12/31/2012	3	The 32 Capital Fund Ltd. - Units	41,600,000.00	42,000.00
01/01/2012	2	The Black Creek Focus Fund - Units	1,035,000.00	11,126.53
01/15/2013	1	The Toronto-Dominion Bank - Notes	1,000,000.00	1,000.00
12/18/2012	1	The Williams Companies, Inc. - Common Share	18,328,440.00	600,000.00

Transaction Date		No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
12/18/2012		3	The Williams Companies, Inc. - Notes	249,798,900.00	1.00
12/21/2012		5	TheraVitae Inc - Units	1,311,600.00	131,160,000.00
12/21/2012		8	Timbercreek Four Quadrant Global Real Estate Partners - Units	2,248,771.00	198,830.33
12/21/2012		33	Tinka Resources Limited - Units	2,250,000.00	3,000,000.00
12/18/2012 12/27/2012	to	74	TomaGold Corporation - Units	929,200.00	1,583,555.00
12/12/2012		55	Traverse Energy Ltd. - Flow-Through Shares	1,820,000.00	2,800,000.00
01/11/2013		5	U3O8 Corp. - Units	2,315,500.00	10,525,000.00
12/20/2012		1	UBS-Barclays Commercial Mortgage Trust 2012-C4 - Certificate	23,299,115.67	1.00
10/16/2012 10/19/2012	to	35	UBS AG - Certificates	9,274,702.88	35.00
12/17/2012 12/21/2012	to	33	UBS AG, Jersey Branch - Certificates	14,837,411.91	33.00
12/24/2012 01/31/2013	to	9	UBS AG, Jersey Branch - Certificates	3,455,000.00	9.00
01/02/2013 01/04/2013	to	8	UBS AG, Jersey Branch - Certificates	2,102,282.74	8.00
12/19/2012 12/21/2012	to	3	UBS AG, Zurich - Certificates	300,763.83	3.00
12/13/2012		1	UBS AG, ZURICH - Certificate	163,834.19	1.00
10/16/2012 11/29/2012	to	35	Urban Barns Foods Inc. - Common Shares	310,000.00	0.00
01/01/2012 12/31/2012	to	1	US Debt Index Fund - Units	147,430.24	2,375.61
01/01/2012 12/31/2012	to	1	US High Yield Bd Index B - Units	41,272.99	3,346.48
01/01/2012 12/31/2012	to	2	U.S. LIBOR GlobalAlpha Bond Fund Ltd. - Units	153,856,516.00	124,761.12
01/01/2012 03/31/2012	to	6	Venator Catalyst Fund - Limited Partnership Units	731,000.00	46,409.83
01/31/2012 11/30/2012	to	9	Venator Founders Fund - Limited Partnership Units	6,439,000.00	312,634.04
01/01/2012 11/30/2012	to	114	Venator Income Fund - Trust Units	29,401,647.00	3,268,600.02
04/30/2012 11/30/2012	to	7	Venator Investment Trust - Trust Units	550,000.00	85,075.28
12/31/2012		17	Villabar Chickasaw (2012) Limited Partnership - Limited Partnership Units	4,934,704.00	31.00
01/08/2013		2	Virginia Electric and Power Company - Notes	5,900,104.80	2.00

Transaction Date	No. of Purchasers	Issuer/Security	Total Purchase Price ($)	No. of Securities Distributed
01/10/2013	12	Walton AZ Coolidge Landing LP - Limited Partnership Units	234,321.90	23,700.00
12/20/2012	13	Walton AZ Coolidge Landing LP - Units	514,020.00	52,000.00
12/20/2012	55	Walton CA Highland Falls LP - Limited Partnership Units	1,732,617.29	70,199.00
01/10/2013	34	Walton CA Highland Falls LP - Limited Partnership Units	1,449,652.06	58,650.00
11/29/2012	16	Walton NC Concord Investment Corporation - Common Shares	349,310.00	34,931.00
12/20/2012	5	Walton NC Concord Investment Corporation - Common Shares	175,000.00	17,500.00
01/10/2013	16	Walton NC Concord Investment Corporation - Common Shares	457,780.00	45,778.00
12/20/2012	6	Walton NC Concord LP - Limited Partnership Units	782,921.66	79,203.00
11/29/2012	6	Walton NC Concord LP - Units	607,636.08	61,155.00
12/13/2012	8	Walton NC Concord LP - Units	741,696.28	75,177.00
11/01/2012	6	Walton NC Concord LP - Units	418,036.38	41,812.00
01/10/2013	7	Walton NC Dutchman's Creek LP - Limited Partnership Units	276,994.19	28,016.00
11/29/2012	33	Walton Suburban DC Land Investment Corporation - Common Shares	777,600.00	77,760.00
12/13/2012	57	Walton Suburban DC Land Investment Corporation - Common Shares	1,557,500.00	155,750.00
11/29/2012	8	Walton Suburban DC Land Investment Corporation - Units	989,685.22	99,606.00
12/21/2012	4	War Eagle Mining Company Inc. - Common Shares	500,000.00	4,350,877.00
01/08/2013	3	Windstream Corporation - Notes	4,936,500.00	2,500.00
02/01/2012 to 11/01/2012	8	Winton Futures Fund Limited - Common Shares	29,940,423.34	N/A
01/01/2012 to 10/01/2012	12	Wolverine Opportunity Fund - Trust Units	583,000.00	186,829.85
11/27/2012	1	YY Inc. - American Depository Shares	417,312.00	40,000.00

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Atlas Financial Holdings, Inc.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Short Form Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
Up to $ * Treasury Offering (Up to 1,500,000 Ordinary Voting Shares)
Price: $ * per Ordinary Share (TreasuryOffering)
and
Up to $ * Secondary Offering (Up to 3,130,000 Ordinary Voting Shares)
Price: $ * per Ordinary Share (Secondary Offering)
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
-
Project #1943640

Issuer Name:
Australian REIT Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 30, 2013
NP 11-202 Receipt dated January 31, 2013
Offering Price and Description:
Maximum: $ *-* Class A Units and/or Class F Units
Price: $12.00 per Class A Unit and Class F Unit
(Minimum Purchase: 200 Units ($2,400.00)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Macquarie Private Wealth Inc.
Scotia Capital Inc.
National Bank Financial Inc.
TD Securities Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
GMP Securities L.P.
Raymond James Ltd.
All Group Financial Services Inc.
Burgeonvest Bick Securities Limited
MGI Securities Inc.
Promoter(s):
Harvest Portfolios Group Inc.
Project #2011143

Issuer Name:
Bell Aliant Preferred Equity Inc.
Principal Regulator - Nova Scotia
Type and Date:
Preliminary Short Form Prospectus dated January 31, 2013
NP 11-202 Receipt dated January 31, 2013
Offering Price and Description:
$200,000,000.00 - 8,000,000 Cumulative 5-Year Rate Reset Preferred Shares, Series E
Price: $25.00 per Series E Share to yield initially 4.25% per annum
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
TD SECURITIES INC.
CIBC WORLD MARKETS INC.
BMO NESBITT BURNS INC.
RBC DOMINION SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
DESJARDINS SECURITIES INC.
CANACCORD GENUITY CORP.
MACQUARIE CAPITAL MARKETS CANADA LTD.
Promoter(s):
-
Project #2011314

Issuer Name:
BUIG Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Non-Offering Prospectus dated January 31, 2013
NP 11-202 Receipt dated February 1, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Bloom Investment Counsel Inc.
Project #2011520

Issuer Name:
Diapason Balanced Growth Portfolio
Diapason Balanced Income Portfolio
Diapason Conservative Portfolio
Diapason Growth Portfolio
Diapason High Growth Portfolio
Diapason Maximum Growth Portfolio
Diapason Retirement Portfolio B (Conservative)
Diapason Retirement Portfolio C (Income)
Diapason Retirement Portfolio D (Balanced Income)
Diapason Retirement Portfolio E (Balanced Growth)
Diapason Retirement Portfolio F (Growth)
Diapason Retirement Portfolio G (High Growth)
Principal Regulator - Quebec
Type and Date:
Preliminary Simplified Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
Class A Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Desjardins Investments Inc.
Project #2010286

Issuer Name:
Corus Entertainment Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 29, 2013
Offering Price and Description:
$1,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2010288

Issuer Name:
DeeThree Exploration Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated February 1, 2013
NP 11-202 Receipt dated February 1, 2013
Offering Price and Description:
$30,056,000.00 - 4,420,000 Common Shares
Price: $6.80 per Common Share
Underwriter(s) or Distributor(s):
MACQUARIE CAPITAL MARKETS CANADA LTD.
RAYMOND JAMES LTD.
CORMARK SECURITIES INC.
DUNDEE SECURITIES LTD.
STIFEL NICOLAUS CANADA INC.
CASIMIR CAPITAL LTD.
Promoter(s):
-
Project #2011810

Issuer Name:
Element Financial Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
$110,175,000.00 - 19,500,000 Common Shares Issuable on Exercise of Outstanding Special Warrants
Price: $5.65 per Special Warrant
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
BARCLAYS CAPITAL CANADA INC.
BMO NESBITT BURNS INC.
RBC DOMINION SECURITIES INC.
TD SECURITIES INC.
CORMARK SECURITIES INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
Promoter(s):
-
Project #2010861

Issuer Name:
Gulfstream Acquisition 1 Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary CPC Prospectus dated January 28, 2013
NP 11-202 Receipt dated January 31, 2013
Offering Price and Description:
$310,000.00 - 3,100,000 Common Share
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
Charles Shin
Project #2010969

Issuer Name:
ING Diversified Floating Rate Senior Loan Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
Maximum $ * - * Class A Units and/or Class U Units
Price: $10.00 per Class A Unit and U.S. $10.00 per Class U Unit
Minimum purchase: 100 Class A Units or Class U Units
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
GMP Securities L.P.
National Bank Financial Inc.
Scotia Capital Inc.
Canaccord Genuity Corp.
Macquarie Private Wealth Inc.
Raymond James Ltd.
Desjardins Securities Inc.
Mackie Research Capital Corporation
Manulife Securities Inc.
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #2010912

Issuer Name:
ISL Loan Trust II
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
Connor, Clark & Lunn Capital Markets Inc.
Project #2010915

Issuer Name:
KILO Goldmines Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 31, 2013
NP 11-202 Receipt dated January 31, 2013
Offering Price and Description:
Minimum $10,000,000 - * Common Shares
Maximum $ * - * Common Shares
Price: $ * per Offered Share
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
CLARUS SECURITIES INC.
BYRON CAPITAL MARKETS LTD.
Promoter(s):
-
Project #2011380

Issuer Name:
Lazard Emerging Markets Multi-Strategy Fund
Lazard Global Equity Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated February 1, 2013
NP 11-202 Receipt dated February 4, 2013
Offering Price and Description:
Class A units, Class F units and Class I units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Brandes Investment Partners & Co.
Project #2012142

Issuer Name:
RBC Emerging Markets Dividend Fund
RBC Emerging Markets Small-Cap Equity Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
Series A, Advisor Series, Series D, Series F and Series O units
Underwriter(s) or Distributor(s):
RBC Global Asset Management Inc.
Royal Mutual Funds Inc.
RBC Direct Investing Inc.
RBC Global Asset Management Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #2010794

Issuer Name:
Santacruz Silver Mining Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 29, 2013
Offering Price and Description:
$35,150,000 -19,000,000 Common Shares
Price: $1.85 per Common Share
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
RAYMOND JAMES LTD.
CORMARK SECURITIES INC.
Promoter(s):
-
Project #2010498

Issuer Name:
Summit Industrial Income REIT
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated January 30, 2013
NP 11-202 Receipt dated January 31, 2013
Offering Price and Description:
$ * - * Units
Price $ * per Unit
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #2010951

Issuer Name:
U.S. Consumer Defensive Portfolio Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Non-Offering Prospectus dated January 30, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
First Asset Investment Management Inc.
Project #2011019

Issuer Name:
Altamont Exploration Corp.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated January 31, 2013
NP 11-202 Receipt dated January 31, 2013
Offering Price and Description:
OFFERING OF 3,750,000 SHARES
PRICE: $0.15 PER SHARE
Underwriter(s) or Distributor(s):
Haywood Securities Inc.
Promoter(s):
Derek C. Pink
Toma S. Sonjonki
Project #1977887

Issuer Name:
Bauer Performance Sports Ltd.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated January 30, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
Cdn$34,800,000.00 - 3,000,000 Common Shares
Price: Cdn$11.60 per Offered Share
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
PARADIGM CAPITAL INC.
GMP SECURITIES L.P.
NATIONAL BANK FINANCIAL INC.
CORMARK SECURITIES INC.
Promoter(s):
-
Project #2008097

Issuer Name:
BMO S&P/TSX Capped Composite Index ETF (formerly, BMO Dow Jones Canada Titans 60 Index ETF)
BMO S&P 500 Hedged to CAD Index ETF (formerly, BMO US Equity Hedged to CAD Index ETF)
BMO International Equity Hedged to CAD Index ETF
BMO Emerging Markets Equity Index ETF
BMO Global Infrastructure Index ETF
BMO Dow Jones Industrial Average Hedged to CAD Index ETF
BMO Short Federal Bond Index ETF
BMO Short Provincial Bond Index ETF
BMO Short Corporate Bond Index ETF
BMO High Yield US Corporate Bond Hedged to CAD Index ETF
BMO S&P/TSX Equal Weight Banks Index ETF
BMO S&P/TSX Equal Weight Oil & Gas Index ETF
BMO S&P/TSX Equal Weight Global Base Metals Hedged to CAD Index ETF
BMO China Equity Index ETF (formerly, BMO China Equity Hedged to CAD Index ETF)
BMO India Equity Index ETF (formerly, BMO India Equity Hedged to CAD Index ETF)
BMO Equal Weight Utilities Index ETF
BMO Nasdaq 100 Equity Hedged to CAD Index ETF
BMO Junior Gold Index ETF
BMO Mid Corporate Bond Index ETF
BMO Mid Federal Bond Index ETF
BMO Long Corporate Bond Index ETF
BMO Aggregate Bond Index ETF
BMO Equal Weight REITs Index ETF
BMO Junior Oil Index ETF
BMO Junior Gas Index ETF
BMO Equal Weight US Health Care Hedged to CAD Index ETF
BMO Equal Weight US Banks Hedged to CAD Index ETF
BMO Long Federal Bond Index ETF
BMO Real Return Bond Index ETF
BMO Emerging Markets Bond Hedged to CAD Index ETF
BMO Mid-Term US IG Corporate Bond Hedged to CAD Index ETF
BMO Mid-Term US IG Corporate Bond Index ETF
BMO Mid Provincial Bond Index ETF
BMO Long Provincial Bond Index ETF
BMO S&P/TSX Equal Weight Industrials Index ETF
BMO S&P/TSX Equal Weight Global Gold Index ETF
BMO S&P 500 Index ETF
BMO S&P/TSX Laddered Preferred Share Index ETF
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 29, 2013
NP 11-202 Receipt dated February 4, 2013
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
BMO Asset Management Inc.
Project #2001965

Issuer Name:
BMO Agriculture Commodities Index ETF
BMO Base Metals Commodities Index ETF
BMO Energy Commodities Index ETF
BMO Precious Metals Commodities Index ETF
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 29, 2013
NP 11-202 Receipt dated February 4, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2001169

Issuer Name:
CMP 2013 Resource Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 28, 2013
NP 11-202 Receipt dated January 29, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Dundee Securities Ltd.
National Bank Financial Inc.
TD Securities Inc.
Burgeonvest Bick Securities Limited
Canaccord Genuity Corp.
Desjardins Securities Inc.
GMP Securities L.P.
Macquarie Private Wealth Inc.
Manulife Securities Incorporated
Raymond James Ltd.
Promoter(s):
Goodman Investment Counsel Inc.
Project #2000813

Issuer Name:
Corus Entertainment Inc.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated February 4, 2013
NP 11-202 Receipt dated February 4, 2013
Offering Price and Description:
$1,000,000,000.00 - Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2010288

Issuer Name:
ENTREC Corporation
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 30, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
$30,000,250.00 - 17,143,000 Common Shares
Per Common Share - $1.75
Underwriter(s) or Distributor(s):
CORMARK SECURITIES INC.
CLARUS SECURITIES INC.
GMP SECURITIES L.P.
NATIONAL BANK FINANCIAL INC.
STIFEL NICOLAUS CANADA INC.
FRASER MACKENZIE LIMITED
PARADIGM CAPITAL INC.
STONECAP SECURITIES INC.
Promoter(s):
-
Project #2007716

Issuer Name:
First Trust Global Capital Strength Portfolio
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 31, 2013
Offering Price and Description:
Series A and Series F Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
FT Portfolios Canada Co.
Project #1997700

Issuer Name:
Global Educational Trust Plan
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 24, 2013
NP 11-202 Receipt dated January 29, 2013
Offering Price and Description:
Scholarship Trust units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #1936147

Issuer Name:
Horizons Active Diversified Income ETF (formerly Horizons Active Balanced ETF)
Horizons Active Cdn Bond ETF
Horizons Active Cdn Dividend ETF (formerly Horizons Dividend ETF)
Horizons Active Corporate Bond ETF (formerly Horizons Corporate Bond ETF)
Horizons Active Emerging Markets Dividend ETF
Horizons Active Floating Rate Bond ETF (formerly Horizons Floating Rate Bond ETF)
Horizons Active Global Dividend ETF (formerly Horizons Global Dividend ETF)
Horizons Active High Yield Bond ETF (formerly Horizons High Yield Bond ETF)
Horizons Active North American Growth ETF (formerly Horizons North American Growth ETF)
Horizons Active Preferred Share ETF (formerly Horizons Preferred Share ETF)
Horizons Active US Floating Rate Bond (USD) ETF (formerly Horizons U.S. Floating Rate Bond ETF)
Horizons S&P/TSX 60 Equal Weight Index ETF (formerly Horizons AlphaPro S&P/TSX 60 Equal Weight Index ETF)
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 30, 2013
NP 11-202 Receipt dated February 1, 2013
Offering Price and Description:
Class E Units and Advisor Class Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
ALPHAPRO MANAGEMENT INC.
Project #2001004

Issuer Name:
Horizons Advantaged Equity Fund Inc.
Type and Date:
Final Long Form Prospectus dated January 30, 2013
Receipted on January 31, 2013
Offering Price and Description:
CLASS A SHARES
Offering price per Class A Share, Series III
of the Fund - net asset value of the Class A Shares, Series III
Minimum Subscription - $1,000 initially and $500 subsequently
Underwriter(s) or Distributor(s):
-
Promoter(s):
CFPA Sponsor Inc.
Project #2000915

Issuer Name:
MBAC Fertilizer Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated January 31, 2013
NP 11-202 Receipt dated January 31, 2013
Offering Price and Description:
$30,005,000.00 - 8,825,000 Common Shares
Price: $3.40 per Offered Share
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
NATIONAL BANK FINANCIAL INC.
BMO NESBITT BURNS INC.
GMP SECURITIES L.P.
PARADIGM CAPITAL INC.
RAYMOND JAMES LTD.
SALMAN PARTNERS INC.
Promoter(s):
-
Project #2007465

Issuer Name:
MDPIM Strategic Opportunities Pool
MDPIM Strategic Yield Pool
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated January 28, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
Series A Units
Underwriter(s) or Distributor(s):
MD Management Limited
MD Management Limited
Promoter(s):
MD Physician Services Inc.
Project #1976564

Issuer Name:
NexC Partners Corp.
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 28, 2013
NP 11-202 Receipt dated January 29, 2013
Offering Price and Description:
Class A and Class F Shares
$10.00 per Class A and Class F Share
15,000,000 Class A Shares (Maximum) and 5,000,000 Class F Shares (Maximum)
Underwriter(s) or Distributor(s):
TD Securities Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
National Bank Financial Inc.
Scotia Capital Inc.
Macquarie Private Wealth Inc.
Raymond James Ltd.
Desjardins Securities Inc.
Dundee Securities Ltd.
Manulife Securities Incorporated
Rothenberg Capital Management Inc.
Promoter(s):
Purpose Investments Inc.
Project #2001829

Issuer Name:
Palliser Oil & Gas Corporation
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 29, 2013
Offering Price and Description:
$3,150,000.00 - 5,000,000 Common Shares
Price: $0.63 per Common Share
Underwriter(s) or Distributor(s):
OCTAGON CAPITAL CORPORATION
PI FINANCIAL CORP.
ACUMEN CAPITAL FINANCE PARTNERS LIMITED
PARADIGM CAPITAL INC.
Promoter(s):
-
Project #2008125

Issuer Name:
PIMCO Canadian Long Term Bond Fund
PIMCO Canadian Real Return Bond Fund
PIMCO Canadian Short Term Bond Fund
PIMCO Canadian Total Return Bond Fund
PIMCO EqS Pathfinder Fund (Canada)
PIMCO Global Advantage Strategy Bond Fund (Canada)
PIMCO Global Balanced Fund (Canada)
PIMCO Monthly Income Fund (Canada)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
Series A, Series F, Series I, Series M and Series O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
PIMCO Canada Corp.
Project #1999036

Issuer Name:
Pure Industrial Real Estate Trust
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated February 1, 2013
NP 11-202 Receipt dated February 1, 2013
Offering Price and Description:
$60,600,000.00 - 12,000,000 Units
Price: $5.05 Per Unit
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
RAYMOND JAMES LTD.
SCOTIA CAPITAL INC.
DUNDEE SECURITIES LTD.
NATIONAL BANK FINANCIAL INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
BMO NESBITT BURNS INC.
GMP SECURITIES L.P.
HSBC SECURITIES (CANADA) INC.
SORA GROUP WEALTH ADVISORS INC.
Promoter(s):
-
Project #2009023

Issuer Name:
Sentry Diversified Total Return Class
Sentry Diversified Total Return Fund (formerly Sentry Select Diversified Total Return Fund)
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated January 24, 2013 to Simplified Prospectus and Annual Information Form dated May 25, 2012
NP 11-202 Receipt dated January 29, 2013
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Sentry Investments Inc.
Promoter(s):
SENTRY INVESTMENTS INC.
Project #1895918

Issuer Name:
Sprott 2013 Flow-Through Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated January 30, 2013
NP 11-202 Receipt dated January 31, 2013
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.
Scotia Capital Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
Manulife Securities Incorporated
Raymond James Ltd.
Sprott Private Wealth L,P.
Desjardins Securities Inc.
Macquarie Private Wealth Inc.
Promoter(s):
Sprott 2013 Corporation
Project #1999532

Issuer Name:
Symphony Floating Rate Senior Loan Fund
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated January 29, 2013
NP 11-202 Receipt dated January 30, 2013
Offering Price and Description:
Maximum: $150,009,750 - 14,355,000 Units
Price: $10.45 per Class A Unit and US$10.45 per Class U Unit
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
GMP Securities L.P.
National Bank Financial Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
Macquarie Private Wealth Inc.
Raymond James Ltd.
Scotia Capital Inc.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Dundee Securities Ltd.
Mackie Research Capital Corporation
Manulife Securities Incorporated
Promoter(s):
Brompton Funds Limited
Project #2006346

Issuer Name:
Temple Hotels Inc.
Principal Regulator - Manitoba
Type and Date:
Final Short Form Prospectus dated February 1, 2013
NP 11-202 Receipt dated February 1, 2013
Offering Price and Description:
$35,000,000.00- 5 YEAR 7.00% SERIES F CONVERTIBLE REDEEMABLE UNSECURED SUBORDINATED DEBENTURES
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
BMO NESBITT BURNS INC.
RAYMOND JAMES LTD.
LAURENTIAN BANK SECURITIES INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
DESJARDINS SECURITIES INC.
DUNDEE SECURITIES LTD.
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
-
Project #2008843

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Suspension (Non-Renewal)	Creststreet Asset Management Limited	Commodity Trading Manager	January 1, 2013
Suspension (Non-Renewal)	Bennington Investment Management Inc.	Commodity Trading Counsel Commodity Trading Manager	January 1, 2013
Suspension (Non-Renewal)	Mapleridge Capital Corporation	Commodity Trading Manager	January 1, 2013
Change in Registration Category	Lorne Steinberg Wealth Management Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	January 28, 2013
Suspension pursuant to Section 29(1) of the Securities Act	Roche Securities Ltd.	Exempt Market Dealer	January 28, 2013
Change in Registration Category	GE Asset Management Canada Company	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	January 29, 2013
Change in Registration Category	Duncan Ross Associates Ltd./Duncan Ross Associes Ltee	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	January 29, 2013
New Registration	Gracorp Capital Advisors Ltd.	Exempt Market Dealer	January 29, 2013

Type	Company	Category of Registration	Effective Date
Suspension pursuant to Section 29(1) of the Securities Act	First Financial Securities Inc.	Investment Dealer	January 31, 2013
Change in Registration Category	Gestion de portefeuille Landry Inc.	From: Portfolio Manager To: Portfolio Manager and Investment Fund Manager	January 31, 2013
Suspension pursuant to Section 29(1) of the Securities Act	Wealth Advisory Services Ltd.	Mutual Fund Dealer and Exempt Market Dealer	January 31, 2013
Suspension pursuant to Section 29(1) of the Securities Act	Family Investment Planning Inc.	Mutual Fund Dealer and Exempt Market Dealer	January 31, 2013
Suspension pursuant to Section 29(1) of the Securities Act	PDQ Financial Services Inc.	Mutual Fund Dealer	January 31, 2013
Change in Registration Category	Nicola Wealth Management Ltd.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	January 31, 2013
Suspension pursuant to Section 29(1) of the Securities Act	Centennial Capital Corporation	Exempt Market Dealer	January 31, 2013
Consent to Suspension (pending Surrender)	Alta West Capital Corporation	Exempt Market Dealer	January 31, 2013
Change in Registration Category	OceanRock Investments Inc.	From: Exempt Market Dealer and Portfolio Manager To: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	February 1, 2013

Chapter 13

SROs, Marketplaces and Clearing Agencies

13.1 SROs

13.1.1 OSC Staff Notice of Commission Approval – MFDA Amendments to MFDA Rule 2.2.1 and Policy No. 2

OSC STAFF NOTICE OF COMMISSION APPROVAL

MUTUAL FUND DEALERS ASSOCIATION OF CANADA (MFDA)

MFDA AMENDMENTS TO MFDA RULE 2.2.1 (KNOW-YOUR-CLIENT) AND POLICY NO. 2 MINIMUM STANDARDS FOR ACCOUNT SUPERVISION

The Ontario Securities Commission approved the MFDA's amendments to MFDA Rule 2.2.1 and amendments to Policy No. 2 regarding suitability obligations including criteria for the purpose of assessing the suitability of borrowing to invest ("leverage").

The British Columbia Securities Commission has approved the amendments. The Alberta Securities Commission, the Saskatchewan Financial Services Commission, the Manitoba Securities Commission, the New Brunswick Securities Commission and the Nova Scotia Securities Commission did not object to the MFDA's amendments.

Summary of Material Rule

The amendments to the rule and policy set out general obligations for members and approved persons to establish policies and procedures to assess the suitability of the use of leverage as part of a member's overall obligation to assess investment suitability in relation to client accounts and client transactions.

The MFDA made the following changes to the current Rule 2.2.1 and Policy No. 2:

- clarified that the suitability of leverage must be assessed having regard to the client's investment knowledge, risk tolerance, age, time horizon, net worth, income, and investment objectives;
- codified minimum criteria standards for members and approved persons in assessing the suitability of client leveraging;
- provided guidance on the type of documents the MFDA's members will be required to review and maintain to facilitate proper supervision of a leveraging strategy;
- clarified the respective obligations of the registered salesperson and branch and head office supervisory staff in assessing the suitability of investments and leveraging strategies; and
- clarified that the obligation to review leveraged trades and leverage recommendations at the branch and head office applies to accounts, other than registered retirement savings plans and registered education savings plans.

Summary of Public Comments

The OSC published the amendments for comment on July 8, 2011 at (2011) 34 OSCB 7716 for a 90-day comment period. The MFDA received eight comment letters. The MFDA summarized the comments it received on the proposal and provided responses. We attach the MFDA's summary of public comments received and responses as Attachment A. We also attach a blacklined copy of Policy No. 2 showing changes to the version published for comment as Attachment B.

Attachment A

Summary of Public Comments Respecting Proposed Amendments to MFDA Rule 2.2.1 ("Know-Your-Client") and Policy No. 2 *Minimum Standards for Account Supervision* and Responses of the MFDA

On July 8, 2011, the British Columbia Securities Commission published proposed amendments to MFDA Rule 2.2.1 ("Know-Your-Client") and Policy No. 2 *Minimum Standards for Account Supervision* (the "**Proposed Amendments**") for a 90-day public comment period.

The public comment period expired on October 6, 2011.

Eight submissions were received during the public comment period:

1. Kenmar Associates ("Kenmar")
2. J.C. Hood Investment Counsel Inc. ("J.C. Hood")
3. Royal Mutual Funds Inc. ("RMFI")/Phillips, Hager & North Investment Funds Ltd. ("PH&N")
4. The Investment Funds Institute of Canada ("IFIC")
5. BMO Investments Inc. ("BMOII")
6. Desjardins Group ("Desjardins")
7. Canadian Foundation for Advancement of Investor Rights ("FAIR")
8. Joe Killoran

A copy of the comment submission may be viewed on the MFDA website at: http://www.mfda.ca/regulation/comments.html#221.

The following is a summary of the comments received, together with the MFDA's responses.

General Comments

Kenmar, FAIR and Desjardins expressed general support for the intent of the Proposed Amendments. A number of commenters cited examples of unsuitable leverage practices generally or unsuitable advice/practices encountered as a result of calls received from investors.

Several commenters agreed that MFDA Policies are an effective means of ensuring consistent and objective minimum industry standards, but expressed the view that certain aspects of Policy No. 2 are overly prescriptive and would be better suited as guidance to Members. BMOII suggested that such prescriptive elements be included in the Leverage Supervision Guide as suggested practices. RMFI/PH&N and BMOII noted that Policies should be principles-based to allow Members the flexibility to implement policies and procedures that correspond to their business models and risks.

IFIC and BMOII noted that dealers have implemented robust compliance systems to supervise the use of leverage and, as a result, the Proposed Amendments should regulate the use of leverage without creating duplicative or burdensome requirements. IFIC and BMOII expressed support for the use of a risk-based approach when ensuring compliance for the use of leverage, as dealers should focus their resources on resolving higher risk issues as opposed to complying with prescriptive rules.

FAIR recommended that there should be a presumption that leverage is unsuitable for retail investors, with the onus on salespeople to prove that leverage is suitable and that clients understand the risks. FAIR was of the view that some Approved Persons and firms suggest the idea of leverage to consumers and persuade consumers to borrow money to invest by presenting a misleading picture of the risks and benefits of leverage. FAIR suggested that advisors and firms are incented to do so because of a misalignment between the interests of the financial intermediary and those of the consumer.

MFDA Response

Staff acknowledges support for the Proposed Amendments and comments citing examples of unsuitable leverage advice/practices. The Proposed Amendments, in conjunction with the revised leverage risk disclosure in MR-0074 *Leverage Risk Disclosure*, guidance in MR-0069 *Suitability Guidelines* and the Leverage Supervision Guide, have been developed to address such issues and staff is satisfied that they meet their regulatory objectives. We note that, as a result of guidance issued

by the MFDA and the efforts of Members to date, compliance systems to supervise leverage generally have been implemented at Member firms.

Policy No. 2 currently sets out a general obligation for Members to have policies and procedures to assess the suitability of leverage, but does not set minimum criteria in this area. The Proposed Amendments to Policy No. 2 are intended to codify the guidance in MR-0069 for the purpose of establishing such minimum criteria. Most Members currently comply with the guidelines in MR-0069 and MFDA staff is of the view that including minimum criteria in the Policy will ensure consistent and objective minimum industry standards for assessing leverage suitability for the benefit of Members and investors. Policy No. 2 currently uses a combination of prescriptive and principles based requirements.

In the view of staff, a general presumption of leverage unsuitability across all retail clients does not take into account the requirement to consider the circumstances of each client, as required under MFDA Rules and securities legislation. As set out under Rule 2.2.1, as revised, the suitability of orders accepted or recommendations made, including leverage recommendations and transactions involving the use of borrowed funds, must be determined having regard to the essential facts relative to the client and any investments in the account.

Rule 2.2.1

Rule 2.2.1(f)(iii) – Requirement for Leverage Suitability Review on Change in Approved Person Responsible for Client Account

IFIC agreed that an Approved Person should be familiar with leveraging strategies used in accounts under their name, but questioned whether a full suitability review of the leveraged account is required in such circumstances. IFIC noted that the leveraging strategy would have been reviewed previously within the dealer and approved in accordance with the dealer's policies and procedures. The change of Approved Person would not cause a leveraging strategy that was previously reviewed and found to be suitable and compliant to become non-compliant. IFIC recommended that this requirement be removed from Rule 2.2.1 and section III (Registered Salespersons) of Policy No. 2.

BMOII supported IFIC's comments and noted that its accounts are not assigned to specific Approved Persons and clients can be served by any appropriately registered Approved Person at the Member. BMOII sought confirmation that, in such circumstances, the Proposed Amendments are not intended to require any Approved Person who handles the account to re-assess the suitability of a leverage strategy.

MFDA Response

Under current Policy No. 2, Approved Persons are already required to review the client's KYC information where they have been assigned responsibility for a client's account. This requirement follows from the obligation under Rule 2.2.1(e)(iii) for the suitability of investments within each client's account to be assessed by the new Approved Person when there has been a change in the Approved Person responsible for the client's account at the Member. Proposed Rule 2.2.1(f)(iii) will clarify that the requirement to assess suitability in such circumstances also applies to the use of leverage. If accounts are not assigned to individual Approved Persons, the requirement in proposed Rule 2.2.1(f)(iii) would not apply.

Policy No. 2

Part III – Assessing Suitability of Investments and Borrowing to Invest ("Leveraging") Strategies

Proposed Leverage Suitability Criteria too Low

FAIR expressed the view that several of the minimum criteria for leverage suitability outlined in the Proposed Amendments are too low to adequately protect investors. FAIR recommended additional protections relating to investment knowledge, risk tolerance, net worth, gross income, employment status and ability to withstand loss. FAIR also questioned the applicability of using net worth in evaluating leverage suitability, since many people have high net worth due to the value of their homes.

MFDA Response

The proposed "red flags" under subsections 1(a)-(f) are not indicators that the use of leverage, in any given situation, is suitable. Rather, they are minimum criteria that are intended to trigger further supervisory review and investigation to determine if the use of leverage in any given situation is suitable. The triggering of one or more red flags is intended to give rise to a requirement for further investigation into leverage suitability, having regard to the client's circumstances as a whole, and does not stop or conclude such investigation. The red flags are intended to ensure that Members have an appropriate minimum supervisory structure and controls for assessing the suitability of leverage. These criteria have been developed based on issues with the assessment of leverage suitability that staff has become aware of as a result of its experience to date. Members may elect to use more stringent minimum criteria.

As noted above, staff is of the view that a general presumption or restriction respecting leverage across all retail clients does not take into account the obligation to consider the circumstances of each client, as required under MFDA Rules and securities legislation. As set out under Rule 2.2.1, as revised, the suitability of orders accepted or recommendations made, including leverage recommendations and transactions involving the use of borrowed funds, must be determined having regard to the essential facts relative to the client and any investments in the account.

Reference to Risk Tolerances/Inconsistencies between MR-0069 and IFIC Risk Classification Guidelines

Kenmar recommended that the MFDA clarify the meaning of "MEDIUM" as applied to risk in the Proposed Amendments. In addition, Kenmar noted that MR-0069 currently states that the risk ranking of a mutual fund should be determined with reference to the mutual fund's prospectus. However, risk categories assigned and disclosed in the prospectus by some fund companies are based on the IFIC Risk Classification Guidelines, which determine the risk volatility of a fund based on standard deviation and are not intended for use in determining suitability (i.e. the appropriateness of any given mutual fund having regard to the risk tolerance of individual investors). Kenmar noted that the Canadian Securities Administrators have permitted the IFIC risk classifications to be used in the Fund Facts, a point of sale document that is, presumably, intended to reflect individual investor risk (i.e. suitability) and not risk volatility based on standard deviation. Kenmar recommended that the MFDA act quickly to resolve this conflict.

MFDA Response

Rule 2.2.5 (Relationship Disclosure) requires that, on account opening, Members provide all clients with core information about the nature of their relationship with the Member and its Approved Persons. Subsection 2.2.5(e) requires disclosure defining the various terms with respect to the KYC information collected by the Member and describing how this information will be used in assessing investments in the account.

Appendix 1 to MR-0069 (Example of KYC Information) sets out and provides explanations in respect of the various risk tolerance ranges. Where the Member is using the concept of volatility, the client should be provided with a clear explanation as to what types of investments would be suitable for their portfolio.

Investment Knowledge

FAIR recommended that, in order to use leverage to invest, retail investors should be required to meet a minimum level of investment knowledge regarding financial markets and the risks associated with leverage. FAIR suggested that this knowledge could be independently certified, or certified by dealers that are Members of the MFDA, and, therefore, are backed by a compensation fund and subject to a strict liability standard.

MFDA Response

In accordance with the requirements of Rule 2.2.1, it is the Member and Approved Person that are responsible for ensuring that each order accepted or recommendation made, including recommendations to borrow to invest, are suitable for the client. Staff is concerned that the suggestion for a minimum level of investment knowledge could, in certain circumstances, operate to shift responsibility away from the Member and Approved Person to the investor in a manner that takes away from existing levels of investor protection. Staff is of the view that the potential for such a shift in responsibility is inconsistent with the regulatory objectives of the Proposed Amendments and the current obligations of Members and Approved Persons under Rule 2.2.1, MFDA Rules generally and securities legislation.

Total and Liquid Net Worth

Subsection 1(e) requires further supervisory review and investigation where the total leverage amount exceeds 30% of the client's total net worth. Desjardins noted that MR-0069 references this requirement, adding that the investment loan should not exceed 50% of a client's *liquid net worth*. Desjardins sought clarification as to whether the MFDA still intends to use the concept of "liquid net worth" in assessing leverage suitability and, if not, this reference should be removed from MR-0069.

MFDA Response

Staff intends to make appropriate amendments to MR-0069 to ensure that it is consistent with Policy No. 2, as revised, once the Proposed Amendments have been approved.

Policy No. 2 currently requires the Member to obtain for non-registered leveraged accounts, details of the net worth calculation, specifying liquid assets plus any other additional assets less total liabilities. Staff notes that the guidance set out in MR-0069 indicating that the investment loan should not exceed 50% of a client's liquid net worth has not been included in Policy No. 2. With respect to how liquid net worth should be used, MR-0069 will be amended to provide guidance that where the net worth red

flag in subsection 1(e) is triggered or close to being triggered, a leverage suitability assessment should take into consideration the percentage of total net worth that is liquid and the amount that a loan represents as a percentage of liquid net worth.

Ability to Withstand Loss

Kenmar and FAIR recommended that the list of factors requiring further supervisory review and investigation, as currently set out in proposed subsections 1(a)-(f), be amended to include client loss capacity/loss tolerance.

MFDA Response

The concept of client loss capacity/loss tolerance is already addressed under the discussion of "risk tolerance" in MR-0069. In clarifying how this term should be understood and determined, MR-0069 notes that Members and Approved Persons should consider risk tolerance to be the *lower of the investor's willingness to accept risk and the investor's ability to withstand declines in the value of his or her portfolio* (i.e. risk tolerance should be determined as the lesser of both criteria). As there are instances where Members and Approved Persons may be determining client risk tolerance as a result of a combination of other KYC criteria, MR-0069 clarifies that while other KYC criteria, such as income, net worth and time horizon, should be considered and discussed with clients when assisting them in understanding risk tolerance and how they factor into risk and return, *these criteria should not override the client's ultimate assessment of their actual willingness and ability to accept risk.*

Gross Income – Inconsistency between Proposed Amendments and MR-0069

Under subsection 1(f), further supervisory review and investigation is required when total debt and lease payments exceed 35% of the client's gross income. RMFI/PH&N noted that the addition of *total lease payments* is in contrast with Part 4.C(f) of MR-0069, which currently only references *debt payments*, and expressed the view that subsection 1(f) should remain consistent with the general guideline in MR-0069. If both debt and lease payments must be considered for the purposes of this subsection, RMFI/PH&N suggested that the debt to income ratio be increased, to account for the more comprehensive calculation. RMFI/PH&N also noted that clarification as to what total debt and total lease payments include should be removed from this subsection, so as to allow Members the flexibility to set their own standards based on their business models and risks.

MFDA Response

The inclusion of "lease payments" along with debt was intended to clarify that the calculation should include any ongoing, material financial obligation (e.g. mortgage, rental or lease payments), as all such payments would impact a client's borrowing ability (i.e. the ability of the client to service the loan) and the availability of income for investment purposes.

In addition, staff notes that Members have the flexibility to use a more comprehensive cash flow analysis and adopt a higher threshold, provided that it is consistent with the regulatory objectives of this section and Policy No. 2 generally.

Leverage Suitability – Objective of Supervisory Review (Section 2)

Section 2 notes that the objective of the supervisory review is to *assess* the suitability of the leveraging strategy. IFIC and BMOII noted that a requirement to "assess" confuses the roles of the Approved Person and branch/head office supervisory staff. It was suggested that the role of the Approved Person should be to perform the suitability assessment, while the role of branch/head office supervisors should be to review and confirm the suitability assessment performed by Approved Persons. IFIC recommended that the word "assess", as used in this section and Part IV (Branch Office Supervision), "Other Reviews", be changed to "confirm" to indicate the correct role for the supervisory review. IFIC also recommended that the second sentence of section 2 be removed, as conflicts of interest should be handled through the dealer's conflict of interest policies and MFDA Rule 2.1.4.

BMOII expressed the view that Members must be given flexibility to determine when a rationale is required to be documented, with reference to the "red flags" set out in section 1. BMOII suggested that Members should be permitted to determine which red flags would warrant further inquiry into the rationale of the strategy and then should be required to document their rationale for approval only if the Member approves the strategy despite the presence of red flags selected by the Member.

MFDA Response

For the purpose of greater clarity, staff will amend this section by adopting "review" in place of "assess".

The second sentence of section 2 specifies how the supervisory review and investigation of leverage suitability must be conducted by restating general obligations under Rules 2.1.4 and 2.1.1. Such information would not be inconsistent with anything in a dealer's conflict of interest policies and staff is of the view that its inclusion in this section is necessary and appropriate in clarifying minimum regulatory standards.

The red flag criteria set out under this section represent minimum standards for further supervisory review and investigation in respect of leverage suitability that have been adopted based on staff's review of Member practices and compliance experience to date. In each case where any of the red flag criteria are triggered and a leverage strategy is approved, the analysis and rationale must be documented. The level of analysis/assessment and documentation required in any given situation will depend upon different variables, including the number of red flag criteria triggered and the extent of variance from the specified triggering red flag(s).

Leverage Suitability – Requirement for Member to Review and Maintain Documents to Facilitate Proper Supervision (Section 4)

Desjardins noted that subsection 4(a) does not specify the frequency at which outstanding loan value information needs to be updated in the Member's books and records. Desjardins noted that such information is not available through FundServ and therefore cannot be updated on an ongoing basis.

RMFI/PH&N noted that the level of detail proposed under 4(b), which requires supervisory staff to compare the client's KYC information with all other information received in respect of the loan and follow up on any material inconsistencies, is appropriate where the Member or registered salesperson assists the client in completing the loan application, but is not suitable in all cases.

With respect to the proposed requirements of 4(c), which requires Members to review and maintain details in support of income and net worth calculations, RMFI/PH&N, BMOII and Desjardins noted that the obligation for Members to maintain client information relating to all of their existing debt/investment loan payments is too onerous to be a requirement in all instances. RMFI/PH&N and BMOII recommended that these subsections be excluded from Policy No. 2 and incorporated into the Leverage Supervision Guide as best practices. Desjardins noted that there are individuals that for privacy reasons do not wish to provide evidential information regarding income or assets held external to the dealer.

MFDA Response

Staff would expect Members and Approved Persons to make specific inquiries of clients when they become aware of any investment loan(s) or when they make a leverage recommendation to the client.

Apart from these specific situations, Members and Approved Persons should make reasonable inquiries ***of clients*** to obtain information/updates in respect of outstanding loan values whenever updates to a client's KYC information are made. There is no requirement that Members obtain this information from third parties. We understand that, as a best practice, many Members currently have arrangements with financial institutions to obtain such information.

The requirements of proposed subsection 4(b) are intended to apply to information that should already be on hand and available to the Member and Approved Person. Thus, for example, if the Approved Person did not help the client to complete loan documentation, staff would not expect the Approved Person to obtain documentation in respect of such information. However, staff would expect the Approved Person to make reasonable inquiries of the client and compare information received from such inquiries to the client's KYC information for the purpose of assessing leverage suitability. The intent of proposed subsection 4(c) is not to require documentary evidence supporting income, net worth or investment loan payments (e.g. loan documentation, T4s, etc). Rather, the subsection is intended to require the individual data components that make up the income and net worth calculations specified under subsections 1(e) and 1(f) (e.g. value of loan payments and total net worth). The individual figures making up income and net worth must be shown separately so that it is clear how each of the income and net worth calculations was arrived at. We have amended the language of subsection 4(c) to clarify this intent.

Registered Salespersons – Suitability Triggering Events (Section 2)

Under section 2, where there is a transfer of assets into an account at the Member, a suitability assessment must be performed *no later than the time of the next trade*. IFIC noted that this requirement should include the exclusion for automatic transactions, such as PACs and SWPs and that this exclusion should be added to section 3 and Part V (Head Office Supervision), section 1 (Daily Reviews).

MFDA Response

The purpose of the suitability triggers is to ensure that the suitability of investments in each client account is assessed on the occurrence of key triggering events. With respect to the suggestion that an allowance be made for automated transactions to continue without a suitability assessment being made, there is no exception from suitability obligations under current MFDA Rules or securities legislation with respect to trades made under automatic payment plans.

In addition, staff notes that the use of leverage generally magnifies investment risk. Thus, where a transfer of assets into an account at the Member involves automated transactions using borrowed funds, all such transfers, from the perspective of a risk-based approach, should be subject to the prescribed suitability assessment.

Part IV (Branch Office Supervision) and Part V (Head Office Supervision)

Daily Reviews/Other Reviews

RMFI/PH&N, BMOII and Desjardins noted that proposed amendments to Part IV (Branch Office Supervision), Daily Reviews, (section 2) and Part V (Head Office Supervision), Daily Reviews (section 1), Other Reviews (section 1) apply to accounts *other than registered retirement savings plans or registered education savings plans* and sought clarification as to whether the intent of these amendments is to also exclude registered retirement income funds and registered disability savings plans and include tax-free savings accounts. If so, RMFI/PH&N suggested certain drafting revisions.

FAIR recommended that branch or head office review be required for leveraged trades and leverage recommendations relating to RRSPs and RESPs.

MFDA Response

The review requirements of this section apply to leveraged trades/leverage recommendations for all accounts, with specific exclusions for RRSPs and RESPs as, in the experience of MFDA staff, borrowing to invest in these registered products is not subject to the same risks or abuse.

Borrowing to invest in RRSPs or RESPs is, as a general matter, a limited, short-term strategy. People do not keep borrowing to invest in such plans, as their investment is capped at their contribution limit. In addition, in the case of RRSPs, risk is further mitigated by the availability of a tax refund to pay down the investment loan. Conversely, borrowing to invest in an open account is, as a general matter, a less limited and longer-term strategy. Interest on borrowed funds is deductible, an investor may continue to borrow so long as they make their interest payments and the ability to continue to invest is not capped by contribution limits. Where staff has observed leverage strategies involving RRIFs, such strategies have been used for the purpose of investment in an open account and we note that this is already addressed under the Policy.

In circumstances where a client is using a small investment loan (to top up a tax-free savings account for example), a Member would consider the client's KYC information on file. Based on this review, if the minimum criteria set out in Policy 2 for supervisory review of leverage is unlikely to be triggered, a full assessment of the leverage strategy may not be necessary.

Other Recommendations/Suggestions

FAIR indicated that marketing materials should not be permitted to play down the associated risks of leverage and recommended a requirement for full disclosure to the client of commissions and other remuneration that would be paid to the Approved Person as a result of the use of leverage by the client.

FAIR also recommended the adoption of a Clients First Model that would require that all client recommendations be in the best interests of the investor, rather than requiring only suitability.

FAIR proposed that MR-0074 (long form leverage risk disclosure) be amended (with corresponding amendments to MFDA Rule 2.6) to include a certification (and client acknowledgement) requirement that would oblige Approved Persons to certify, at the time of a leverage recommendation, that they have explained the risks associated with leverage to the client and their belief that the client understands the associated risks.

MFDA Response

MFDA Rule 2.7.2 (Advertising and Sales Communications – General Restrictions), notes, in addition to other restrictions, that Members may not issue to the public, participate in or knowingly allow their name to be used in respect of any advertisement or sales communication in connection with their business that: contains any untrue statement, or omission of a material fact, or is otherwise false or misleading; fails to fairly present the potential risks to the client; or does not comply with any applicable legislation or the guidelines, policies or directives of any regulatory authority having jurisdiction over the Member. We note that there are similar requirements under securities legislation. In addition, guidance in respect of this issue has been provided under MR-0070 *Misleading Communications Regarding Leverage*, issued in 2008, and the Leverage Supervision Guide, issued in 2010.

The recommendation regarding adoption of a Clients First Model is beyond the scope of the Proposed Amendments. We note that an initiative addressing this matter is currently under consideration by the securities regulatory authorities.

With respect to recommended amendments to MR-0074, as noted above, it is the Member and Approved Person that are responsible for ensuring that each order accepted or recommendation made, including recommendations to borrow to invest, are suitable for the client. Staff is concerned that the suggestion for a certification and client acknowledgement requirement could, in certain circumstances, operate to shift responsibility away from the Member and Approved Person to the investor in a

manner that takes away from existing levels of investor protection. Staff is of the view that the potential for such a shift in responsibility is inconsistent with the regulatory objectives of the Proposed Amendments and the current obligations of Members and Approved Persons under Rule 2.2.1, MFDA Rules generally and securities legislation.

Attachment B

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

MFDA POLICY NO. 2

MINIMUM STANDARDS FOR ACCOUNT SUPERVISION

Version Showing Amendments from the Version Published for Comment on July 8, 2011

Introduction

This Policy establishes minimum industry standards for account supervision. These standards represent the minimum requirements necessary to ensure that a Member has procedures in place to properly supervise account activity. This Policy does not:

(a) relieve Members from complying with specific MFDA By-laws, Rules and Policies and securities legislation applicable to particular trades or accounts; or

(b) preclude Members from establishing a higher standard of supervision, and in certain situations a higher standard may be necessary to ensure proper supervision.

To ensure that a Member has met all applicable standards, Members are required to know and comply with MFDA By-laws, Rules and Policies as well as applicable securities legislation which may apply in any given circumstance. The following principles have been used to develop these minimum standards:

(a) The term "review" in this Policy has been used to mean a preliminary screening designed to detect items for further investigation or an examination of unusual trading activity or both. It does not mean that every trade must be reviewed. The reviewer must use reasonable judgement in selecting the items for further investigation.

(b) It has been assumed that Members have or will provide the necessary resources and qualified supervisors to meet these standards.

(c) The initial compliance with the know-your-client (“KYC”) rule and suitability of investment requirements is primarily the responsibility of the registered salesperson. The supervisory standards in this Policy relating to KYC and suitability are intended to provide supervisors with a checklist against which to monitor the handling of these responsibilities by the registered salesperson.

Members that seek to adopt policies and procedures relating to branch and head office supervision or the allocation of supervisory activities that differ from those contained in this Policy must demonstrate that all of the principles and objectives of the minimum standards set out in this Policy have been properly satisfied. Further, any such alternative policies and procedures must adequately address the risk management issues of the Member and must be pre-approved by MFDA staff before implementation.

Supervisory staff has a duty to ensure compliance with Member policies and procedures and MFDA regulatory requirements, which includes the general duty to effectively supervise and to ensure that appropriate action is taken when a concern is identified. Such action would depend on the circumstances of each case and may include following up with the registered salesperson and/or the client. Supervisory staff must also maintain records of the issues identified, action taken and resolution achieved.

I. ESTABLISHING AND MAINTAINING PROCEDURES

Effective self-regulation begins with the Member establishing and maintaining a supervisory environment which both fosters the business objectives of the Member and maintains the self-regulatory process. To that end a Member must establish and maintain procedures which are supervised by qualified individuals. A major aspect of self-regulation is the ongoing education of staff in all areas of sales compliance.

Establishing Procedures

1. Members must appoint designated individuals who have the necessary knowledge of industry regulations and Member policies to properly perform the duties.

2. Written policies must be established to document supervision requirements.

3. Written instructions must be supplied to all supervisors and alternates to advise them on what is expected of them.

4. All policies established or amended should have senior management approval.

Maintaining Procedures

1. Evidence of supervisory reviews must be maintained. Evidence of the review, such as inquiries made, replies received, date of completion etc. must be maintained for seven years and on-site for one year.

2. An on-going review of sales compliance procedures and practices must be undertaken both at head office and at branch offices.

Delegation of Procedures

1. Tasks and procedures may be delegated to a knowledgeable and qualified individual but not responsibility.

2. The Member must advise supervisors of those specific functions which cannot be delegated, such as approval of new accounts.

3. The supervisor delegating the task must ensure that these tasks are being performed adequately and that exceptions are brought to his/her attention.

4. Those who are delegated tasks must have the qualifications and required proficiency to perform the tasks and should be advised in writing of their duties. The general expectation is that tasks be delegated only to individuals with the same proficiency as the delegating supervisor. In certain limited circumstances, it may be acceptable to delegate specialized tasks to an individual that has not satisfied the proficiency requirements provided that the individual has equivalent training, education or experience related to the function being performed. The Member must consider the responsibilities and functions to be performed in relation to the delegated tasks and make a determination as to appropriate equivalent qualifications and proficiency. The Member must be able to demonstrate to MFDA staff that the equivalency standard has been met. Tasks related to trade supervision can only be delegated to individuals that possess the proficiency of a branch manager or compliance officer.

Education

1. The Member's current policies and procedures manual must be made available to all sales and supervisory staff.

2. Introductory training and continuing education should be provided for all registered salespersons. For training and enhanced supervisory requirements for newly registered salespersons, please refer to the MFDA Policy No. 1 entitled “New Registrant Training and Supervision Policy.”

3. Relevant information contained in compliance-related MFDA Member Regulation Notices and Bulletins and compliance-related notices from other applicable regulatory bodies must be communicated to registered salespersons and employees. Procedures relating to the method and timing of distribution of compliance-related information must be clearly detailed in the Member's written procedures. Members should ensure that they maintain evidence of compliance with such procedures.

II. OPENING NEW ACCOUNTS

To comply with the KYC and suitability requirements set out in MFDA Rule 2, each Member must establish procedures to maintain accurate and complete information on each client. The first step towards compliance with this rule is completing proper documentation when opening new accounts. Accurate completion of the documentation when opening a new account allows both the registered salesperson and the supervisory staff to conduct the necessary reviews to ensure that recommendations made for any account are appropriate for the client and in keeping with investment objectives. Maintaining accurate and current documentation will allow the registered salesperson and the supervisory staff to ensure that all recommendations made for any account are and continue to be appropriate for a client's investment objectives.

Documentation of Client Account Information

1. A New Account Application Form ("NAAF") must be completed for each new account.

2. A complete set of documentation relating to each client's account must be maintained by the Member. Registered salespersons must have access to information and documentation relating to the client's account as required to service the account. In the case of a Level 1 Introducing Dealer and corresponding Carrying Dealer, both Members must maintain a copy of each client's NAAF.

3. For each account of a client that is a natural person, the Member must obtain information sufficient to allow for the operation of the account and sufficient to determine the essential facts relative to each client, which would include, at a minimum, the following information:

   (a) name;

   (b) type of account;

   (c) residential address and contact information;

   (d) date of birth;

   (e) employment information;

   (f) number of dependants;

   (g) other persons with trading authorization on the account;

   (h) other persons with a financial interest in the account;

   (i) investment knowledge;

   (j) risk tolerance;

   (k) investment objectives;

   (l) time horizon;

   (m) income;

   (n) net worth;

   (o) for non-registered leveraged accounts, details of the net worth calculation, specifying liquid assets plus any other additional assets less total liabilities;

   (p) information required by other laws and regulations applicable to the Member's business as amended from time to time including information required for relevant tax reporting; information required for compliance with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* and any authorization necessary to provide information to the MFDA under applicable privacy legislation.

   The preceding provides a list of minimum requirements. The Member may require clients to provide any additional information that it considers relevant. In the case of accounts jointly owned by two or more persons, information required under subparagraphs (a), (c), (d), (e), (f) and (i) must be collected with respect to each owner. Income and net worth may be collected for each owner or on a combined basis as long as it is clear which method has been used.

4. For each account of a client that is a corporation, trust or other type of legal entity, the Member must obtain information sufficient to allow for the operation of the account and sufficient to determine the essential facts relative to the client, which would include, at a minimum, the following information:

   (a) legal name;

   (b) head office address and contact information;

   (c) type of legal entity (i.e. corporation, trust, etc.);

(d) form and details regarding the organization of the legal entity (i.e. articles of incorporation, trust deed, or other constating documents);

(e) nature of business;

(f) persons authorized to provide instructions on the account and details of any restrictions on their authority;

(g) investment knowledge of the persons to provide instructions on the account;

(h) risk tolerance;

(i) investment objectives;

(j) time horizon;

(k) income;

(l) net worth;

(m) information required by other laws and regulations applicable to the Member's business as amended from time to time including information required for relevant tax reporting; information required for compliance with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Regulations* and any authorization necessary to provide information to the MFDA under applicable privacy legislation.

The preceding provides a list of minimum requirements. The Member may require clients to provide any additional information that it considers relevant.

5. For supervisory purposes, registered accounts, leveraged accounts and accounts of any registered salesperson's family member operating under a limited trading authorization or operating under a power of attorney in favour of the registered salesperson must be readily identifiable.

6. If the NAAF does not include KYC information, this must be documented on a separate KYC form(s). Such form(s) must be signed by the client and dated. A copy of the completed NAAF and KYC form, if separate from the NAAF, must be provided to the client.

7. The Member must have internal controls and policies and procedures in place with respect to the entry of KYC information on their back office systems. Such controls should provide an effective means to detect and prevent inconsistencies between the KYC information used for account supervision with that provided by the client.

8. Except as noted in the following paragraph, NAAFs must be prepared and completed for all new clients prior to the opening of new client accounts. The new account or KYC information must be approved by the individual designated as responsible for the opening of new accounts under Rule 2.2.3 no later than one business day after the initial transaction date. Records of all such approvals must be maintained in accordance with Rule 5.

9. Notwithstanding the preceding paragraph, NAAFs for clients of a registered salesperson transferring to the Member must be prepared and completed within a reasonable time (but in any event no later than the time of the first trade). The new accounts or KYC information for clients of the transferring salesperson must be approved by the individual designated as responsible for the opening of new accounts under Rule 2.2.3 no later than one business day after the date that the NAAF is completed. Records of all such approvals must be maintained in accordance with Rule 5.

10. In the event that a NAAF is not completed prior to or within a reasonable time after opening an account, as required by this Policy, the Member must have policies and procedures to restrict transactions on such accounts to liquidating trades until a fully completed NAAF is received.

Changes to KYC Information

1. The registered salesperson or Member must update the KYC information whenever they become aware of a material change in client information as defined in Rule 2.2.4(a).

2. On account opening, the Member should advise the client to promptly notify the Member of any material changes in the client information, as defined in Rule 2.2.4(a), previously provided to the Member and provide examples of the types of information that should be regularly updated.

3. In accordance with Rule 2.2.4(e), Members must also, on an annual basis, request in writing that clients notify them if there has been any material change in client information, as defined in Rule 2.2.4(a), previously provided, or if the client's circumstances have materially changed.

4. Access to amend KYC information must be controlled and instructions to make any such amendments must be properly documented.

5. A client signature, which may include an electronic signature, or other internal controls sufficient to authenticate the client's identity and verify the client's authorization must be used to evidence any change in client name, client address or client banking information.

6. Material changes to client information, as defined in Rule 2.2.4(a), may be evidenced by a client signature, which may include an electronic signature or, alternatively, such changes may be evidenced by maintaining notes in the client file detailing the client's instructions to change the information and verified by providing written confirmation to the client with details of the instructions and providing an opportunity for the client to make corrections to any changes that have been made.

7. All material changes in client information, as defined in Rule 2.2.4(a), must be approved by the individual designated as responsible for the opening of new accounts under Rule 2.2.3 no later than one business day after the date on which notice of the change in information is received from the client. When approving material changes, branch managers should be reviewing the previous KYC information to assess whether the change appears reasonable. Branch managers should be aware of situations where material changes may have been made to justify unsuitable trades or leveraging. For example, branch managers should investigate further material changes that accompany trades in higher risk investments or leveraging or changes made within a short period of time (for example 6 months). Records of all such approvals must be maintained in accordance with Rule 5.

8. Where any material changes have been made to the information contained in the NAAF or KYC form(s), the client must promptly be provided with a document or documents specifying the current risk tolerance, investment objectives, time horizon, income and net worth that applies to the client's account.

9. The last date upon which the KYC information has been updated or confirmed by the client must be indicated in the client's file and on the Member's back office system.

Pending/Supporting Documents

1. Members must have procedures in place to ensure supporting documents are received within a reasonable period of time of opening the account.

2. Supporting documentation that is not received or is incomplete must be noted, filed in a pending documentation file and reviewed on a periodic basis.

3. Failure to obtain required documentation within 25 days of the opening of the account must result in positive actions being taken.

Client Communications

1. All hold mail must be authorized by the client in writing and be controlled, reviewed on a regular basis and maintained by the responsible supervisor. Hold mail should never be permitted to occur over a prolonged period of time (i.e. in excess of 6 months).

2. Returned mail is to be promptly investigated and controlled.

III. ASSESSING SUITABILITY OF INVESTMENTS AND BORROWING TO INVEST ("LEVERAGING") STRATEGIES

General

1. Members must establish and maintain policies and procedures with respect to their suitability obligations. The policies and procedures must include guidance and criteria for registered salespersons to ensure that recommendations made and orders accepted (with the exception of unsolicited orders accepted pursuant to Rule 2.2.1(d)) are suitable for the client. The policies and procedures must also include criteria for supervisory staff at the branch and head office to review the suitability of the investments in each client's account and the client's use of borrowing to invest ("leverage").

2. The criteria for selecting trades and leverage strategies for review, the inquiry and resolution process, supervisory documentation requirements and the escalation and disciplinary process must be documented and clearly communicated to all registered salespersons and all relevant employees. Registered salespersons must be advised of the criteria used in assessing suitability, actions the Member will take when a trade or leverage strategy has been flagged for review and appropriate options for resolution.

Leverage Suitability

1. ~~The suitability of leverage must be assessed having regard to the client's investment knowledge, risk tolerance, age, time horizon, income, net worth and investment objectives.~~ The minimum criteria listed below are intended to prompt a supervisory review and investigation by the Member of a leverage strategy. While Members must consider all the criteria in assessing the suitability of the leverage strategy, the triggering of one or more of the criteria may not necessarily mean that the leverage strategy is unsuitable.

   The review and investigation of leverage suitability must be conducted in a fair and objective manner having regard only to the best interest of the client in accordance with Rule 2.1.4 and the general standard of conduct required by Rule 2.1.1. Where the leverage strategy is approved, the analysis and rationale must be documented.

   Minimum criteria that require ~~further~~ supervisory review and investigation include the following:

   (a) investment knowledge of low or poor (or similar categories);

   (b) risk tolerance of less than medium (or similar categories);

   (c) age of 60 and above;

   (d) time horizon of less than 5 years;

   (e) total leverage amount that exceeds 30% of the client's total net worth; and

   (f) total debt and lease payments that exceed 35% of the client's gross income, not including income generated from leveraged investments. Total debt payments would include all loans of any kind whether or not obtained for purpose of investment. Total lease payments would include all significant ongoing lease and rental payments such as automobile leases and rental payments on residential property.

~~2. The objective of the supervisory review is to assess the suitability of the leveraging strategy. The supervisory review and investigation of leverage suitability must be conducted in a fair and objective manner having regard only to the best interest of the client in accordance with Rule 2.1.4 and the general standard of conduct required by Rule 2.1.1. Where the leverage strategy is approved, the analysis and rationale must be documented.~~

~~3~~2. With respect to a recommendation for a client to use a leveraging strategy, Members and registered salespersons may not obtain a waiver from the client to exempt the Member and the registered salesperson from their obligations to ensure the suitability of such a recommendation.

~~4~~3. The Member must review and maintain documents to facilitate proper supervision. This would include:

   (a) Lending documents and details of lending arrangements – The Member or registered salesperson must either maintain copies of the lending documents or make sufficient inquiries to obtain details of the loan, including interest rate, terms for repayment, and the outstanding loan value. Where the Member or registered salesperson assists the client in completing the loan application, the Member must maintain copies of lending documents in the file, including copies of the loan application.

   Where the client arranges their own financing, it may be difficult in some cases for the Member or registered salesperson to obtain details of the lending arrangement from the client. Where a client is unwilling to provide details of the lending arrangement, the Member and registered salesperson ~~should~~must advise the client that they cannot assess the suitability of the leverage strategy without additional information and maintain evidence of such advice.

   (b) NAAF and updates to KYC information – Supervisory staff must compare the client's KYC information with all other information received in respect of the loan and follow up on any material inconsistencies, which may require obtaining additional supporting documentation from the client.

   (c) Numerical ~~D~~details in support of income and net worth calculations required by sections 1(e) and 1(f) ~~– This would include information on all existing debt payments, as well as the investment loan payments~~.

(d) Trade documents, notes supporting client instructions or authorizations and notes supporting the rationale for recommending a leverage strategy to the client.

Registered Salespersons

1. All recommendations made and orders accepted by registered salespersons (with the exception of unsolicited orders accepted pursuant to Rule 2.2.1(d)) must be suitable in accordance with Rule 2.2.1(c). Where the registered salesperson recommends a leverage strategy to a client or where the registered salesperson is aware that a transaction ~~proposed by the client~~ involves the use of borrowed funds, the registered salesperson must ensure that the client's account is identified as "leveraged" on the Member's system in accordance with the Member's policies and procedures.

2. Registered salespersons must assess the suitability of investments in each client account whenever:

   – the client transfers to the Member or transfers assets into an account at the Member;

   – the Member or registered salesperson becomes aware of a material change in the client's KYC information; or

   – the client account has been re-assigned to the registered salesperson from another registrant at the Member.

   Where there is a transfer of assets into an account at the Member or where the client account is re-assigned to the registered salesperson from another registrant at the Member, the suitability assessment must be performed within a reasonable time, but in any event no later than the time of the next trade. The determination of "reasonable time" in a particular instance will depend on the circumstances surrounding the event that gives rise to the requirement to perform the suitability assessment. For example, with respect to client transfers, the volume of accounts to be reviewed may be a relevant factor in determining reasonable time.

   Where the Member or registered salesperson becomes aware of a material change in the client's KYC information, the suitability assessment must be performed no later than one business day after the date on which the notice of change in information is received from the client.

3. Registered salespersons must also assess the suitability of a leverage strategy <u>having regard to the client's investment knowledge, risk tolerance, age, time horizon, income, net worth and investment objectives</u> whenever:

   – the client transfers assets purchased using borrowed funds into an account at the Member;

   – the Member or registered salesperson becomes aware of a material change in the client's KYC information; or

   – the client account has been re-assigned to the registered salesperson from another registrant at the Member.

   Where there is a transfer of assets purchased using borrowed funds into an account at the Member or where the client account is re-assigned to the registered salesperson from another registrant at the Member, the suitability assessment must be performed in a timely manner as soon as possible after the transfer in accordance with~~in~~ the circumstances, but in any event no later than the time of the next trade.

   Where the Member or registered salesperson becomes aware of a material change in the client's KYC information, the suitability assessment must be performed no later than one business day after the date on which the notice of change in information is received from the client.

4. Should a registered salesperson identify unsuitable investments in a client's account or an unsuitable leverage strategy, the registered salesperson must advise the client and take appropriate steps to determine if there has been any change to client circumstances that would warrant altering the KYC information. Where there has not been a change in client circumstances, it is inappropriate to alter the KYC information in order to match the investments in the client's account or the leverage strategy. If there is no change to the KYC information, or if investments in the account or the leverage strategy continue to be unsuitable after the KYC information has been amended, the registered salesperson should discuss any inconsistencies with the client and provide recommendations as to rebalancing investments in the account. Transactions in the account must only be made in accordance with client instructions and any recommendations made with respect to the rebalancing of the account must be properly recorded.

Where an existing leverage strategy is determined to be unsuitable, the client must be advised of his/her options.

5. Registered salespersons must maintain evidence of completion of all suitability assessments performed and any follow up action taken with respect to such assessments.

IV. BRANCH OFFICE SUPERVISION

Each branch manager must undertake certain activities within the branch for purposes of assessing compliance with the Member's policies and procedures and regulatory requirements. These activities should be designed to identify failures to adhere to required policies and procedures and provide a means of revealing and addressing undesirable account activity.

Daily Reviews

1. All new account applications and updates to client information must be reviewed and approved in accordance with this Policy.

2. The branch manager (or alternate) must review the previous day's trading for unsuitable trades, leveraging and any other unusual trading activity using any convenient means. This review must include, at a minimum, all:

   – initial trades;

   – trades in exempt securities (excluding guaranteed investment certificates);

   – ~~leveraged trades/leverage recommendations~~leveraging for accounts other than registered retirement savings plans or registered education savings plans;

   – trades in accounts of family members of registered salespersons operating under a power of attorney in favour of the registered salesperson;

   – redemptions over $10,000;

   – trades over $2,500 in moderate-high or high risk investments;

   – trades over $5,000 in moderate or medium risk investments; and

   – trades over $10,000 in all other investments.

   For the purposes of this section, “trades” does not include redemptions except where specifically referenced.

3. When reviewing redemptions, branch managers should seek to identify and assess:

   – the suitability of the redemption with regard to the composition of the remaining portfolio;

   – the impact and appropriateness of any redemption charges;

   – possible outside business activity where money may be leaving the Member for reinvestment into other potentially inappropriate or unauthorized investments; and

   – potential churning, including situations where redemption proceeds are being held on a temporary basis pending reinvestment.

4. The branch manager (or alternate) is responsible for following up on unusual trades identified by head office.

Other Reviews

1. The branch manager must review ~~assess~~ the suitability of investments in each client account and the suitability of the client’s use of leverage, if any, where the Member becomes aware of a material change in the client’s KYC information that results in a significant decrease in the client’s risk tolerance, time horizon, income or net worth or more conservative investment objectives. The suitability assessment must be performed no later than one business day after the date on which notice of the change in information is received from the client.

2. In addition to transactional activity, branch managers must also keep themselves informed as to other client-related compliance matters such as complaints.

V. HEAD OFFICE SUPERVISION

A two-tier structure is required to adequately supervise client account activity. While the head office or regional area level of supervision by its nature cannot be in the same depth as branch level supervision, it should cover the same elements. Head office review should be focused on unusual activity or reviews that cannot be carried out at the branch level. Head office reviews must include procedures to effectively detect unsuitable investments and excessive trading in client accounts.

Daily Reviews

1. In addition to the trading review criteria for branch managers, head office must conduct daily reviews of account activity which must include, at a minimum, all:

   – redemptions over $50,000;

   – trades over $5,000 in exempt securities (excluding guaranteed investment certificates), moderate-high or high risk investments, or ~~leveraged trades/recommendations~~leveraging for accounts other than registered retirement savings plans or registered education savings plans;

   – trades over $10,000 in moderate or medium risk mutual funds; and

   – trades over $50,000 in all other investments (excluding money market funds).

   For the purposes of this section, "trades" does not include redemptions except where specifically referenced.

2. There must be closer supervision of trading by registered salespersons who have had a history of questionable conduct. Questionable conduct may include trading activity that frequently raises questions in account reviews, frequent or serious complaints, regulatory investigations or failure to take remedial action on account problems identified.

3. Daily reviews should be completed within one business day unless precluded by unusual circumstances.

4. Daily reviews should be conducted of client accounts of producing branch managers.

Other Reviews

1. On a sample basis, the Member must review the suitability of investments in accounts where clients have transferred assets into an account in accordance with Rule 2.2.1(e)(i). The Member must have policies and procedures regarding sample size and selection, which should be based on the risk level associated with the account, focusing on accounts that hold higher risk investments, exempt securities or products not sold by the Member, accounts that are operated under a power of attorney in favour of a registered salesperson and accounts employing a leverage strategy other than registered retirement savings plans and registered education savings plans. The Member's reviews must be completed within a reasonable time, but in any event no later than the time of the next trade.

2. Members must also review the suitability of the use of leverage in all cases where the client transfers assets purchased using borrowed funds into an account at the Member. Given the high risk nature of leveraging strategies, the Member's reviews must be completed in a timely manner as soon as possible after the transfer in accordance with the circumstances, but in any event no later than the time of the next trade.

VI. IDENTIFICATION OF TRENDS IN TRADING ACTIVITY

1. Members must establish policies and procedures to identify trends or patterns that may be of concern including:

   – excessive trading or switching between funds indicating possible unauthorized trading, lack of suitability or possible issues of churning (for example, redemptions made within 3 months of a purchase, DSC purchases made within 3 months of a DSC redemption or accounts where there are more than 5 trades per month);

   – excessive switches between no load funds and deferred sales charge or front load funds;

   – excessive switches between deferred sales charge funds and front load funds; and

   – excessive switches where a switch fee is charged.

2. Head office supervisory review procedures must include, at a minimum, the following criteria:

   – a review of all accounts generating commissions greater than $1,500 within the month;

   – a quarterly review of reports on assets under administration ("AUA") comparing current AUA to AUA at the same time the prior year;

   – a quarterly review of commission reports for the previous 12 month period comparing commissions received in the current year to commissions received for the same period in the prior year.

   Significant increases in commissions or AUA beyond those caused by market fluctuations may indicate issues with churning or leveraging strategies. Significant decreases may indicate potential inappropriate outside business activity.

3. Reviews should be completed within 30 days of the last day of the period being reviewed unless precluded by unusual circumstance

13.1.2 IIROC Rules Notice – Request For Comment – Amendments to IFRS Version of Form 1

13-0041
February 7, 2013

Amendments to IFRS version of Form 1

On November 28, 2012, the Board of Directors (the Board) of the Investment Industry Regulatory Organization of Canada (IIROC) approved the proposed amendments to the International Financial Reporting Standards (IFRS) version of Form 1 to make minor clarification changes throughout Form 1. The amendments were originally classified as "Housekeeping Rules" and were submitted to the securities commissions. However, at the request of the securities commissions three of the proposed amendments are now reclassified as "Public Comment Rules". Comments are sought on the proposed amendments and the comment period expires on March 11, 2013 (30 days from the publication of this notice).

Summary of the nature and purpose of the amendments

The proposed amendments make clarification changes to the IFRS version of Form 1 and have been reclassified as "public comment" amemdments by IIROC staff. The following are the proposed amendments to the IFRS version of Form 1:

(a) General Notes and Definitions

(i) Adding the valuation of subordinated loan as a prescribed IFRS departure in the General Notes and Definitions to Form 1: The purpose of the proposed change is to clarify that IIROC requires subordinated loans to be reported at face value, which is a departure from IFRS. Under IFRS, any liability is subject to revaluation, which would mean a Dealer Member must discount the value of the subordinated loan and the change in the value of the subordinated loan must be reflected on the income statement. Under certain circumstances, the discount could be material. The proposed change would add this prescribed IFRS departure to Note 2 of the General Notes and Definitions to Form 1.

(b) Statement C (Statement of early warning excess and early warning reserve), the Notes and Instructions to Statement C, Statement D (Statement of free credit segregation amount), and Schedules 6A (Tax recoveries), 13 (Early warning tests - Level 1) and 13A (Early warning tests - Level 2)

(i) Adding the line item "Finance leases and lease related liabilities" as a deduction to the line item "Non-current liabilities" in Statement C, accommodating them in the Notes and Instructions to Line 5 in the Notes and Instructions to Statement C, and renumbering the line items on Statement C and the Notes and Instructions to Statement C, accordingly: The purpose of the proposed changes is to make the impact of "non-current portion of finance leases and lease-related liabilities" neutral to the early warning excess (EWE) and early warning reserve (EWR) calculations. When the IFRS version of Form 1 was first implemented, finance lease assets (previously called capitalized leases) were moved from "Non-Allowable Assets" to a separate asset category to make their impact neutral to risk adjusted capital (RAC). However, the non-current portion of finance leases and lease-related liabilities were not considered and as a result, they unintentionally increased the EWE and EWR amounts calculated for Dealer Members.

(ii) Renumbering the line references on Statement D and Schedules 6A, 13 and 13A that were affected by the addition of the line item "Finance leases and lease related liabilities" in (b)(i) immediately above.

(c) Schedule 11A (Details of unhedged foreign currencies calculation for individual currencies with margin required greater than or equal to $5,000)

(i) Renaming Line 13 on Schedule 11A: The purpose of the proposed change is to correct an unintended title change to Line 13 when the Schedule was amended to adopt IFRS. Line 13's title "Net weighted value" will be changed back to "Greater of long or (short) weighted values".

Issues and alternatives considered

In developing the proposed amendments to the IFRS version of Form 1, no alternative was considered other than the status quo. That alternative was dismissed given the importance of making these clarification changes that otherwise should have been made when IFRS was first adopted. The proposed amendments were developed by IIROC staff and have been recommended for approval by the FAS Capital Formula Subcommittee and the Financial Administrators Section, two policy advisory committees of IIROC.

Proposed Rule classification

Statements have been made elsewhere as to the nature and effects of the proposed amendments. The purposes of the proposed amendments are to:

- establish and maintain rules that are necessary or appropriate to govern and regulate all aspects of IIROC's functions and responsibilities as a self-regulatory entity; and

- promote the protection of investors.

The Board therefore has determined that the proposed amendments are not contrary to the public interest.

Effects of the proposed Rule on market structure, Dealer Members, non-Dealer Members, competition and costs of compliance

The proposed amendments do not impose any burden or constraint on competition or innovation that is not necessary or appropriate in furtherance of IIROC's regulatory objectives. They do not impose costs or restrictions on the activities of market participants (including Dealer Members and non-Dealer Members) that are disproportionate to the goals of the regulatory objectives sought to be realized.

Technological implications and implementation plan

The proposed amendments will have no impact on Dealer Members' systems. As such it is intended that the proposed amendments will be implemented shortly after approval is received from IIROC's recognizing regulators.

Request for public comment

Comments are sought on the proposed amendments. Comments should be made in writing. Two copies of each comment letter should be delivered by March xx, 2013 (30 days from the publication date of this notice). One copy should be addressed to the attention of:

Answerd Ramcharan
Specialist, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
121 King Street West, Suite 2000
Toronto, Ontario, M5H 3T9
aramcharan@iiroc.ca

The second copy should be addressed to the attention of:

Manager of Market Regulation
Ontario Securities Commission
19th Floor, Box 55
20 Queen Street West
Toronto, Ontario, M5H 3T9
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 "Rule Book – IIROC Dealer Member Rules – Proposed Policy".

Questions may be referred to:

Answerd Ramcharan
Specialist, Member Regulation Policy
Investment Industry Regulatory Organization of Canada
(416) 943-5850
aramcharan@iiroc.ca

Attachments

The following supporting documents for the amendments to the IFRS version of Form 1 are attached:

Attachment A - Board resolution approving the implementation of the proposed amendments to IFRS version of Form 1

Attachment B - Proposed amendments to IFRS version of Form 1

Attachment C - Black-line copy of the proposed amendments to IFRS version of Form

ATTACHMENT A

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
AMENDMENTS TO IFRS VERSION OF IIROC FORM 1
BOARD RESOLUTION

BE IT RESOLVED ON THIS 28TH DAY OF NOVEMBER, 2012 THAT:

1. The English and French versions of the proposed amendments to the IFRS version of IIROC Form 1, in the form presented to the Board of Directors (the "Board"):

   (a) be approved for implementation as a "Housekeeping Rule" for the purposes of the Joint Rule Review Protocol for IIROC;

   (b) be determined to be in the public interest;

   (c) the President be authorized to approve such non-material changes to the proposed amendments as may be necessary in securing the approval of the Recognizing Regulators under the Joint Rule Review Protocol for IIROC, such approval to constitute final approval by the Board of the proposed amendments; and

   (d) in the event a Recognizing Regulator provides a notice of disagreement with the classification of the proposed amendments as a "Housekeeping Rule":

      (i) be approved for publication for public comment for 30 days;

      (ii) be brought back to the Board for approval in final form if there are material changes to the proposed amendments resulting from the comments of the public or the Recognizing Regulators; and

      (iii) the President be authorized to approve such non-material changes to the proposed amendments resulting from the public comments or as may be necessary in securing the approval of the Recognizing Regulators under the Joint Rule Review Protocol for IIROC, such approval to constitute final approval by the Board of the proposed amendments.

ATTACHMENT B

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
AMENDMENTS TO IFRS VERSION OF IIROC FORM 1
PROPOSED AMENDMENTS

1. The IFRS version of Form 1 is amended by making the following changes to the General Notes and Definitions:
   (a) Adding the words "Subordinated loan" as a separate subsection within Note 2 (Prescribed IFRS departure); and
   (b) Adding the sentence "For regulatory reporting purposes, a subordinated loan must be reported at face value. Discounting of the subordinated loan amount is not permitted." Within the "Subordinated loan" subsection of Note 2 (Prescribed IFRS departure).

2. The IFRS version of Form 1 is amended by making the following change to Statement C (Statement of Early Warning Excess and Early Warning Reserve):
   (a) Adding as Line 8 the line item "Less: Finance leases and lease-related liabilities" and renumbering the existing Lines and references to those Lines accordingly.

3. The IFRS version of Form 1 is amended by making the following changes to the Notes and Instructions to Statement C (Statement of Early Warning Excess and Early Warning Reserve):
   (a) Renumbering the Lines and references to those Lines in accordance with the changes to Statement C as noted in 2(a) above;
   (b) Replacing the word "and" with the punctuation mark "," immediately after the words "other than subordinated loans in the note to Line 5"; and
   (c) Adding the words ", and non-current portion of finance leases and lease-related liabilities" after the words "non-current portion of lease liabilities - leasehold inducements" in the note to Line 5.

4. The IFRS version of Form 1 is amended by making the following change to Statement D (Statement of Free Credit Segregation Amount):
   (a) Renumbering the Line reference "C12" to "C13" on Line 2 in accordance with the change to Statement C as noted in 2(a) above.

5. The IFRS version of Form 1 is amended by making the following change to Schedule 6A (Tax Recoveries):
   (a) Renumbering the Line reference "C9" to "C10" on Line 6 of "B. Tax Recovery for Early Warning Calculation:" in accordance with the change to Statement C as noted in 2(a) above.

6. The IFRS version of Form 1 is amended by making the following change to Schedule 11A (Details of Unhedged Foreign Currencies Calculation for Individual Currencies with Margin Required Greater than or equal to $5,000):
   (a) Renaming Line 13 "Net weighted value" to "Greater of long or (short) weighted values".

7. The IFRS version of Form 1 is amended by making the following change to Schedule 13 (Early Warning Tests - Level 1):
   (a) Renumbering the Line reference "Stmt. C, Line 12" to "Stmt. C, Line 13" under "A. Liquidity Test" in accordance with the change to Statement C as noted in 2(a) above.

8. The IFRS version of Form 1 is amended by making the following change to Schedule 13A (Early Warning Tests - Level 2):
   (a) Renumbering the Line reference "Stmt. C, Line 10" to "Stmt. C, Line 11" under "A. Liquidity Test" in accordance with the change to Statement C as noted in 2(a) above.

ATTACHMENT C

INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA
AMENDMENTS TO IFRS VERSION OF IIROC FORM 1
BLACK-LINE COPY OF THE PROPOSED AMENDMENTS

1. The proposed amendments to make clarifying changes to the IFRS version of Form 1.

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(Dealer Member Name)

(Date)

		Updated
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INDEPENDENT AUDITOR'S REPORT FOR STATEMENTS A, E AND F [at audit date only]		Jan-2013
INDEPENDENT AUDITOR'S REPORT FOR STATEMENTS B, C AND D [at audit date only]		Jan-2013
PART I		
STATEMENT		
A	Statement of financial position	Jan-2013
B	Statement of net allowable assets and risk adjusted capital	Jan-2013
C	Statement of early warning excess and early warning reserve	~~Jan~~Xxx-2013
D	Statement of free credit segregation amount	~~Feb~~Xxx-~~2011~~2013
E	Statement of income and comprehensive income	Jan-2013
F	Statement of changes in capital and retained earnings (corporations) or undivided profits (partnerships)	Feb-2011
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SCHEDULE		
1	Analysis of loans receivable, securities borrowed and resale agreements	Feb-2011
2	Analysis of securities owned and sold short at market value	Feb-2011
2A	Margin for concentration in underwriting commitments	Feb-2011
2B	Underwriting issues margined at less than the normal margin rates	Feb-2011
4	Analysis of clients' trading accounts long and short	Feb-2011
4A	List of ten largest value date trading balances with acceptable institutions and acceptable counterparties	Feb-2011
5	Analysis of brokers' and dealers' trading balances	Feb-2011
6	Income taxes	Feb-2011
6A	Tax recoveries	~~Feb~~Xxx-~~2011~~2013
7	Analysis of overdrafts, loans, securities loaned and repurchase agreements	Feb-2011
7A	Acceptable counterparties financing activities concentration charge	Feb-2011
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	than or equal to $5,000	2013
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13	Early warning tests - Level 1	~~Feb~~Xxx-2011
13A	Early warning tests - Level 2	~~Jan~~Xxx-2013
14	Provider of capital concentration charge	Jan-2013
15	Supplementary information[4]	Feb-2011

Note 1: The "Separate Certificate of UDP and CFO on Statement G of Part I" is not part of an audited Form 1 submission and the name of this certificate will not appear in the "Table of Contents" on the electronic or hardcopy version of an audited Form 1 submission.

Note 2: "Statement G, Opening IFRS statement of financial position and reconciliation of equity", is not part of an audited Form 1 submission and the name of this statement will not appear in the Table of Contents on the electronic or hardcopy version of an audited Form 1 submission.

Note 3: Schedules 2C, 2D, 3, 3A, 4B, 8 and 12A have been eliminated.

Note 4: "Schedule 15, Supplementary information", is not part of an audited Form 1 submission and the name of this schedule will not appear in the "Table of Contents" on the electronic or hardcopy version of an audited Form 1 submission.

FORM 1 – GENERAL NOTES AND DEFINITIONS

GENERAL NOTES:

1. Each Dealer Member must comply with the requirements in Form 1 as approved and amended from time to time by the board of directors of the Investment Industry Regulatory Organization of Canada (the Corporation).

   Form 1 is a special purpose report that includes financial statements and schedules, and is to be prepared in accordance with International Financial Reporting Standards (IFRS), except as prescribed by the Corporation.

   Each Dealer Member must complete and file all of these statements and schedules.

   The pre-IFRS changeover Joint Regulatory Financial Questionnaire and Report must be used by Dealer Members who have elected to defer the adoption of IFRS and have received written approval of the deferral from the Corporation.

2. The following are Form 1 IFRS departures as prescribed by the Corporation:

	Prescribed IFRS departure
Client and broker trading balances	For client and broker trading balances, the Corporation allows the netting of receivables from and payables to the same counterparty. A Dealer Member may choose to report client and broker trading balances in accordance with IFRS.
One-time transitional relief	As a one-time transitional relief for the first Form 1 prepared under the basis of IFRS with prescribed departures and prescribed accounting treatments, the Corporation does not require comparative financial data. In addition, the Corporation does not require the opening IFRS balance sheet as part of the first Form 1 prepared under the basis of IFRS with prescribed departures and prescribed accounting treatments. And as such, the Dealer Member is not required to provide the reconciliation between previous Canadian GAAP and IFRS. The Corporation requires that the preparation of the opening balance sheet is as at the conversion date (the first day of the first fiscal year under IFRS). A Dealer Member will file the opening balance sheet as Statement G and as stipulated by the Corporation, which is prior to the filing of the first monthly financial report (MFR) prepared under IFRS with prescribed departures and prescribed accounting treatments.
Preferred shares	Preferred shares issued by the Dealer Member and approved by the Corporation are classified as shareholders' capital.
Presentation	Statements A and E contain terms and classifications (such as allowable and non-allowable assets) that are not defined under IFRS. For Statement E, the profit (loss) for the year on discontinued operations is presented on a pre-tax basis (as opposed to after-tax). In addition, specific balances may be classified or presented on Statements A, E and F in a manner that differs from IFRS requirements. The General Notes and Definitions, and the applicable Notes and Instructions to the Statements of Form 1, should be followed in those instances where departures from IFRS presentation exist. Statements B, C, and D are supplementary financial information, which are not statements contemplated under IFRS.
Separate financial statements on a non-consolidated basis	Consolidation of subsidiaries is not permitted for regulatory reporting purposes, except for related companies that meet the definition of a "related company" in Dealer Member Rule 1 and the Corporation has approved the consolidation. Because Statement E only reflects the operational results of the Dealer Member, a Dealer Member must not include the income (loss) of an investment accounted for by the equity method.

Statement of cash flow	A statement of cash flow is not required as part of Form 1.
Subordinated loan	For regulatory reporting purposes, a subordinated loan must be reported at face value. Discounting of the subordinated loan amount is not permitted.
Valuation	The "market value of securities" definition remains unchanged from the pre-IFRS changeover Joint Regulatory Financial Questionnaire and Report.

3. The following are Form 1 prescribed accounting treatments based on available IFRS alternatives:

	Prescribed accounting treatment
Hedge accounting	Hedge accounting is not permitted for regulatory reporting purposes. All security and derivative positions of a Dealer Member must be marked-to-market at the reporting date. Gains or losses of the hedge positions must not be deferred to a future point in time.
Securities owned and sold short as held-for-trading	A Dealer Member must categorize all inventory positions as held-for-trading financial instruments. These security positions must be marked-to-market. Because the Corporation does not permit the use of the available for sale and held-to-maturity categories, a Dealer Member must not include other comprehensive income (OCI) and will not have a corresponding reserve account relating to marking-to-market available for sale security positions.
Valuation of a subsidiary	A Dealer Member must value subsidiaries at cost.

4. These statements and schedules are prepared in accordance with the Dealer Member rules.

5. For purposes of these statements and schedules, the accounts of related companies that meet the definition of a "related company" in Dealer Member Rule 1 may be consolidated.

6. For the purposes of the statements and schedules, the capital calculations must be on a trade date reporting basis unless specified otherwise in the Notes and Instructions to Form 1.

7. Dealer Members may determine margin deficiencies for clients, brokers and dealers on either a settlement date basis or trade date basis. Dealer Members may also determine margin deficiencies for *acceptable institutions*, *acceptable counterparties*, regulated entities and investment counselors' accounts as a block on either a settlement date basis or trade date basis and the remaining clients, brokers and dealer accounts on the other basis. In each case, Dealer Members must do so for all such accounts and consistently from period to period.

8. Comparative figures on all statements are only required at the audit date. As a transition exemption for the changeover to International Financial Reporting Standards (IFRS) from Canadian Generally Accepted Accounting Principles (CGAAP), Dealer Members are not required to file comparative information for the preceding financial year as part of the first audited Form 1, which is based on *IFRS except for prescribed departures and prescribed accounting treatments* stipulated in the general notes and definitions of Form 1.

9. All statements and schedules must be expressed in Canadian dollars and must be rounded to the nearest thousand.

10. Supporting details should be provided – as required - showing breakdown of any significant amounts that have not been clearly described on the statements and schedules.

11. **Mandatory security counts.** All securities except those held in segregation or safekeeping shall be counted once a month, or monthly on a cyclical basis. Those held in segregation and safekeeping must be counted once in the year in addition to the count as at the year-end audit date.

DEFINITIONS:

(a) **"acceptable clearing corporation"** means any clearing agency operating a central system for clearing of securities or derivatives transactions that is subject to legislation and oversight by a central or regional government authority in the country of operation. The legislation or oversight regime must provide for or recognize the clearing agency's powers of compliance and enforcement over its members or participants. The Corporation will maintain and regularly update a list of acceptable clearing corporations.

(b) **"acceptable counterparties"** means those entities with whom a Dealer Member may deal on a value for value basis, with mark to market imposed on outstanding transactions. The entities are as follows:

1. Canadian banks, Quebec savings banks, trust companies and loan companies licensed to do business in Canada or a province thereof. Each of the aforementioned entities must have paid up capital and surplus on

the last audited balance sheet (plus such other forms of capital recognized as such in their regulatory regime as well as in this capital formula, e.g. subordinated debt) in excess of $10 million and less than or equal to $100 million to qualify, provided acceptable financial information with respect to such entities is available for inspection.

2. Credit and central credit unions and regional caisses populaires with paid up capital and surplus or net worth (excluding appraisal credits but including general reserves) on the last audited balance sheet in excess of $10 million and less than or equal to $100 million, provided acceptable financial information with respect to such entities is available for inspection.
3. Insurance companies licensed to do business in Canada or a province thereof with paid up capital and surplus or net worth on the last audited balance sheet in excess of $10 million and less than or equal to $100 million, provided acceptable financial information with respect to such companies is available for inspection.
4. Canadian provincial capital cities and all other Canadian cities and municipalities, or their equivalents, with populations of 50,000 and over.
5. Mutual funds subject to a satisfactory regulatory regime with total net assets in the fund in excess of $10 million.
6. Corporations (other than regulated entities) with a minimum net worth of $75 million on the last audited balance sheet, provided acceptable financial information with respect to such corporation is available for inspection.
7. Trusts and limited partnerships with minimum total net assets on the last audited balance sheet in excess of $100 million, provided acceptable financial information with respect to such trust or limited partnership is available for inspection.
8. Canadian pension funds which are regulated either by the Office of Superintendent of Financial Institutions or a provincial pension commission, with total net assets on the last audited balance sheet in excess of $10 million, provided that in determining net assets the liability of the fund for future pension payments shall not be deducted.
9. Foreign banks and trust companies subject to a satisfactory regulatory regime with paid up capital and surplus on the last audited balance sheet in excess of $15 million and less than or equal to $150 million, provided acceptable financial information with respect to such entities is available for inspection.
10. Foreign insurance companies subject to a satisfactory regulatory regime with paid up capital and surplus or net worth on the last audited balance sheet in excess of $15 million, provided acceptable financial information with respect to such companies is available for inspection.
11. Foreign pension funds subject to a satisfactory regulatory regime with total net assets on the last audited balance sheet in excess of $15 million, provided that in determining net assets the liability of the fund for future pension payments shall not be deducted.
12. Federal governments of foreign countries which do not qualify as a *Basel Accord country*.

For the purposes of this definition, a satisfactory regulatory regime will be one within *Basel Accord countries*.

Subsidiaries (excluding regulated entities) whose business falls in the category of any of the above enterprises and whose parent or affiliate qualifies as an acceptable counterparty may also be considered as an acceptable counterparty if the parent or affiliate provides a written unconditional irrevocable guarantee, subject to approval by the Corporation.

(c) "**acceptable institutions**" means those entities with which a Dealer Member is permitted to deal on an unsecured basis without capital penalty. The entities are as follows:

1. Government of Canada, the Bank of Canada and provincial governments.
2. All crown corporations, instrumentalities and agencies of the Canadian federal or provincial governments which are government guaranteed as evidenced by a written unconditional irrevocable guarantee or have a call on the consolidated revenue fund of the federal or provincial governments.
3. Canadian banks, Quebec savings banks, trust companies and loan companies licensed to do business in Canada or a province thereof. Each of the aforementioned entities must have paid up capital and surplus on the last audited balance sheet (plus such other forms of capital recognized as such in their regulatory regime as well as in this capital formula, e.g. subordinated debt) in excess of $100 million, provided acceptable financial information with respect to such entities is available for inspection.
4. Credit and central credit unions and regional caisses populaires with paid up capital and surplus (excluding appraisal credits but including general reserves) on the last audited balance sheet in excess of $100 million, provided acceptable financial information with respect to such entities is available for inspection.
5. Federal governments of *Basel Accord countries*.

6. Foreign banks and trust companies subject to a satisfactory regulatory regime with paid up capital and surplus on the last audited balance sheet in excess of $150 million, provided acceptable financial information with respect to such entities is available for inspection.
7. Insurance companies licensed to do business in Canada or a province thereof with paid up capital and surplus or net worth on the last audited balance sheet in excess of $100 million, provided acceptable financial information with respect to such companies is available for inspection.
8. Canadian pension funds which are regulated either by the Office of Superintendent of Financial Institutions or a provincial pension commission, and with total net assets on the last audited balance sheet in excess of $200 million, provided that in determining net assets the liability of the fund for future pension payments shall not be deducted.
9. Foreign pension funds subject to a satisfactory regulatory regime with total net assets on the last audited balance sheet in excess of $300 million, provided that in determining net assets the liability of the fund for future pension payments shall not be deducted.

For the purposes of this definition, a satisfactory regulatory regime will be one within *Basel Accord countries*.

Subsidiaries (other than regulated entities) whose business falls in the category of any of the above enterprises and whose parent or affiliate qualifies as an acceptable institution may also be considered as an acceptable institution if the parent or affiliate provides a written unconditional irrevocable guarantee, subject to approval by the Corporation.

(d) "**acceptable securities locations**" means those entities considered suitable to hold securities on behalf of a Dealer Member, for both inventory and client positions, without capital penalty, given that the locations meet the requirements outlined in the segregation rules of the Corporation including, but not limited to, the requirement for a written custody agreement outlining the terms upon which such securities are deposited and including provisions that no use or disposition of the securities shall be made without the prior written consent of the Dealer Member and the securities can be delivered to the Dealer Member promptly on demand. The entities are as follows:

1. Depositories and Clearing Agencies

   Any securities depository or clearing agency operating a central system for handling securities or equivalent book-based entries or for clearing of securities or derivatives transactions that is subject to legislation and oversight by a central or regional government authority in the country of operation. The legislation or oversight regime must provide for or recognize the securities depository's or clearing agency's powers of compliance and enforcement over its members or participants. The Corporation will maintain and regularly update a list of those depositories and clearing agencies that comply with these criteria.
2. Acceptable institutions and subsidiaries of acceptable institutions that satisfy the following criteria:
   (a) *Acceptable institutions* which in their normal course of business offer custodial security services; or
   (b) Subsidiaries of *acceptable institutions* provided that each such subsidiary, together with the *acceptable institution*, has entered into a custodial agreement with the Dealer Member containing a legally enforceable indemnity by the *acceptable institution* in favour of the Dealer Member covering all losses, claims, damages, costs and liabilities in respect of securities and other property held for the Dealer Member and its clients at the subsidiary's location.
3. Acceptable counterparties - with respect to security positions maintained as a book entry of securities issued by the acceptable counterparty and for which the acceptable counterparty is unconditionally responsible.
4. Banks and trust companies otherwise classified as acceptable counterparties - with respect to securities for which they act as transfer agent and for which custody services are not being provided (in such case, a written custody agreement is not required).
5. Mutual Funds or their Agents - with respect to security positions maintained as a book entry of securities issued by the mutual fund and for which the mutual fund is unconditionally responsible.
6. Regulated entities.
7. Foreign institutions and securities dealers that satisfy the following criteria:
   (a) the paid-up capital and surplus according to its most recent audited balance sheet is in excess of Canadian $150 million as evidenced by the audited financial statements of such entity;
   (b) in respect of which a foreign custodian certificate has been completed and signed in the prescribed form by the Dealer Member's board of directors or authorized committee thereof;

   provided that:
   (c) a formal application in respect of each such foreign location is made by the Dealer Member to the Corporation in the form of a letter enclosing the financial statements and certificate described above; and

(d) the Dealer Member reviews each such foreign location annually and files a foreign custodian certificate with the Corporation annually.

8. For London Bullion Market Association (LBMA) gold and silver good delivery bars, means those entities considered suitable to hold these bars on behalf of a Dealer Member, for both inventory and client positions, without capital penalty. These entities must:

- be a market making member, ordinary member or associate member of the LBMA;
- be on the Corporation's list of entities considered suitable to hold LBMA gold and silver good delivery bars; and
- have executed a written precious metals storage agreement with the Dealer Member, outlining the terms upon which such LBMA good delivery bars are deposited. The terms must include provisions that no use or disposition of these bars shall be made without the written prior consent of the Dealer Member, and these bars can be delivered to the Dealer Member promptly on demand. The precious metals storage agreement must provide equivalent rights and protection to the Dealer Member as the standard securities custodial agreement.

and such other locations which have been approved as acceptable securities locations by the Corporation.

(e) "**Basel Accord countries**" means those countries that are members of the Basel Accord and those countries that have adopted the banking and supervisory rules set out in the Basel Accord. [The Basel Accord, which includes the regulating authorities of major industrial countries acting under the auspices of the Bank for International Settlements (B.I.S.), has developed definitions and guidelines that have become accepted standards for capital adequacy.] A list of current Basel Accord countries is included in the most recent list of foreign acceptable institutions and foreign acceptable counterparties.

(f) "**broad based index**" means an equity index whose underlying basket of securities is comprised of:

1. thirty or more securities;
2. the single largest security position by weighting comprises no more than 20% of the overall market value of the basket of equity securities;
3. the average market capitalization for each security position in the basket of equity securities underlying the index is at least $50 million;
4. the securities shall be from a broad range of industries and market sectors as determined by the Corporation to represent index diversification; and
5. in the case of foreign equity indices, the index is both listed and traded on an exchange that meets the criteria for being considered a recognized exchange, as set out in the definition of "regulated entities" in the General Notes and Definitions.

(g) "**market value of securities**" means:

1. for listed securities, the last bid price of a long security and, correspondingly, the last ask price of a short security, as shown on the exchange quotation sheets as of the close of business on the relevant date or last trading date prior to the relevant date, as the case may be, subject to an appropriate adjustment where an unusually large or unusually small quantity of securities is being valued. If not available, the last sale price of a board lot may be used. Where not readily marketable, no market value shall be assigned.
2. for unlisted and debt securities, and precious metals bullion, a value determined as reasonable from published market reports or inter-dealer quotation sheets on the relevant date or last trading day prior to the relevant date, or based on a reasonable yield rate. Where not readily marketable, no market value shall be assigned.
3. for commodity futures contracts, the settlement price on the relevant date or last trading day prior to the relevant date.
4. for money market fixed date repurchases (no borrower call feature), the market price is the price determined by applying the current yield for the security to the term of maturity from the repurchase date. This will permit calculation of any profit or loss based on the market conditions at the reporting date. Exposure due to future changes in market conditions is covered by the margin rate.
5. for money market open repurchases (no borrower call feature), prices are to be determined as of the reporting date or the date the commitment first becomes open, whichever is the later. Market price is to be determined as in 4. and commitment price is to be determined in the same manner using the yield stated in the repurchase commitment.
6. for money market repurchases with borrower call features, the market price is the borrower call price.

(h) "**regulated entities**" means those entities with whom a Dealer Member may deal on a value for value basis, with mark to market imposed on outstanding transactions. The entities are participating institutions in the Canadian Investor Protection Fund or members of recognized exchanges and associations. For the purposes of this definition recognized exchanges and associations mean those entities that meet the following criteria:

1. the exchange or association maintains or is a member of an investor protection regime equivalent to the

Canadian Investor Protection Fund;

2. the exchange or association requires the segregation by its members of customers' fully paid for securities;
3. the exchange or association rules set out specific methodologies for the segregation of, or reserve for, customer credit balances;
4. the exchange or association has established rules regarding Dealer Member and customer account margining;
5. the exchange or association is subject to the regulatory oversight of a government agency or a self-regulatory organization under a government agency which conducts regular examinations of its members and monitors member's regulatory capital on an ongoing basis; and
6. the exchange or association requires regular regulatory financial reporting by its members.

A list of current recognized exchanges and associations is included in the most recent list of foreign *acceptable institutions* and foreign *acceptable counterparties*.

(i) "**settlement date - extended**" means a transaction (other than a mutual fund security redemption) in respect of which the arranged settlement date is a date after regular settlement date.

(j) "**settlement date - regular**" means the settlement date generally accepted according to industry practice for the relevant security in the market in which the transaction occurs, including foreign jurisdictions. For margin purposes, if such settlement date exceeds 15 business days past trade date, settlement date will be deemed to be 15 business days past trade date. In the case of new issue trades, regular settlement date means the contracted settlement date as specified for that issue.

FORM 1, PART I – STATEMENT C

DATE: _____

_____

(Dealer Member Name)

STATEMENT OF EARLY WARNING EXCESS AND EARLY WARNING RESERVE

at _____

	REFERENCE		NOTES	(CURRENT YEAR) C$'000
1.	B-29	**RISK ADJUSTED CAPITAL**		
LIQUIDITY ITEMS -				
		DEDUCT:		
2.	A-18	Other allowable assets		
3.	Sch.6 A	Tax recoveries		
4.		Securities held at non-*acceptable securities locations*		
		ADD:		
5.	A-68	Non-current liabilities		
6.	A-67	Less: Subordinated loans		
7.	A-65	Less: Non-refundable leasehold inducements		
8.	A-64	Less: Finance leases and lease-related liabilities		
~~8.~~9.		Adjusted non-current liabilities for Early Warning purposes		
~~9.~~10.	Sch.6 A	Tax recoveries - income accruals		
~~10.~~11.		**EARLY WARNING EXCESS**		
		DEDUCT: CAPITAL CUSHION -		
~~11.~~12.	B-24	Total margin required $_____ multiplied by 5%		
~~12.~~13.		**EARLY WARNING RESERVE** [Line ~~10~~11 less Line ~~11~~12]		

FORM 1, PART I – STATEMENT C

NOTES AND INSTRUCTIONS

The Early Warning system is designed to provide advance warning of a Dealer Member encountering financial difficulties. It will anticipate capital shortages and/or liquidity problems and encourage Dealer Members to build a capital cushion.

Line 1 - If Risk Adjusted Capital of the Dealer Member is less than:

(a) 5% of total margin required (Line ~~11~~12 above), then the Dealer Member is designated as being in Early Warning category **Level 1**, or

(b) 2% of total margin required (Line ~~11~~12 above), then the Dealer Member is designated as being in Early Warning category **Level 2**,

and the applicable sanctions outlined in the Corporation rules will apply.

Lines 2 and 3 - These items are deducted from RAC because they are illiquid or the receipt is either out of the Dealer Member's control or contingent.

Line 4 - Pursuant to the Notes and Instructions for the completion of Statement B, Line 20, where the entity would otherwise qualify as an acceptable securities location except for the fact that the Dealer Member has not entered into a written custodial agreement with the entity, as required by Corporation rules, the Dealer Member will be required to deduct an amount up to 10% of the *market value* of the securities held in custody with the entity, in the calculation of its Early Warning Reserve. Please refer to the detailed calculation formula set out to the Notes and Instructions for the completion of Statement B, Line 20 to determine the capital requirement to be reported on Statement C, Line 4.

Line 5 - Non-current liabilities (other than subordinated loans ~~and~~, non-current portion of lease liabilities - leasehold inducements, and non-current portion of finance leases and lease-related liabilities) are added back to RAC as they are not current obligations of the Dealer Member and can be used as financing.

Line ~~9~~10 - This add-back ensures that the Dealer Member is not penalized at the Early Warning level for accruing income.

Line ~~10~~11 - If Early Warning Excess is negative, the Dealer Member is designated as being in Early Warning category Level 2 and the sanctions outlined in the Corporation rules will apply.

Line ~~12~~13 - If the Early Warning Reserve is negative, the Dealer Member is designated as being in Early Warning category Level 1 and the sanctions outlined in the Corporation rules will apply.

FORM 1, PART I – STATEMENT D

_____

(Dealer Member Name)

STATEMENT OF FREE CREDIT SEGREGATION AMOUNT

at _____

			REFERENCE	NOTES	(CURRENT YEAR)
			AMOUNT REQUIRED TO SEGREGATE:		**C$'000**
1.	B-6	Net allowable assets of $_____ multiplied by 8			
2.	C-~~12~~13	Early warning reserve of $_____ multiplied by 4			
3.		**FREE CREDIT LIMIT** [Lines 1 plus 2]			
		Less client free credit balances:			
4.	Sch.4	Dealer Member's own [see note]			
5.		Carried For Type 3 Introducers			
6.		**AMOUNT REQUIRED TO SEGREGATE** [NIL if Line 3 exceeds Line 4 plus Line 5, see note]			
		AMOUNT IN SEGREGATION:			
7.	A-3	Client funds held in trust in an account with an *acceptable institution* [see note]			
8.	Sch.2	Market value of securities owned and in segregation [see note]			
9.		**TOTAL IN SEGREGATION** [Lines 7 plus 8]			
10.		**NET SEGREGATION EXCESS (DEFICIENCY)** [Line 6 less Line 9, see note]			

NOTES:

Line 3 - If negative, then Line 6 equals Line 4 plus Line 5, i.e. Dealer Member is required to segregate 100% of client free credits.

Lines 4 and 5 - Free credit balances in RRSP and other similar accounts should not be included. Refer to Schedule 4 - Notes and Instructions for discussion of trade versus settlement date reporting of free credit balances. For purposes of this statement, a free credit is:

(a) For cash and margin accounts - the credit balance less an amount equal to the aggregate of the *market value* of short positions and regulatory margin on those shorts.

(b) For futures accounts - any credit balance less an amount equal to the aggregate of margin required to carry open futures contracts and/or futures contracts option positions less equity in those contracts plus deficits in those contracts, provided that such aggregate amount may not exceed the dollar amount of the credit balance.

Line 6 - If Nil, no further calculation on this Statement need be done.

Line 7 - The trust must be an obligation binding the Dealer Member (the trustee) to deal with the free credits over which it has control (the trust property), for the benefit of the client (the beneficiary). The trust property must be clearly identified as such even if residing with an *acceptable institution*.

FUNDS HELD IN TRUST FOR RRSP AND OTHER SIMILAR ACCOUNTS ARE NOT TO BE INCLUDED IN THIS CALCULATION.

Line 8 - The securities to be included are bonds, debentures, treasury bills and other securities with a term of 1 year or less, of or guaranteed by the Government of Canada or a Province of Canada, the United Kingdom, the United States of America and

any other national foreign government (provided such other foreign government is a party to the Basel Accord) which are segregated and held separate and apart as the Dealer Member's property.

Line 10 - If negative, then a segregation deficiency exists, and the Dealer Member must expeditiously take the most appropriate action required to settle the segregation deficiency. The Dealer Member must provide an explanation of how the deficiency was corrected as well as the date of correction.

FORM 1, PART II – SCHEDULE 6A

DATE: _____

_____

(Dealer Member Name)

TAX RECOVERIES

			C$'000
A.		**TAX RECOVERY FOR RISK ADJUSTED CAPITAL**	
1.	Sch. 6, Line 5	Income tax expense (recovery) [must be greater than 0, else N/A]	
2.	A-21	Commission and/or fees receivable (non allowable assets) of $_____ multiplied by an effective corporate tax rate of _____%	
3.		TAX RECOVERY - ASSETS [100% of lesser of Lines 1 and 2]	
4.		Balance of current income tax expense available for margin and securities concentration charge tax recovery [Line 1 minus Line 3]	
5.		Recoverable taxes from preceding three years of $_____ net of current year tax recovery (if applicable) of $_____	
6.		Total available for margin tax recovery [Line 4 plus Line 5]	
7.	B-24	Total margin required of $_____ multiplied by an effective corporate tax rate of _____%	
8.		TAX RECOVERY - MARGIN [75% of lesser of Lines 6 and 7]	
9.		TOTAL TAX RECOVERY BEFORE TAX RECOVERY ON SECURITIES CONCENTRATION CHARGE [Line 3 plus Line 8]	B-26
10.		Balance of taxes available for securities concentration charge tax recovery [Line 6 minus Line 8, must be greater than 0, else N/A]	
11.	Sch. 9	Total securities concentration charge of $_____ multiplied by an effective corporate tax rate of _____%	
12.		TAX RECOVERY - SECURITIES CONCENTRATION CHARGE [75% of lesser of Lines 10 and 11]	B-28
13.		TOTAL TAX RECOVERY RAC [Line 3 plus Line 8 plus Line 12]	C-3
B.		**TAX RECOVERY FOR EARLY WARNING CALCULATION:**	
1.	Sch. 6, Line 5	Income tax expense (recovery) [must be greater than 0, else N/A]	
2.	A-15	Commission and/or fees receivable (allowable assets)	
3.	A-21	Commission and/or fees receivable (non allowable assets)	
4.		SUBTOTAL [Line 2 plus Line 3]	
5.		Line 4 multiplied by an effective corporate tax rate of _____%	
6.		TAX RECOVERY - INCOME ACCRUALS [100% of lesser of Lines 1 and 5]	C-~~9~~10

FORM 1, PART II – SCHEDULE 11A

DATE: _____

_____

(Dealer Member Name)

DETAILS OF UNHEDGED FOREIGN CURRENCIES CALCULATION FOR INDIVIDUAL CURRENCIES WITH MARGIN REQUIRED GREATER THAN OR EQUAL TO $5,000

Foreign Currency: .....

Margin Group: .....

	AMOUNT	WEIGHTED VALUE	MARGIN REQUIRED
BALANCE SHEET ITEMS AND FORWARD/FUTURE COMMITMENTS <= TWO YEARS TO MATURITY			
1. Total monetary assets	.....	.....	.....
2. Total long forward / futures contract positions	.....	.....	.....
3. Total monetary liabilities	.....	.....	.....
4. Total (short) forward / futures contract positions	.....	.....	.....
5. Net long (short) foreign exchange positions	_____		
6. Net weighted value		_____	
7. Net weighted value multiplied by term risk for Group ___ of _____%			_____
BALANCE SHEET ITEMS AND FORWARD/FUTURE COMMITMENTS > TWO YEARS TO MATURITY			
8. Total monetary assets	.....	.....	.....
9. Total long forward / futures contract positions	.....	.....	.....
10. Total monetary liabilities	.....	.....	.....
11. Total (short) forward / futures contract positions	.....	.....	.....
12. Net long (short) foreign exchange positions	_____		
13. ~~Net~~Greater of long or (short) weighted ~~value~~values		_____	
14. Net weighted value multiplied by term risk for Group ___ of _____%			_____
FOREIGN EXCHANGE MARGIN REQUIREMENTS			
15. Net long (short) foreign exchange positions	_____		
16. Net foreign exchange position multiplied by spot risk for Group ___ of _____%			.....
17. Total term risk and spot risk margin requirement			_____
18. Spot rate at reporting date			.....
19. Margin requirement converted to Canadian dollars			_____
FOREIGN EXCHANGE CONCENTRATION CHARGE			.....
20. Total foreign exchange margin (Line 19) in excess of 25% of net allowable assets less minimum capital [not applicable to Group 1]			.....
TOTAL FOREIGN EXCHANGE MARGIN FOR (Currency):			_____

Sch. 11

FORM 1, PART II – SCHEDULE 13

DATE: _____

_____

(Dealer Member Name)

EARLY WARNING TESTS - LEVEL 1

C$'000

A. LIQUIDITY TEST

Is Early Warning Reserve (Stmt. C, Line ~~12~~13) **less than 0?** **YES/NO**

B. CAPITAL TEST

1. Risk Adjusted Capital (RAC) [Stmt. B, Line 29]
2. Total Margin Required [Stmt. B, Line 24] multiplied by 5%

Is Line 1 less than Line 2? **YES/NO**

C. PROFITABILITY TEST #1

		Months	Profit or loss for 6 months ending with current month [note 2] **C$'000**	Profit or loss for 6 months ending with preceding month [note 2] **C$'000**
1.	Current month			
2.	Preceding month			
3.	3rd month			
4.	4th month			
5.	5th month			
6.	6th month			
7.	7th month			
8.	TOTAL [note 3]			
9.	AVERAGE multiplied by -1			
10A.	RAC [at Form 1 date]			
10B.	RAC [at preceding month end]			
11A.	Line 10A divided by Line 9			
11B.	Line 10B divided by Line 9			

Are both of the following conditions true:

1. **Line 11A is greater than or equal to 3 but less than 6, and**
2. **Line 11B less than 6?** **YES/NO**

D. PROFITABILITY TEST #2

1. Loss for current month [notes 2 and 4} multiplied by -6
2. RAC [at Form 1 date]

Is Line 2 less than Line 1? **YES/NO**

FORM 1, PART II – SCHEDULE 13A

DATE: _____

_____

(Dealer Member Name)

EARLY WARNING TESTS - LEVEL 2

C$'000

A. LIQUIDITY TEST

Is Early Warning Excess (Stmt. C, Line ~~10~~11) **less than 0?** **YES/NO**

B. CAPITAL TEST

1. Risk Adjusted Capital (RAC) [Stmt. B, Line 29] _____
2. Total Margin Required [Stmt. B, Line 24] multiplied by 2% _____

Is Line 1 less than Line 2? **YES/NO**

C. PROFITABILITY TEST #1

Is Schedule 13, Line 11A less than 3 AND Schedule 13, Line 11B less than 6? **YES/NO**

D. PROFITABILITY TEST #2

1. Loss for current month [notes 2 and 4} multiplied by -3 _____
2. RAC [at Form 1 date] _____

Is Line 2 less than Line 1? **YES/NO**

E. PROFITABILITY TEST #3

		Months	Profit or loss for 3 months ending with current month [note 2] **C$'000**
1.	Current month		
2.	Preceding month		
3.	3rd month		
4.	TOTAL [note 5]		
5.	RAC [at Form 1 date]		

Is loss on Line 4 greater than Line 5? **YES/NO**

F. FREQUENCY PENALTY

Has Dealer Member:

1. **Triggered Early Warning at least 3 times in the past 6 months or is RAC less than 0?** **YES/NO**
2. **Triggered Liquidity or Capital Tests on Schedule 13?** YES/NO
3. **Triggered Profitability Tests on Schedule 13?** YES/NO
4. **Are Lines 2 and 3 <u>both</u> YES?** **YES/NO**

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