The Ontario Securities Commission

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August 1, 2013

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Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

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1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

August 1, 2013

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

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

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

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Cadillac Fairview Tower
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Judith N. Robertson	—	JNR
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Charles Wesley Moore (Wes) Scott	—	CWMS

SCHEDULED OSC HEARINGS

August 6, 2013 10:00 a.m.	**Global Consulting and Financial Services, Global Capital Group, Crown Capital Management Corp., Michael Chomica, Jan Chomica and Lorne Banks** s. 127 C. Rossi in attendance for Staff Panel: JEAT
August 6, 2013 11:00 a.m.	**Tricoastal Capital Partners LLC, Tricoastal Capital Management Ltd. and Keith Macdonald Summers** s. 127 C Johnson/G. Smyth in attendance for Staff Panel: JEAT
August 12, 2013 10:00 a.m.	**Innovative Gifting Inc., Terence Lushington, Z2A Corp., and Christine Hewitt** s. 127 M. Vaillancourt in attendance for Staff Panel: JEAT
August 12, 2013 1:30 p.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

August 12, 2013 2:00 p.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
August 14, 2013 10:00 a.m.	**Quadrexx Asset Management Inc., Quadrexx Secured Assets Inc., Offshore Oil Vessel Supply Services LP, Quibik Income Fund and Quibik Opportunities Fund** s. 127 D. Ferris in attendance for Staff Panel: JEAT
August 16, 2013 10:00 a.m.	**Conrad M. Black, John A Boultbee and Peter Y. Atkinson** s. 127 and 127.1 J. Friedman/A. Clark in attendance for Staff Panel: MGC
August 20, 2013 10:30 a.m.	**Ground Wealth Inc., Michelle Dunk, Adrion Smith, Joel Webster, Douglas DeBoer, Armadillo Energy Inc., Armadillo Energy, Inc., and Armadillo Energy LLC** s. 127 J. Feasby in attendance for Staff Panel: MGC
August 23, 2013 10:00 a.m.	**Pro-Financial Asset Management Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
August 26, 2013 10:00 a.m.	**Children's Education Funds Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
August 27, 2013 2:30 p.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/C. Watson in attendance for Staff Panel: JDC
September 4, 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: AJL
September 4, 2013 11:00 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

September 5, 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
September 6, 2013 10:00 a.m.	**Heritage Education Funds Inc.** s. 127 D. Ferris in attendance for Staff Panel: TBA
September 9, 2013 10:00 a.m.	**David Charles Phillips and John Russell Wilson** s. 127 Y. Chisholm in attendance for Staff Panel: JDC/EPK/CWMS
September 11, 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: JDC
September 16-23, September 25 – October 7, October 9-21, October 23 – November 4, November 6-18, November 20 – December 2, December 4-16 and 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 C. Price in attendance for Staff Panel: JDC/DL
September 17, 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) and (5) A. Heydon/Y. Chisholm in attendance for Staff Panel : EPK
September 23, 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
September 27, 2013 11:00 a.m.	**Global Consulting and Financial Services, Global Capital Group, Crown Capital Management Corp., Michael Chomica, Jan Chomica and Lorne Banks** s. 127 C. Rossi in attendance for Staff Panel: AJL
October 9, 2013 10:00 a.m.	**Global Consulting and Financial Services, Crown Capital Management Corporation, Canadian Private Audit Service, Executive Asset Management, Michael Chomica, Peter Siklos (also known as Peter Kuti), Jan Chomica, and Lorne Banks** s. 127 C. Rossi 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: EPK
October 22, 2013 3:00 p.m.	**Knowledge First Financial Inc.** s. 127 D. Ferris in attendance for Staff Panel: JEAT
October 25, 2013 10:00 a.m.	**Juniper Fund Management Corporation, Juniper Income Fund, Juniper Equity Growth Fund and Roy Brown (a.k.a. Roy Brown-Rodrigues)** s. 127 and 127.1 D. Ferris in attendance for Staff Panel: TBA
November 4 and November 6-18, 2013 10:00 a.m.	**Systematech Solutions Inc., April Vuong and Hao Quach** s. 127 D. Ferris in attendance for Staff Panel: TBA
November 4 and November 6-11, 2013 10:00 a.m.	**Portfolio Capital Inc., David Rogerson and Amy Hanna-Rogerso** s. 127 J. Lynch in attendance for Staff Panel: TBA
November 25-29, 2013 10:00 a.m.	**Global Consulting and Financial Services, Global Capital Group, Crown Capital Management Corp., Michael Chomica, Jan Chomica and Lorne Banks** s. 127 C. Rossi in attendance for Staff Panel: AJL
December 4, 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: TBA
January 13, January 15-27, January 29 – February 10, February 12-14 and February 18-21, 2014 10:00 a.m.	**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
January 27, 2014 10:00 a.m.	**Welcome Place Inc., Daniel Maxsood also known as Muhammad M. Khan, Tao Zhang, and Talat Ashraf** s. 127 G. Smyth in attendance for Staff Panel: TBA
March 17-24 and March 26, 2014 10:00 a.m.	**Newer Technologies Limited, Ryan Pickering and Rodger Frey** s. 127 and 127.1 B. Shulman in attendance for staff Panel: TBA

March 31 – April 7, April 9-17, April 21 and April 23-30, 2014 10:00 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: TBA
September 15-22, September 24, September 29 – October 6, October 8-10, October 14-October 20, October 22 – November 3 and November 5-7, 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
In writing	**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
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 Panel: TBA
TBA	**Frank Dunn, Douglas Beatty, Michael Gollogly** s. 127 Panel: TBA
TBA	**MRS Sciences Inc. (formerly Morningside Capital Corp.), Americo DeRosa, Ronald Sherman, Edward Emmons and Ivan Cavric** s. 127 and 127(1) D. Ferris in attendance for Staff Panel: TBA
TBA	**Gold-Quest International and Sandra Gale** s. 127 C. Johnson 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 **David M. O'Brien**

s. 37, 127 and 127.1

B. Shulman in attendance for Staff

Panel: TBA

TBA **Beryl Henderson**

s. 127

C. Weiler 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 and 127.1

D. Campbell in attendance for Staff

Panel: TBA

TBA **Ernst & Young LLP**

s. 127 and 127.1

A. Clark 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

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

Garth H. Drabinsky, Myron I. Gottlieb and Gordon Eckstein

s. 127

A. Clark/J. Friedman in attendance for Staff

Panel: TBA

TBA

New Hudson Television LLC & Dmitry James Salganov

s. 127

C. Watson in attendance for Staff

Panel: TBA

TBA

Bunting & Waddington Inc., Arvind Sanmugam and Julie Winget

s. 127 and 127.1

M. Britton/A. Pelletier in attendance for Staff

Panel: TBA

TBA

Ernst & Young LLP (Audits of Zungui Haixi Corporation)

s. 127 and 127.1

A. Clark/J. Friedman in attendance for Staff

Panel: TBA

TBA

Jowdat Waheed and Bruce Walter

s. 127

J. Lynch in attendance for Staff

Panel: TBA

TBA

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

s. 127

J. Feasby 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

Ronald James Ovenden, New Solutions Capital Inc., New Solutions Financial Corporation and New Solutions Financial (Ii) Corporation

s. 127

Y. Chisholm in attendance for Staff

Panel: TBA

ADJOURNED SINE DIE

Global Privacy Management Trust and Robert Cranston

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

1.1.2 Notice of Ministerial Approval of Amendments to NI 81-101 Mutual Fund Prospectus Disclosure, Form 81-101F3 Contents of Fund Facts Document, and Companion Policy 81-101CP

NOTICE OF MINISTERIAL APPROVAL OF AMENDMENTS TO
NATIONAL INSTRUMENT 81-101 *MUTUAL FUND PROSPECTUS DISCLOSURE*,
FORM 81-101F3 *CONTENTS OF FUND FACTS DOCUMENT*,
COMPANION POLICY 81-101CP
TO NATIONAL INSTRUMENT 81-101 *MUTUAL FUND PROSPECTUS DISCLOSURE*
AND CONSEQUENTIAL AMENDMENTS

On July 19, 2013, the Minister of Finance approved the following amendments and consequential amendments (collectively, the Amendments) made by the Ontario Securities Commission (the Commission):

- amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, Form 81-101F1 *Contents of Simplified Prospectus*, Form 81-101F2 *Contents of Annual Information Form*, Form 81-101F3 Contents of *Fund Facts Document* and Companion Policy 81-101CP to National Instrument 81-101 *Mutual Fund Prospectus Disclosure*; and

- consequential amendments to National Instrument 81-102 *Mutual Funds*.

The Amendments were made by the Commission on March 26, 2013.

The Amendments have an effective date of September 1, 2013. The Amendments were previously published in the Bulletin on June 13, 2013.

The Amendments are published in Chapter 5 of this Bulletin.

1.1.3 OSC Staff Consultation Paper 58-401 – Disclosure Requirements Regarding Women on Boards and in Senior Management

OSC Staff Consultation Paper 58-401 – *Disclosure Requirements Regarding Women on Boards and in Senior Management* is reproduced on the following internally numbered pages. Bulletin pagination resumes at the end of the Consultation Paper.

OSC STAFF CONSULTATION PAPER 58-401
DISCLOSURE REQUIREMENTS REGARDING WOMEN ON BOARDS AND IN SENIOR MANAGEMENT

July 30, 2013

TABLE OF CONTENTS

1. INTRODUCTION

1.1 Consultation paper

A. Purpose of consultation

Ontario government initiative
On May 2, 2013, the Ontario government delivered its budget which included the following statement:

> The government strongly supports broader gender diversity on the boards and in senior management of major businesses, not-for-profit firms and other large organizations. In conjunction with others, including the OSC, the government will consider the best way for firms to disclose their approaches to gender diversity, with a view to increasing the participation of women on boards and in senior management.

On June 14, 2013, the Minister of Finance, Charles Sousa, and the then Minister Responsible for Women's Issues, Laurel Broten, requested that the Ontario Securities Commission (the OSC) undertake a public consultation process regarding disclosure requirements for gender diversity. Specifically, they requested that the OSC undertake a review and public consultation process over the summer considering a "comply or explain" disclosure regime for reporting issuers listed on the TSX relating to board and senior management gender diversity policies and practices and provide recommendations regarding specific disclosure requirements for TSX-listed reporting issuers and best practices for this type of approach to gender diversity by fall. Consistent with existing requirements relating to the disclosure of corporate governance practices, the focus is on TSX-listed (and other non-venture) issuers due to concerns about the potential regulatory burden on reporting issuers listed on the TSX Venture Exchange.

Focus of consultation
Corporate decision-making benefits from a diversity of opinions and viewpoints. This diversity is enhanced when leadership roles are filled with individuals who have different professional experience, education, skill and individual qualities and attributes such as gender, age, ethnicity and cultural background.

The focus of this consultation is on advancing the representation of women on boards and in senior management. We are considering implementing disclosure requirements for reporting issuers (other than venture issuers and investment funds) regarding women on boards and in senior management.

Purpose of consultation
The purpose of this consultation paper is to seek feedback from investors, issuers, other market participants and advisors on these disclosure requirements to inform our recommendations to the Minister of Finance and Minister Responsible for Women's Issues. The Ministers noted the following in their letter to the OSC:

> We expect these OSC recommendations to play a significant role in informing both government policy development and possible OSC rule-making as the government of Ontario moves forward with enhanced gender diversity disclosure to facilitate an increase in the participation of women on the boards and in senior management of major issuers.

The comment period will end on **September 27, 2013.** In addition to any general comments, we are specifically asking the following questions:

Specific consultation questions
As noted in Part 4 of this consultation paper, we are seeking feedback on the following questions:

- What are effective policies for increasing the number of women on boards and in senior management?
- What type of disclosure requirements regarding women on boards and in senior management would be most appropriate and useful?
- Are the proposed scope and content of the model disclosure requirements described in Part 4 of this consultation paper appropriate? Are there additional or different disclosure requirements that should be considered? Please explain.
- What type of statistics, data and/or accompanying qualitative information regarding the representation of women in their organization should non-venture issuers be required to disclose? Should such disclosure be reported for the non-venture issuer only or for all of its subsidiary entities also?
- What practices should we recommend for facilitating increased representation of women on boards and in senior management?
    - For example, should we recommend that non-venture issuers have a gender diversity policy? If so, should we set out recommended content for the policy?
    - Should non-venture issuers be required to comply with the recommended practices or explain why they have not complied (i.e. a "comply or explain" model of disclosure)?

B. Structure of consultation paper

This consultation paper is structured as follows:

- Part 1 discusses the status of women on boards and in senior management in Canada.
- Part 2 summarizes the current corporate governance framework under Ontario securities legislation.
- Part 3 summarizes the approach to gender diversity disclosure taken in other jurisdictions.
- Part 4 discusses a model of disclosure requirements regarding women on boards and in senior management of non-venture issuers.
- Part 5 explains how stakeholders can provide feedback.

1.2 Status of women on boards and in senior management in Canada

Understanding the current landscape in Canada is important when considering potential policy approaches to facilitating increased representation of women on boards and in senior management of reporting issuers.

Statistics on representation of women
There are a number of publicly available reports that discuss gender diversity in Canada. The following provides a high-level snapshot on the current level of representation of women on boards and in senior management.

(1) Catalyst data

Representation of women on boards

Catalyst has reported that the representation of women on Canadian boards is growing very slowly. On March 8, 2012, Catalyst issued the *2011 Catalyst Census: Financial Post 500 Women Board Directors*[1] which noted that public companies continue to have the lowest representation of women on their boards as compared to private companies, crown corporations and cooperatives. In 2011, 10.3% of directors of public companies were women, which represents a zero increase from 2009.

Representation of women in senior management

On February 19, 2013, Catalyst issued the *2012 Catalyst Census: Financial Post 500 Women Senior Officers and Top Earners*[2]. It provided statistics to gauge women's advancement into leadership and highlighted:

- In 2012, women held 18.1% of senior officer positions (as compared to 17.7% in 2010) and, specifically, held 15% of those positions in public companies in 2012 (as compared to 14.3% in 2010).
- Although nearly one-third of companies have 25% or more women senior officers, nearly another one-third continue to have no women senior officers. In particular, 35.9% of public companies had no women senior officers in 2012.

(2) GMI Ratings

GMI Ratings' 2013 Women on Boards Survey[3] noted that progress on most measures of representation of women in Canada continues to be slow by international standards. The survey includes data as of March 1, 2013 on 5,977 companies in 45 different countries. The survey states:

> The percentage of female directors on Canadian boards in our universe has remained flat since our last survey, at 13.1%. Moreover, a look back to the inception of our data collection on this topic shows an increase in female directors of less than 1 percentage point since 2009, when the percentage stood at 12.4%. Currently, while two-thirds of Canadian companies in our sample have at least one woman on the board, less than 20% (18.6%) have at least three women, and these percentages have been fairly stable over the last three years.

(3) TD Economics report

A report issued by TD Economics on March 7, 2013, *Get On Board Corporate Canada*[4] (the TD Economics report), indicated that in 2011:

- Women represented only 10.9% of board members of companies on the S&P/TSX Composite index.
- 43% of companies on the S&P/TSX Composite index did not have a single female board member and 28% had only one female board member.

The TD Economics report noted that research by Catalyst comparing 2009 to 2011 showed that women filled only 15% of entrant board seats for 273 publicly traded companies in the FP500.

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1 Catalyst, *2011 Catalyst Census: Financial Post 500 Women Board Directors* (March 8, 2012), online: <http://www.catalyst.org/knowledge/2011-catalyst-census-financial-post-500-women-board-directors>.

2 Catalyst, *2012 Catalyst Census: Financial Post 500 Women Senior Officers and Top Earners* (February 19, 2013), online: <http://www.catalyst.org/knowledge/2012-catalyst-census-financial-post-500-women-senior-officers-and-top-earners>.

3 GMI Ratings, *GMI Ratings' 2013 Women on Boards Survey* (May 1, 2013), online: <http://www3.gmiratings.com/home/2013/05/gmi-ratings-2013-women-on-boards-survey/>.

4 TD Economics, *Get On Board Corporate Canada* (March 7, 2013), online: <http://www.td.com/document/PDF/economics/special/GetOnBoardCorporateCanada.pdf>.

Voluntary initiatives
Catalyst issued a call to action for Canadian corporations to increase the overall proportion of FP500 board seats held by women to 25% by 2017.

Companies that accept the call to action made in the Catalyst Accord pledge to:
- increase the percentage of women on their boards by 2017, and
- provide interim representation goals to Catalyst on a confidential basis.

Public sector legislated quotas in Quebec
Currently, there are no mandated quotas for female board representation in Canada outside of Quebec. As of December 2011, provincial crown corporations in Quebec were required to have 50% female representation on their boards.

Federal Government's advisory council
The Federal Government has recognized the issue of gender diversity on boards. On April 5, 2013, the Minister of Public Works and Government Services and Minister for Status of Women, Rona Ambrose, introduced an advisory council comprised of leaders from the private and public sectors to advance the participation of women on corporate boards.

The Minister noted that "board diversity is not about quotas or tokenism. Board diversity is about better corporate decisions, better responses to market demographics, and better financial performance. It is also about the future, and having more women in key leadership positions to serve as role models for young women and girls."[5]

The role of the advisory council is to:
- provide advice on how industry can increase women's representation on corporate boards,
- suggest how industry and government can track and measure progress in this initiative and what tools, if any, government should employ to achieve this goal, and
- make recommendations by the fall of 2013 on how the government could recognize leaders in industry and applaud companies that have succeeded in reaching their targets.

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[5] Status of Women Canada, News Release *"Harper Government Increasing Participation of Women on Boards"* (April 5, 2013), online: <http://news.gc.ca/web/article-eng.do?crtr_sj1D=&crtr_mnthndVl=4&mthd=advSrch&crtr_dpt1D=&nid=730519&crtr_lc1D=&crtr_tp1D=&crtr_yrStrtVl=2013&crtr_kw=&crtr_dyStrtVl=5&crtr_aud1D=&crtr_mnthStrtVl=4&crtr_page=1&crtr_yrndVl=2013&crtr_dyndVl=5>.

2. CURRENT CANADIAN APPROACH

2.1 Corporate governance framework under securities legislation

The OSC's corporate governance framework is comprised of two main components:

- guidelines regarding corporate governance practices, and
- disclosure requirements regarding corporate governance practices.

A. Corporate governance guidelines

National Policy 58-201 *Corporate Governance Guidelines* (the Corporate Governance Policy) contains guidelines for corporate governance practices of reporting issuers (other than investment funds). The guidelines are not intended to be prescriptive, but rather reporting issuers are encouraged to consider the guidelines in developing their own corporate governance practices.

The guidelines largely focus on certain attributes of an issuer's board of directors:

- director independence,
- the board mandate and responsibilities, and
- the composition and responsibilities of board committees, such as the nominating committee.

B. Corporate governance disclosure requirements

Reporting issuers are required to disclose their corporate governance practices under National Instrument 58-101 *Disclosure of Corporate Governance Practices* (the Corporate Governance Disclosure Rule). The disclosure is generally set out in an annual proxy circular.

Distinction based on listing of securities
The Corporate Governance Disclosure Rule contains two sets of disclosure requirements which depend on the listing status of the reporting issuer.

A venture issuer is defined as a reporting issuer that does not have any of its securities listed or quoted on any of the Toronto Stock Exchange, a US marketplace, or a marketplace outside of Canada and the US other than the Alternative Investment Market of the London Stock Exchange or the PLUS markets operated by PLUS Markets Group plc.

All other issuers are referred to as non-venture issuers.

Non-venture issuers
Non-venture issuers are required to comply with the disclosure requirements regarding their corporate governance practices set out in Form 58-101F1 *Corporate Governance Disclosure*. Generally speaking, it is a "comply or explain" model. These issuers must either comply with the guidelines set out in the Corporate Governance Policy or explain how they otherwise achieve the objective of the guideline.

Venture issuers
Venture issuers are required to comply with the disclosure requirements regarding their corporate governance practices set out in Form 58-101F2 *Corporate Governance Disclosure (Venture Issuers)*. The disclosure

requirements are generally less extensive than those for non-venture issuers. Venture issuers must disclose their corporate governance practices in areas addressed by the guidelines set out in the Corporate Governance Policy, but they are not required to compare their practices against the guidelines.

C. Guidelines and disclosure requirement relevant to diversity

Guidelines
Currently, there is no guideline in the Corporate Governance Policy that explicitly addresses the representation of women on boards and in senior management. However, there are guidelines that may have some relevance for board diversity.

In particular, the Corporate Governance Policy states:

- The board should appoint a nominating committee composed entirely of independent directors.
- Prior to nominating or appointing individuals as directors, the board should adopt a process involving the following steps:
    - Consider what competencies and skills the board, as a whole, should possess, and
    - Assess what competencies and skills each existing director possesses.

Disclosure requirement
Currently, reporting issuers are not required to explicitly disclose the percentage of women on their boards or in senior management or their policies on gender diversity.

Reporting issuers are, however, required to describe the process by which the board identifies new candidates for board nominations under the Corporate Governance Disclosure Rule. Refer to item 6(a) of Form 58-101F1 and item 5(ii) of Form 58-101F2.

On December 2, 2010, the CSA published CSA Staff Notice 58-306 *2010 Corporate Governance Disclosure Compliance Review*, in which it provided guidance on this disclosure requirement. CSA staff indicated that, when preparing this disclosure, issuers should consider whether the board considers diversity of experience, background and views when considering a candidate for appointment or election to the board.

3. APPROACHES TO DIVERSITY RELATED DISCLOSURE TAKEN IN OTHER JURISDICTIONS

Other jurisdictions have adopted or are considering adopting guidelines and/or disclosure requirements regarding diversity. We refer to the approaches in other jurisdictions as they are relevant to the policy issues raised in this consultation paper.

Information included in this paper about the regulatory regimes in those jurisdictions is general in nature and is not intended to present a comprehensive review of the law in those jurisdictions.

3.1 US approach

In 2009, the SEC amended Regulation S-K to require disclosure of additional factors that are considered by a nominating committee when identifying nominees for director, such as board diversity. The final rule became effective as of February 28, 2010.

Item 407(c)(2)(vi) of Regulation S-K requires registrants to describe:

- the nominating committee's process for identifying and evaluating nominees for director,
- whether, and if so how, the nominating committee (or the board) considers diversity in identifying nominees for director, and
- if the nominating committee (or the board) has a policy with regard to the consideration of diversity in identifying director nominees, how this policy is implemented and how the nominating committee (or the board) assesses the effectiveness of its policy.

As noted in the final release 33-9089, *Proxy Disclosure Enhancements*, the SEC did not define diversity for the following reason:

> We recognize that companies may define diversity in various ways, reflecting different perspectives. For instance, some companies may conceptualize diversity expansively to include differences of viewpoint, professional experience, education, skill and other individual qualities and attributes that contribute to board heterogeneity, while others may focus on diversity concepts such as race, gender and national origin. We believe that for purposes of this disclosure requirement, companies should be allowed to define diversity in ways that they consider appropriate. As a result we have not defined diversity in the amendments.[6]

On May 22, 2013, Commissioner Luis A. Aguilar delivered a speech, *Merely Cracking the Glass Ceiling is Not Enough: Corporate America Needs More than Just A Few Women in Leadership*, in which he commented on this disclosure requirement:

> As some of you may know, in response to the demands of shareholders and others seeking greater information about diversity on corporate boards, in 2009, the SEC adopted a new rule that requires U.S. publicly-traded companies to disclose in their annual proxy statements whether, and if so how, a corporate board or nominating committee considers diversity in identifying nominees for director. If the company has a policy regarding the consideration of

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[6] US Securities and Exchange Commission, Release No. 33-9089, *Proxy Disclosure Enhancements* (December 16, 2009), online: <http://www.sec.gov./rules/final/2009/33-9089.pdf>.

diversity in identifying director nominees, the proxy statement must disclose how this policy is implemented, as well as how the company assesses the effectiveness of its policy. This requirement is not limited to companies with a written policy; and companies with *de facto* policies regarding board diversity must disclose such policies as well.

This disclosure requirement is an important first step in providing investors with the diversity disclosures that they have been requesting. However, it is really only a first step. Because the rules do not define diversity, and companies may define diversity in various ways – companies are not always providing the disclosures investors have wanted. Numerous investors have made it clear that they are particularly interested in board policies regarding gender, racial, and ethnic diversity. And, for our capital markets to work, it is that information that they want to have in making voting and investment decisions. It is important that investors receive the specificity of disclosure that they seek…

I commend the companies that are bringing greater transparency to their diversity, including their board diversity – and I look forward to 100% of the companies doing so. Given the evidence of the impact diversity on boards has on the bottom line and the boardroom changes taking place with our counter-parts across the globe, gender diversity – and diversity in general – should be a priority for U.S. companies and their boards. [7]

3.2 Australian approach

A. ASX Corporate Governance Council Principles and Recommendations

The ASX made amendments to the *ASX Corporate Governance Council Principles and Recommendations* for listed companies in 2010. This document sets out eight core principles. Each principle is explained in detail, with commentary about implementation in the form of recommendations. These recommendations are not mandatory. They are intended to provide a reference point for companies about their corporate governance structures and practices.

Principle 2 (Structure the board to add value) and Principle 3 (Promote ethical and responsible decision-making) focus on diversity.

Principle 2 – structure the board to add value
Principle 2 states that companies should have a board of an effective composition, size and commitment to adequately discharge its responsibilities and duties. There are two recommendations that are relevant to diversity.

Recommendation	Description
Recommendation 2.4 Nomination committee	The board should establish a nomination committee. The commentary to this recommendation states that the nomination committee should consider whether succession plans are in place to maintain an appropriate mix of skills, experience, expertise and diversity on the board. It also states that the board should be large enough to incorporate a variety of perspectives and skills.

[7] Aguilar, Luis A., *Merely Cracking the Glass Ceiling is Not Enough: Corporate America Needs More than Just A Few Women in Leadership* (May 22, 2013), online: <http://www.sec.gov/News/Speech/Detail/Speech/1365171515760>.

Recommendation	Description
Recommendation 2.6 Reporting	Among other recommendations, a statement as to the mix of skills and diversity for which the board of directors is looking to achieve in membership of the board should be included in the corporate governance statement in the annual report.

Principle 3 – promote ethical and responsible decision-making

Principle 3 states that companies should actively promote ethical and responsible decision-making. There are four recommendations that are relevant to diversity.

Recommendation	Description
Recommendation 3.2 Diversity policy	Companies should establish a policy concerning diversity and disclose the policy or a summary of that policy. The policy should include requirements for the board to establish measurable objectives for achieving gender diversity for the board to assess annually both the objectives and progress in achieving them. <u>Commentary</u> The commentary on this recommendation states that diversity includes, but is not limited to, gender, age, ethnicity and cultural background. The measurable objectives should identify ways in which the achievement of gender diversity is measured, for example, the proportion of women employed by (or consultants to) the company, in senior executive positions and on the board. Where companies establish a diversity policy, they should also introduce appropriate procedures to ensure that the policy is implemented properly, which may include additional measurable objectives in relation to other aspects of diversity as identified in the policy. There also should be an internal review mechanism to assess the effectiveness of the policy. <u>Suggested content for diversity policy</u> This recommendation is accompanied by suggestions for the content of a diversity policy. They include: • Commitment to diversity and articulation of the corporate benefits arising from employee and board diversity and the importance of benefiting from all available talent. • Commitment to and identification of ways to promote a corporate culture which embraces diversity when determining the composition of employees, senior management and the board, including recruitment of employees and directors from a diverse pool of qualified candidates. • Identification of factors that should be taken into account in the selection processes and whether professional intermediaries should be used to identify or assess candidates. • Identification of programs that assist in the development of a broader pool of skilled and experienced board candidates including initiatives focused on skills development such as executive mentoring programs or more targeted practices relating to career advancement such as those that develop skills and experience that prepare employees for senior

Recommendation	Description
	management and board positions. • Articulation of a corporate culture which not only supports workplace diversity but also recognizes that employees at all levels of the company may have domestic responsibilities. • Transparency of board processes, review and appointments. • The extent to which the achievement of measurable objectives should be tied to key performance indicators for the board, the CEO and senior executives.
Recommendation 3.3 Measurable objectives for gender diversity	Companies should disclose in each annual report the measurable objectives for achieving gender diversity set by the board in accordance with the diversity policy and progress towards achieving them.
Recommendation 3.4 Representation of women	Companies should disclose in each annual report the proportion of women employees in the whole organization, women in senior executive positions and women on the board.
Recommendation 3.5 Reporting on diversity	An explanation of any departure from these recommendations should be included in the corporate governance statement in the annual report. In addition, the diversity policy or a summary of its main provisions should be made publicly available, ideally by posting it to the company's website in a clearly marked corporate governance section.

B. ASX listing rules

Under listing rule 4.10.3, companies must include in their annual report a statement disclosing the extent to which they have followed the recommendations. It is a "comply or explain" model of disclosure. Companies must identify the recommendations not followed and give reasons for not following them.

3.3 UK approach

A. Report – Women on Boards

As part of a larger policy initiative to make companies more accountable to shareholders and the public, the 2010 UK government commissioned Lord Davies of Abersoch to determine what was preventing women becoming board members and to develop a strategy to increase the number of women on the boards of listed companies.

The report *Women on Boards* was published on February 24, 2011. The report examines the obstacles that prevent more women from reaching senior positions in business, considers the business case for having gender-diverse boards and sets out recommendations for achieving urgent change. *Women on Boards 2013* was published in April 2013 and provides an update of the progress on this policy initiative.

The initial report set out 10 recommendations to increase the number of women on boards:

(1) Targets. All Chairs of FTSE 350 companies should set out the percentage of women they aim to have on their boards in 2013 and 2015. FTSE 100 boards should aim for a minimum of 25% female representation by 2015 and there is an expectation that many will achieve a higher figure. Chairs should announce their aspirational goals within the next six months (by September 2011). Also the report expects all Chief Executives to review the percentage of women they aim to have on their Executive Committees in 2013 and 2015.

(2) Measurement. Quoted companies should be required to disclose each year the proportion of women on the board, women in senior executive positions and female employees in the whole organization.

(3) Diversity policy. The Financial Reporting Council should amend the UK Corporate Governance Code to require listed companies to establish a policy concerning boardroom diversity, including measurable objectives for implementing the policy, and disclose annually a summary of the policy and the progress made in achieving the objectives.

(4) Corporate governance statement. Companies should report on the matters in recommendations 1, 2 and 3 in their 2012 Corporate Governance Statement whether or not the underlying regulatory changes are in place. In addition, Chairs will be encouraged to sign a charter supporting the recommendations.

(5) Nomination committee. In line with the UK Corporate Governance Code provision B.2.4 "A separate section of the annual report should describe the work of the nomination committee, including the process it has used in relation to board appointments", Chairs should disclose meaningful information about the company's appointment process and how it addresses diversity in the company's Annual Report including a description of the search and nominations process.

(6) Role of investors. Investors play a critical role in engaging with company boards. Therefore investors should pay close attention to recommendations 1 to 5 when considering company reporting and appointments to the board.

(7) Recruitment. Companies are encouraged periodically to advertise non-executive board positions to encourage greater diversity in applications.

(8) Executive search firms. Executive search firms should draw up a Voluntary Code of Conduct addressing gender diversity and best practice which covers the relevant search criteria and processes relating to FTSE 350 board level appointments.

(9) Pools of board candidates. In order to achieve these recommendations, recognition and development of two different populations of women who are well-qualified to be appointed to UK boards needs to be considered:

- Executives from within the corporate sector, for whom there are many different training and mentoring opportunities, and
- Women from outside the corporate mainstream, including entrepreneurs, academics, civil servants and senior women with professional service backgrounds, for whom there are many fewer opportunities to take up corporate board positions.

(10) Steering board. The steering board will meet every six months to consider progress against these measures and will report annually with an assessment of whether sufficient progress is being made.

B. UK Corporate Governance Code

In response to the Lord Davies' report, the Financial Reporting Council amended *The UK Corporate Governance Code* in September 2012. The code is not a rigid set of rules, but rather a guide to a number of key components of effective board practice. It consists of principles and provisions. It applies to all companies with a Premium listing of equity shares regardless of whether they are incorporated in the UK or elsewhere.

Principles B.2 (Appointments to the Board) and B.6 (Evaluation) are relevant to diversity.

Principle B. 2 – Appointments to the Board
The main principle is that there should be a formal, rigorous and transparent procedure for the appointment of new directors to the board. The two key supporting principles are:

- The search for board candidates should be conducted, and appointments made, on merit, against objective criteria and with due regard for the benefits of diversity on the board, including gender.
- The board should satisfy itself that plans are in place for orderly succession for appointments to the board and to senior management, so as to maintain an appropriate balance of skills and experience within the company and on the board and to ensure progressive refreshing of the board.

In the provisions relating to these principles, the code indicates that a separate section of the annual report should describe the work of the nomination committee, including the process it has used in relation to board appointments. This section should include a description of the board's policy on diversity, including gender, any measurable objectives that it has set for implementing the policy and progress on achieving the objectives. An explanation should be given if neither an external search consultancy nor open advertising has been used in the appointment of a chair or a non-executive director. Where an external search consultancy has been used, it should be identified in the annual report and a statement made as to whether it has any other connection with the company.

Principle B.6 – Evaluation
The main principle is that the board should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors. One of the supporting principles is that the evaluation of the board should consider:

- the balance of skills, experience, independence and knowledge of the company on the board,
- its diversity, including gender,
- how the board works together as a unit, and
- other factors relevant to its effectiveness.

C. Listing rules

Listing Rules 9.8.6 R (for UK incorporated companies) and 9.8.7 R (for overseas incorporated companies) require that in the case of a company that has a Premium listing of equity shares, the following items be included in its annual report and accounts:

- a statement of how the listed company has applied the main principles set out in the code, in a manner that would enable shareholders to evaluate how the principles have been applied, and
- a statement as to whether the listed company has:
    - complied throughout the accounting period with all relevant provisions set out in the code, or
    - not complied throughout the accounting period with all relevant provisions set out in code and, if so, setting out (1) those provisions, if any, it has not complied with, (2) in the case of provisions whose requirements are of a continuing nature, the period within which, if any, it did not comply with some or all of those provisions and (3) the company's reasons for non-compliance.

3.4 Approaches in Europe generally

A. European Commission proposal for diversity disclosure

On April 16, 2013, the European Commission issued a proposal for a *Directive of the European Parliament and of the Council amending Council Directives 78/660/EEC* (the Fourth Council Directive) *and 83/349/EEC as regards disclosure of non-financial and diversity information by certain large companies and groups*. Article 46A of the Fourth Council Directive sets rules for the content of the corporate governance statement to be prepared by listed companies.

One of the key objectives of the proposal is to increase diversity on the boards of companies through enhanced transparency in order to facilitate effective oversight of management and robust governance of the company.

The proposal would introduce a new paragraph 1(g) to Article 46A which will require large listed companies to provide information about their diversity policy, including:

- a description of the company's diversity policy for its administrative, management and supervisory bodies with regard to aspects such as age, gender, geographical diversity and educational and professional background,
- the objectives of the policy,
- the implementation of the policy, and
- the results obtained.

The information will be included in the corporate governance statement. Companies not having a diversity policy will be obliged to explain why this is the case. This approach is in line with the general EU corporate governance framework.

The proposed disclosure requirement has been designed with a non-prescriptive mind-set and leaves significant flexibility for companies to disclose relevant information in the manner that they consider to be most useful. The requirement would apply to large listed companies as the costs for requiring small and medium-sized enterprises to apply the new rules could outweigh the benefits.

Complementary to these provisions, on November 14, 2012, the European Commission issued a proposal for a *Directive of the European Parliament and of the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures*. The proposal sets out a 40% objective by 2020 of women in non-executive board-member positions in publicly listed companies, with the exception of small and medium-sized enterprises.

B. Other European countries

In August 2012, Credit Suisse Research Institute published a paper, *Gender diversity and corporate performance*.[8] It summarized the policies on gender diversity in various countries. The following is an excerpt from that summary:

[8] Credit Suisse Research Institute, *Gender diversity and corporate performance* (August 2012), online: <https://www.credit-suisse.com/newsletter/doc/gender_diversity.pdf>.

Country	Policy
Austria	In mid March 2011, the Austrian government agreed to the implementation of female quotas for supervisory boards of state-owned companies. A quota of 25% is to be brought in by 2013 with an increase to 35% by 2018. No sanctions for non-compliance have been set. The hope is that private companies will follow the example set by the state-owned enterprises.
Belgium	Belgium's parliament adopted a plan in June 2011 to force public enterprises, and companies that are listed on the stock exchange, to give women 30% of the seats on management boards. Under the new rules, each time a board member leaves he or she is to be replaced by a woman until the quota is fulfilled. Companies will have six years to reach the target, with small and medium-sized enterprises (SMEs) given eight years. Members of boards that do not reach the quota will lose the benefits that come with their jobs.
Denmark	From 2008 the "comply or explain" code has required that diversity must be taken into account in all appointments.
Finland	As of 1 January 2010, all listed companies have been required to have at least one man and one woman on the board. There are no penalties for non-compliance beyond the need to explain why the target has not been met.
France	Parliament passed a bill in mid January 2011 applying a 40% quota for female directors of listed companies by 2017. The quota also includes a target of 20% by 2014. The sanctions for noncompliance are that nominations would be void and fees suspended for all board members.
Germany	The German Corporate Governance Code was amended in May 2010 to include a statement recommending boards of directors consider diversity when recruiting to fill board positions. The government has discussed setting an aim of 30% representation by 2018.
Iceland	Passed a quota law in 2010 (40% from each sex by September 2013) applicable to publicly owned and publicly limited companies with more than 50 employees.
Italy	A third of a company's board must be women by 2015 or the business will face fines of up to EUR 1 m, or USD 1.3 m, and the nullification of board election.
Netherlands	Government guidelines suggest that a minimum 30% of the board members of all companies with more than 250 employees should be women. If this goal is not reached by January 2016, companies must prepare a plan on how they intend to achieve it.
Norway	In February 2002, the government gave a deadline of July 2005 for private listed companies to raise the proportion of women on their boards to 40%. By July 2005, the proportion was only at 24%, and so in January 2006 legislation was introduced giving companies a final deadline of January 2008, after which they would face fines or even closure. Full compliance was achieved by 2009.
Poland	The corporate governance code recommends balanced gender representation on boards.

Country	Policy
Spain	Passed a gender equality law in 2007 obliging public companies and IBEX 35-quoted firms with more than 250 employees to attain a minimum 40% share of each sex on their boards by 2015. Companies reaching this quota will be given priority status in the allocation of government contracts but there are no formal sanctions.
Sweden	The “comply or explain” code requires companies to strive for gender parity on boards. Quotas have been discussed but not set.

4. MODEL OF DISCLOSURE REQUIREMENTS REGARDING WOMEN ON BOARDS AND IN SENIOR MANAGEMENT

We are putting forward for consultation purposes a model of disclosure requirements regarding women on boards and in senior management. The model has three key elements:

- the application of the disclosure requirements,
- the disclosure requirements, and
- a related definition.

4.1 Application of disclosure requirements

We have been asked to consider requiring non-venture issuers to provide disclosure regarding the representation of women on boards and in senior management as part of their annual summary of their corporate governance practices. At this time, we are not considering similar requirements for venture issuers.

4.2 Model of disclosure requirements

We are considering amending the Corporate Governance Disclosure Rule to require that non-venture issuers (other than investment funds)[9] provide disclosure on an annual basis in the following four areas:

- policies regarding the representation of women on the board and in senior management,
- consideration of the representation of women in the director selection process,
- consideration of the representation of women in the board evaluation process, and
- measurement regarding the representation of women in the organization and specifically on the board and in senior management.

These types of disclosures are intended to provide investors and other stakeholders with information on the issuer's approach to advancing the representation of women on boards and in senior management, which in turn may impact investment and voting decisions.

Policy regarding the representation of women on the board and in senior management
An issuer should disclose whether it has a policy for advancing the participation of women in senior management roles and/or for the identification and nomination of female directors.

If a policy has been adopted, the issuer should:

- provide a summary of its key provisions or disclose the policy,
- set out how the policy is intended to advance the participation of women on the board and in senior management of the issuer,
- explain how the policy has been implemented,
- describe any measurable objectives that have been established under the policy,
- disclose annual and cumulative progress by the issuer on achieving the objectives of the policy and where the objectives are measurable, disclose progress in quantitative terms, and
- describe how the board or its nominating committee measures the effectiveness of the policy.

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[9] The Corporate Governance Disclosure Rule does not apply to investment funds. See section 1.3(a) of the rule.

If the issuer does not have such a policy, it should explain why not and identify any risks or opportunity costs associated with the decision not to have such a policy.

Consideration of the representation of women in the director selection process

Current requirement regarding director selection process

An issuer is already required to describe the process by which the board identifies new candidates for board nominations.

Model for an additional related requirement

An issuer should explicitly indicate whether, and if so how, the board or its nomination committee considers the level of representation of women on the board in identifying and nominating candidates for election or re-election to the board. If the issuer does not take the representation of women into account in this process, it should explain why not and identify any risks or opportunity costs associated with the decision not to do so.

Consideration of the representation of women in board evaluation

Current requirement regarding board evaluation

An issuer is already required to disclose whether or not the board, its committees and individual directors are regularly assessed with respect to their effectiveness and contribution. If assessments are regularly conducted, the issuer must describe the process used for the assessments. If assessments are not regularly conducted, the issuer must describe how the board satisfies itself that the board, its committees and its individual directors are performing effectively.

Model for an additional related requirement

If an issuer has a policy regarding the representation of women on the board and/or in senior management, it should disclose whether and how adherence to the policy or achieving any objectives set out in the policy are assessed in connection with the annual evaluation of the effectiveness of the board and the nominating committee.

Measurement

Issuers should disclose the proportion (in percentage terms) of:

- female employees in the whole organization,
- women in senior executive positions, and
- women on the board.

Issuers may also provide any other information or explanation that is relevant in order to properly understand the quantitative information disclosed.

4.3 Related definition

Definition of senior executive positions

As noted above, the model for disclosure requirements contemplates reporting on the number of women in "senior executive positions", among others. "Senior executive positions" is not a defined term and can be interpreted in a number of different ways.

The term "executive officer" is currently used in the Corporate Governance Disclosure Rule and means:

- a chair, vice-chair or president,
- a vice-president in charge of a principal business unit, division or function including sales, finance or production, or
- an individual performing a policy-making function in respect of the issuer.

Rather than introducing another concept, we are proposing that, for the purposes of measurement, issuers should disclose the proportion of women that are executive officers of an issuer.

Specific consultation questions

- What are effective policies for increasing the number of women on boards and in senior management?
- What type of disclosure requirements regarding women on boards and in senior management would be most appropriate and useful?
- Are the proposed scope and content of the model disclosure requirements appropriate? Are there additional or different disclosure requirements that should be considered? Please explain.
- What type of statistics, data and/or accompanying qualitative information regarding the representation of women in their organization should non-venture issuers be required to disclose? Should such disclosure be reported for the non-venture issuer only or for all of its subsidiary entities also?
- What practices should we recommend for facilitating increased representation of women on boards and in senior management?
    - For example, should we recommend that non-venture issuers have a gender diversity policy? If so, should we set out recommended content for the policy?
    - Should non-venture issuers be required to comply with the recommended practices or explain why they have not complied (i.e. a “comply or explain” model of disclosure)?

5. HOW TO PROVIDE FEEDBACK

We are publishing this consultation paper for public comment. In addition to the written consultation process, we plan to engage with stakeholders on this matter by convening a roundtable (or similar forum) in fall 2013. The details of any public consultation sessions will follow.

5.1 Written comments

You must submit your comments in writing by **September 27, 2013**. If you are sending your comments by email, you should also send an electronic file containing the submissions in Microsoft Word.

Please address and send your comments to the address below.

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
Email: **comments@osc.gov.on.ca**

Please note that all comments received during the comment period will be made publicly available. We will post all comments to the OSC website at www.osc.gov.on.ca to improve the transparency of the policy-making process.

5.2 Questions

Please refer your questions to:

Monica Kowal, General Counsel
Tel: 416-593-3653
Email: mkowal@osc.gov.on.ca

Jo-Anne Matear, Manager, Corporate Finance Branch
Tel : 416-593-2323
Email: jmatear@osc.gov.on.ca

1.2 Notices of Hearing

1.2.1 Global Consulting and Financial Services et al. – ss. 37, 127

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

AND

IN THE MATTER OF
GLOBAL CONSULTING AND FINANCIAL SERVICES,
GLOBAL CAPITAL GROUP,
CROWN CAPITAL MANAGEMENT CORP.,
MICHAEL CHOMICA, JAN CHOMICA
and LORNE BANKS

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION and
GLOBAL CONSULTING AND FINANCIAL SERVICES
and JAN CHOMICA

NOTICE OF HEARING
(Sections 37 and 127 of the Securities Act)

TAKE NOTICE THAT the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 37 and 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at the offices of the Commission at 20 Queen Street West, 17th Floor Hearing Room on August 6, 2013 at 10:00 a.m. or as soon thereafter as the hearing can be held;

AND TAKE NOTICE that the purpose of the hearing is for the Commission to consider whether it is in the public interest to approve a settlement agreement between Staff of the Commission and Global Consulting and Financial Services and Jan Chomica;

BY REASON OF the allegations set out in the Statement of Allegations of Staff of the Commission dated, March 27, 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 25th day of July, 2013

"Josée Turcotte"
per: John Stevenson
Secretary to the Commission

1.2.2 Tricoastal Capital Partners LLC et al. – ss. 127(7), 127(8)

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

AND

IN THE MATTER OF
TRICOASTAL CAPITAL PARTNERS LLC,
TRICOASTAL CAPITAL MANAGEMENT LTD.
and KEITH MACDONALD SUMMERS

NOTICE OF HEARING
(Subsections 127(7) & 127(8))

WHEREAS the Ontario Securities Commission (the "Commission") issued a temporary order on July 25, 2013 (the "Temporary Order") pursuant to sections 127(1) and 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering the following:

1. pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities by Tricoastal Capital Partners LLC ("Tricoastal Partners"), Tricoastal Capital Management Ltd. ("Tricoastal Capital") and Keith MacDonald Summers ("Summers") (collectively, the "Respondents") or their agents shall cease; and

2. pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that the exemptions contained in Ontario securities law do not apply to the Respondents or their agents;

TAKE NOTICE THAT the Commission will hold a hearing pursuant to subsections 127(7) and 127(8) of the Act at the offices of the Commission, 17th Floor, 20 Queen Street West, Toronto, commencing on August 6, 2013 at 11:00 a.m. or as soon thereafter as the hearing can be held;

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

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

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

BY REASON OF the facts recited in the Temporary Order and of such allegations and evidence as counsel may advise and the Commission may permit;

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

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

DATED at Toronto this 26th day of July, 2013

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

1.3 News Releases

1.3.1 Canadian Securities Regulators Enter into Supervisory Cooperation Arrangements with EU and EEA Financial Regulators

FOR IMMEDIATE RELEASE
July 25, 2013

CANADIAN SECURITIES REGULATORS ENTER INTO SUPERVISORY COOPERATION ARRANGEMENTS WITH EU AND EEA FINANCIAL REGULATORS

Toronto – The Ontario Securities Commission (OSC), Autorité des marchés financiers (AMF), Alberta Securities Commission (ASC) and British Columbia Securities Commission (BCSC) today announced they have entered into supervisory Memorandums of Understanding (MOUs) with financial regulators of member states of the European Union (EU) and European Economic Area (EEA) regarding the supervision of alternative investment fund managers as required under the EU Alternative Investment Fund Managers Directive.

The MOUs are a pre-condition for allowing non-EU Alternative Investment Fund Managers to manage and market alternative investment funds (including hedge funds, private equity and real estate funds) in the EU and to perform fund management activities on behalf of EU Managers.

The EU/EEA member-state financial regulators with whom the Canadian authorities signed MOUs are those from Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxemburg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Spain, Sweden, and the United Kingdom.

The MOUs provide a framework for mutual assistance in the supervision and oversight of certain participants in the asset management industry, including portfolio managers and investment fund managers.

In Ontario, the MOU is subject to approval by the Ontario Minister of Finance.

For more information:

Carolyn Shaw-Rimmington
Ontario Securities Commission
416-593-2361

Mark Dickey
Alberta Securities Commission
403-297-4481

Sylvain Théberge
Autorité des marchés financiers
514-940-2176

Richard Gilhooley
British Columbia Securities Commission
604-899-6713

1.3.2 OSC Seeks Input on Proposal Regarding Women on Boards and in Senior Management Positions In Ontario

FOR IMMEDIATE RELEASE
July 30, 2013

OSC SEEKS INPUT ON PROPOSAL REGARDING WOMEN ON BOARDS AND IN SENIOR MANAGEMENT POSITIONS IN ONTARIO

TORONTO – The Ontario Securities Commission (OSC) announced today the start of a 60-day comment period on OSC Staff Consultation Paper 58-401 *Disclosure Requirements Regarding Women on Boards and in Senior Management* (the Paper), seeking input on a proposal that would require TSX-listed companies to provide disclosure regarding women on boards and in senior management in Ontario.

According to statistics, women continue to be underrepresented on boards and in positions of senior management in Canada. The OSC is considering possible amendments to National Instrument 58-101 *Disclosure of Corporate Governance Practices*, which currently makes no mention of gender in its requirements for disclosure on board composition.

"In my view, diversity of opinion is invaluable to corporate decision making, and it is therefore necessary to encourage greater representation of women at senior levels," said Maureen Jensen, Executive Director and Chief Administrative Officer of the OSC. "The model that we are putting forward for consultation will inform investors of the progress that Canadian companies are making in advancing the representation of women on their boards and in senior management."

Under the OSC's potential disclosure model, TSX-listed companies (and other non-venture issuers) would provide disclosure as part of their annual summary of corporate governance practices in areas such as:

- their policies regarding female representation on their boards and in senior management,
- consideration of the representation of women in the director selection process,
- certain quantitative information regarding the representation of women in the organization, on the board and in senior management.

The purpose of the Paper is to get feedback from investors, issuers, other market participants and advisors to inform the OSC's recommendations to the Ontario Government, which highlighted gender diversity as a priority in the 2013 Budget.

General comments are welcome as well as responses to a number of specific questions raised in the Paper. The comment period will end on September 27, 2013. To further the discussion, the OSC will host a roundtable in the fall, additional details to be announced shortly.

The OSC is a regulatory body responsible for overseeing Ontario's capital markets. The OSC administers and enforces Ontario's securities ad commodity futures laws. Its mandate is to provide protection to investors from unfair, improper or fraudulent practice and to foster fair and efficient capital markets and confidence in capital markets.

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1-877-785-1555 (Toll Free)

1.4 Notices from the Office of the Secretary

1.4.1 Nest Acquisitions and Mergers et al.

FOR IMMEDIATE RELEASE
July 25, 2013

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

AND

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

TORONTO – The Commission issued its Decision and Order in the above noted matter.

A copy of the Decision and Order dated July 17, 2013 is available at www.osc.gov.on.ca.

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1.4.2 Energy Syndications Inc. et al.

FOR IMMEDIATE RELEASE
July 25, 2013

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

AND

IN THE MATTER OF
ENERGY SYNDICATIONS INC.,
GREEN SYNDICATIONS INC.,
SYNDICATIONS CANADA INC.,
DANIEL STRUMOS, MICHAEL BAUM
and DOUGLAS WILLIAM CHADDOCK

TORONTO – The Commission issued an Order in the above noted matter which provides that the Sanctions and Costs Scheduling Order is amended as follows:

1. the date for the Respondents to file and serve written submissions on sanctions and costs is extended, on consent, to August 16, 2013; and

2. the date for Staff to file and serve reply written submissions on sanctions and costs is extended, on consent, to August 26, 2013.

A copy of the Order dated July 24, 2013 is available at www.osc.gov.on.ca.

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1.4.3 Paul Azeff et al.

FOR IMMEDIATE RELEASE
July 25, 2013

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

AND

IN THE MATTER OF
PAUL AZEFF, KORIN BOBROW,
MITCHELL FINKELSTEIN,
HOWARD JEFFREY MILLER AND
MAN KIN CHENG (a.k.a. FRANCIS CHENG)

TORONTO – The Commission issued an Order in the above named matter which provides that (i) the Third Party Records Motion has been settled; (ii) the Third Party Summons is quashed, on consent, without adjudication; and (iii) the Third Party will produce certain documents to Azeff and Bobrow, on consent, in accordance with the terms of the Order.

A copy of the Order dated July 16, 2013 is available at www.osc.gov.on.ca.

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1.4.4 Global Consulting and Financial Services et al.

FOR IMMEDIATE RELEASE
July 26, 2013

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

AND

IN THE MATTER OF
GLOBAL CONSULTING AND FINANCIAL SERVICES,
GLOBAL CAPITAL GROUP,
CROWN CAPITAL MANAGEMENT CORP.,
MICHAEL CHOMICA, JAN CHOMICA
and LORNE BANKS

AND

IN THE MATTER OF
A SETTLEMENT AGREEMENT BETWEEN STAFF OF
THE ONTARIO SECURITIES COMMISSION and
GLOBAL CONSULTING AND FINANCIAL SERVICES
and JAN CHOMICA

TORONTO – The Office of the Secretary issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a settlement agreement entered into by Staff of the Commission and Jan Chomica. The hearing will be held on August 6, 2013 at 10:00 a.m. on the 17th floor of the Commission's offices located at 20 Queen Street West, Toronto.

A copy of the Notice of Hearing dated July 25, 2013 is available at www.osc.gov.on.ca.

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1.4.5 Innovative Gifting Inc. et al. – s. 127

FOR IMMEDIATE RELEASE
July 26, 2013

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

AND

IN THE MATTER OF
INNOVATIVE GIFTING INC., TERENCE LUSHINGTON,
Z2A CORP. and CHRISTINE HEWITT

TORONTO – Following the hearing on the merits in the above noted matter, the Commission issued its Reasons and Decision.

The Commission also issued an Order which provides that Staff and the Respondents shall appear before the Commission on August 12, 2013 at 10:00 a.m. at the offices of the Commission at 20 Queen Street West, Toronto, ON, for the purposes of scheduling the hearing with respect to sanctions and costs.

A copy of the Reasons and Decision and the Order dated July 25, 2013 are available at www.osc.gov.on.ca.

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1.4.6 Tricoastal Capital Partners LLC et al.

FOR IMMEDIATE RELEASE
July 26, 2013

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

AND

IN THE MATTER OF
TRICOASTAL CAPITAL PARTNERS LLC,
TRICOASTAL CAPITAL MANAGEMENT LTD.
and KEITH MACDONALD SUMMERS

TORONTO – The Office of the Secretary issued a Notice of Hearing on July 26, 2013 setting the matter down to be heard August 6, 2013 at 11:00 a.m. to consider whether it is in the public interest for the Commission:

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

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

A copy of the Notice of Hearing dated July 26, 2013 and Temporary Order dated July 25, 2013 are available at www.osc.gov.on.ca.

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1.4.7 Paul Azeff et al.

FOR IMMEDIATE RELEASE
July 30, 2013

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

AND

IN THE MATTER OF
PAUL AZEFF, KORIN BOBROW,
MITCHELL FINKELSTEIN, HOWARD JEFFREY MILLER
AND MAN KIN CHENG (a.k.a. FRANCIS CHENG)

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

1. the Adjournment Motion brought by Bobrow is granted;

2. the dates scheduled for the hearing on the merits, commencing on May 5, 2014 and continuing up to and including June 20, 2014, save and except for certain dates, shall be vacated;

3. the hearing on the merits shall commence on September 15, 2014, and continue up to and including November 7, 2014, save and except for September 25 and 26, 2014 (Rosh Hashanah), October 13, 2014 (Thanksgiving) and the dates on which meetings of the Commission are scheduled, being September 23, October 7, 21 and November 4, 2014;

4. a disclosure motion shall be held on November 20, 2013 at 10:00 a.m.;

5. a confidential pre-hearing conference shall be held on January 16, 2014 at 10:00 a.m.; and

6. counsel for Bobrow will use his best efforts to provide to Staff any relevant Third Party Documents that Bobrow and Azeff intend to rely upon as evidence at the hearing on the merits before June 1, 2014, and in any event, shall provide such Third Party Documents to Staff no later than July 1, 2014.

A copy of the Order dated July 29, 2013 is available at www.osc.gov.on.ca.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Melcor Real Estate Investment Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from provisions of section 8.4 of National Instrument 51-102 Continuous Disclosure Obligations (NI 51-102) permitting filer to include alternative financial disclosure in business acquisition report pursuant to section 13.1 of NI 51-102 – filer acquired 27 properties and were unable to obtain financial statements for one of the properties – filer obtained relief from the financial statement requirement in section 32.2(1) of Form 41-101F1 for its IPO prospectus – audited annual carve-out financial statements and unaudited pro forma financial statements for properties provided.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.4, 13.1.

Citation: Melcor Real Estate Investment Trust, Re, 2013 ABASC 294

July 11, 2013

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

AND

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

AND

IN THE MATTER OF
MELCOR REAL ESTATE INVESTMENT TRUST
(the Filer or REIT)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for relief from the requirement to include financial statement disclosure prescribed under section 8.4 of National Instrument 51-102 *Continuous Disclosure Obligations* (**NI 51-102**) in the business acquisition report (**BAR**) of the Filer relating to the Acquisition Transaction (as defined herein) (the **Exemption Sought**).

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

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

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

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

Interpretation

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

Representations

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

1. The REIT is an unincorporated open-ended real estate investment trust established under the laws of the Province of Alberta pursuant to a declaration of trust with its head office in Edmonton, Alberta.

2. The REIT is a reporting issuer or the equivalent thereof under the securities legislation of each of the provinces and territories of Canada and is not in default of securities legislation in any jurisdiction to the best of its knowledge, information and belief.

3. The units of the REIT are listed and posted for trading on the Toronto Stock Exchange under the trading symbol "MR.UN".

4. On April 19, 2013, the Principal Regulator issued a receipt (the **Receipt**) in respect of the final long form prospectus of the Filer (the **Prospectus**) and the REIT completed its initial public offering (the **IPO**) on May 1, 2013 pursuant to the Prospectus.

5. The proceeds of the IPO were used by the REIT to indirectly acquire (the **Acquisition Transaction**) a real estate portfolio of 27 income-producing properties (the **Acquisition Properties**) from the REIT's promoter, Melcor Real Estate Developments Ltd. (Melcor) on closing of the IPO.

6. The Acquisition Properties comprised of 26 properties which were acquired by Melcor prior to December 31, 2010 (the Initial Properties), and one property acquired by Melcor on June 18, 2012 (the **Subject Property**).

7. The Subject Property is not significant to the Acquisition Transaction; its appraised market value represented 0.9 percent of the purchase price consideration of the Acquisition Transaction.

8. The Receipt evidenced the granting by the Principal Regulator of relief requested in a pre-filing waiver application, exempting the Filer from the financial statement requirements contained in item 32.2(1) of Form 41-101F1 *Information Required in a Prospectus* in respect of the Subject Property, namely the requirement to include in the Prospectus audited comparative annual financial statements for each of the three most recently completed financial years ended more than 90 days prior to the date of the Prospectus (with balance sheets only as at the two most recent year ends) for the Subject Property.

9. The Acquisition Transaction may be considered an "acquisition of related businesses" pursuant to section 8.1 of NI 51-102 and as a result the Filer has determined that the Acquisition Transaction is a "significant acquisition" for the purposes of section 8.3 NI 51-102. The Filer must therefore file a BAR within 75 days of completion of the Acquisition Transaction.

10. Unless otherwise exempted pursuant to Section 13.1 of NI 51-102, the BAR must include or incorporate by reference the financial statements set out in Section 8.4 of NI 51-102 requiring two full years of financial statements of the Acquisition Properties, with the most recent year being audited, and pro forma financial statements.

11. The Filer proposes that the BAR contain the following financial disclosure (the *Proposed Disclosure*):

    (a) audited annual carve-out financial statements of the Acquisition Properties for the year ended December 31, 2012, including the Subject Property for the period commencing on June 18, 2012, and audited comparative financial statements reflecting the Initial Properties; and

    (b) unaudited pro forma financial statements for the periods permitted by subsection 8.4(6) of NI 51-102 reflecting the Initial Properties and, for the period commencing on June 18, 2012, the Subject Property.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that the Filer disclose in the BAR the Proposed Disclosure.

"Cheryl McGillivray"
Manager, Corporate Finance

2.1.2 BMO Capital Markets Corp. and BMO Nesbitt Burns Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Trades by a U.S. registered broker dealer, an affiliate of an Ontario registered investment dealer whose shared premises are located in Ontario, exempted from requirements of paragraph 25(1) of the Act, for trades made to institutional clients that are resident in the U.S., where the trade is made by the U.S. dealer (in its own right, or on behalf of institutional clients that are resident in the U.S.) through individuals that are dealing representatives of both the U.S. dealer and the Ontario registrant – Head Office of the U.S. registered broker dealer is in the U.S. and it relies on the international dealer exemption under section 8.18 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103) – Advice provided to clients under section 34(1) of the Act and section 8.25(2) of NI 31-103 – Individuals must be appropriately registered to make the trade on behalf of the Ontario registrant if instead the Ontario registrant were making the trade to an Ontario resident.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25(1), 34(1).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 8.18, 8.25(2).

July 23, 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
BMO CAPITAL MARKETS CORP.

AND

IN THE MATTER OF
BMO NESBITT BURNS INC.

DECISION

Background

The principal regulator in the Jurisdiction has received an application from BMO Capital Markets Corp. (**CMC**) and BMO Nesbitt Burns Inc. (**NBI**) (collectively, the **Filers**) for a decision under the securities legislation of the Jurisdiction (the **Legislation**), exempting CMC and the individuals who are dealing representatives or the equivalent of CMC, and who are also registered under the Legislation to trade on behalf of NBI as its dealing representatives (**CMC Dual Representatives**) from the dealer and dealer representative registration requirements under subsection 25(1) of the Legislation, respectively, where CMC and the CMC Dual Representatives act on behalf of CMC in respect of certain trades in the Jurisdiction with, or on behalf of, institutional customers within the meaning of the Investment Industry Regulatory Organization of Canada (**IIROC**) Dealer Member Rule 1.1 (such clients of CMC which deal with CMC Dual Representatives, the **U.S. Institutional Clients**) that are resident in the United States (**U.S.**) (the **Exemption Sought**).

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

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

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

Interpretation

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

Representations

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

1. CMC is registered as a broker-dealer under the U.S. *Securities Exchange Act of 1934*, as amended (**SEA**), and is a member of the Financial Industry Regulatory Authority (**FINRA**). CMC is not a registered investment dealer in any jurisdiction in Canada.

2. CMC is incorporated under the laws of Delaware with its head office in New York. Its client base consists only of institutional clients. It relies on the international dealer exemption in section 8.18 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) in the Jurisdiction and the Passport Jurisdictions.

3. CMC is an affiliate of NBI, which is registered as a dealer under the Legislation or equivalent

legislation of the Passport Jurisdictions in the category of investment dealer and is a dealer member of IIROC. NBI's head office is located in Toronto, Ontario.

4. NBI is not registered under applicable U.S. securities laws to carry on the business of a registered broker dealer in the U.S.

5. NBI does not trade in securities with or on behalf of the U.S. Institutional Clients.

6. CMC is also an affiliate of BMO Nesbitt Burns Securities Ltd. (**NBSL**).

7. NBSL is a corporation incorporated under the laws of Canada with its head office in Toronto, Ontario. It is registered as a broker-dealer under the SEA, and is a member of FINRA. NBSL is not a registered investment dealer in any jurisdiction in Canada.

8. NBSL is a vehicle for trading in securities with or on behalf of U.S. resident clients and NI 35-101 Clients, as defined below.

9. On April 11, 2012, a decision (the **NBSL Decision**) was issued by the Commission exempting:

   (i) NBSL and its dealing representatives from the dealer registration requirement in respect of trades in securities in the Jurisdiction on behalf of NBSL by dealing representatives of NBSL, who are also registered under the Legislation to trade on behalf of NBI (the **NBSL Dual Representatives**), with U.S. resident clients; and

   (ii) NBSL from the dealer/underwriter and adviser registration requirements and prospectus requirement so as to permit it to deal with an individual referred to in paragraphs 2.1 and 3.1 of National Instrument 35-101 (**NI 35-101**) *Conditional Exemption from Registration for United States Broker-Dealers and Agents* (**NI 35-101 Clients**) and to permit the NBSL Dual Representatives to act on behalf of NBSL in respect of trades in securities with or on behalf of NI 35-101 Clients, provided that such dealings are conducted in accordance with NI 35-101, save and except for the requirement that NBSL has no office or physical presence in any jurisdiction of Canada.

10. Each of CMC, NBI and NBSL are wholly-owned indirect subsidiaries of Bank of Montreal.

11. NBSL is currently servicing: (i) U.S. retail clients (i.e. U.S. resident clients that are not U.S. Institutional Clients), (ii) U.S. Institutional Clients and (iii) NI 35-101 Clients.

12. In connection with the reorganization of certain U.S. business lines, each of CMC, NBSL and NBI wish to move the U.S. Institutional Clients from NBSL to CMC, such that CMC will service only the U.S. Institutional Clients and NBSL will service only: (i) U.S. retail clients and (ii) NI 35-101 Clients.

13. Further to the aforementioned reorganization of certain U.S. business lines, each of CMC, NBSL and NBI wish to transfer certain personnel from NBSL to CMC, such that the NBSL Dual Representatives who are servicing the U.S. Institutional Clients will cease to be dealing representatives of NBSL and will become CMC Dual Representatives. In all cases, the dealing representatives being transferred from NBSL to CMC will be continue to be dealing representatives of NBI.

14. The principal reason for which CMC and the CMC Dual Representatives will be servicing the U.S. Institutional Clients is to provide the U.S. Institutional Clients with access to the Canadian stock exchanges.

15. The NBSL Dual Representatives who are servicing the U.S. retail clients and the NI 35-101 Clients will remain NBSL Dual Representatives. Each of the NBSL Dual Representatives will continue to be registered under the Legislation or equivalent legislation of the Passport Jurisdictions as a dealing representative of NBI in order to provide trading services to retail clients of NBI.

16. Each of the CMC Dual Representatives will be employed in one of NBI's offices located in the Jurisdiction or the Passport Jurisdictions.

17. Each of the CMC Dual Representatives will be registered under the Legislation or equivalent legislation of the Passport Jurisdictions as a dealing representative of NBI in order to provide trading services to institutional clients of NBI.

18. The CMC Dual Representatives will act primarily for NBI, but may also act in the Jurisdiction or one of the Passport Jurisdictions on behalf of CMC, a FINRA member firm, in order to provide trading services to the U.S. Institutional Clients only.

19. There are no dealing representatives of CMC in the Jurisdiction or the Passport Jurisdictions who will only be registered with CMC.

20. CMC and the CMC Dual Representatives will not provide any investment advice to the U.S. Institutional Clients, other than in accordance with the exemptions from the adviser registration requirement set out in section 34(1) of the

Legislation in the Jurisdiction and section 8.25(2) of NI 31-103 in the Passport Jurisdictions.

21. CMC and the CMC Dual Representatives will not provide any portfolio management services to the U.S. Institutional Clients.

22. Where CMC and the CMC Dual Representatives trade with or on behalf of the U.S. Institutional Clients, they will comply with all applicable U.S. securities laws in respect of those trades.

23. The CMC Dual Representatives will not, when acting on behalf of CMC, solicit or contact clients that are resident or located in Canada.

24. CMC will not trade in securities with or on behalf of persons or entities who are resident in Canada at its offices located in the Jurisdiction or the Passport Jurisdictions.

25. NBI and NBSL operate their head offices out of the same premises in Toronto, Ontario. Wherever CMC has an office in Canada, it will operate out of the same premises as NBI and NBSL.

26. All the U.S. Institutional Clients of CMC will enter into a customer agreement and associated account opening documentation with CMC. All communications with the U.S. Institutional Clients will be through CMC and will be under CMC branding.

27. All the U.S. Institutional Clients will be advised at the time they enter into a customer agreement with CMC (and periodically thereafter) that, if they reside in Canada, their accounts must be transferred to NBI or any other investment dealer registered under the Legislation.

28. To avoid client confusion, all the U.S. Institutional Clients will also receive disclosure that explains the relationship between CMC and NBI.

29. CMC expects that the amount of revenue derived from the U.S. Institutional Clients will represent less than 1% of the revenue generated by Canadian clients of NBI. If the revenue derived from the U.S. Institutional Clients exceeds 10% of the revenue generated from Canadian clients of NBI, the Filers will file forthwith a letter to the Commission advising of the same. The letter will refer to this decision document and this requirement, the percentage of the revenue derived from the U.S. Institutional Clients, and the date on which the revenue exceeded 10% of the revenue generated from Canadian clients of NBI. The letter will also refer to the date on which the exceeded revenue threshold was discovered.

30. CMC will file with the Commission such reports as to its trading activities as the Commission may require from time to time. For purposes of the Legislation, and as a market participant, each of the Filers is required by subsection 19(1) of the Legislation 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 the Legislation.

Decision

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

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

a. NBI remains registered under the Legislation as an investment dealer and is a dealer member of IIROC;

b. CMC remains registered as a broker-dealer under the SEA and is a member of FINRA; and

c. CMC and each of the CMC Dual Representatives are in compliance and remain in compliance with any applicable dealer licensing or registration requirements under applicable securities legislation of the U.S.

July 23, 2013

"Deborah Leckman"
Commissioner
Ontario Securities Commission

"Christopher Porter"
Commissioner
Ontario Securities Commission

2.1.3 Nest Acquisitions and Mergers 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
NEST ACQUISITIONS AND MERGERS,
IMG INTERNATIONAL INC.,
CAROLINE MYRIAM FRAYSSIGNES,
DAVID PELCOWITZ, MICHAEL SMITH, and
ROBERT PATRICK ZUK

DECISION AND ORDER
(Sections 37, 127 and 127.1 of the Securities Act)

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

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

AND WHEREAS, following lengthy preliminary matters, the hearing on the merits took place between May 16, 2012 and January 15, 2013;

AND WHEREAS on December 5, 2012, the Commission approved a settlement agreement entered into by Staff and Robert Patrick Zuk;

AND WHEREAS on December 6, 2012, Staff withdrew the allegations against Caroline Myriam Frayssignes;

AND WHEREAS on April 26, 2013, the Commission released its reasons and decision on the merits, making findings against David Paul Pelcowitz ("Pelcowitz") and IMG International Inc. ("IMG") and dismissing the allegations against Michael Smith and Nest Acquisitions and Mergers (*Re Nest et al.* (2013), 36 O.S.C.B. 4628, the "Merits Decision");

AND WHEREAS on April 26, 2013, the Commission ordered that the hearing in respect of sanctions and costs take place on June 27, 2013 at 10 a.m. (the "Sanctions and Costs Hearing");

AND WHEREAS on or about June 20, 2013, recently retained counsel for David Pelcowitz requested the consent of Staff to a brief adjournment of the Sanctions and Costs Hearing;

AND WHEREAS Staff consented to a brief adjournment of the Sanctions and Costs Hearing;

AND WHEREAS on June 26, 2013, the Commission ordered that the Sanctions and Costs Hearing scheduled for June 27, 2013 at 10 a.m. be adjourned to July 17, 2013 at 9 a.m.;

AND WHEREAS on July 15, 2013, Staff submitted a letter advising that Staff and Pelcowitz agreed to make joint submissions concerning sanctions and costs (the "July 15 Letter");

AND WHEREAS the July 15 Letter enclosed an Acknowledgement and Irrevocable Direction signed by Pelcowitz, as power of attorney for IMG, that funds being held in IMG's bank account be paid to the Commission;

AND WHEREAS the Sanctions and Costs Hearing took place on July 17, 2013;

AND WHEREAS on July 17, 2013, counsel for Staff and counsel for Pelcowitz attended and no one appeared for IMG;

AND WHEREAS on July 17, 2013, counsel for Staff and counsel for Pelcowitz made a joint submission on the appropriate sanctions and costs with respect to Pelcowitz;

AND WHEREAS on July 17, 2013, the Commission made a finding that the joint submission on sanctions and costs made by Staff and Pelcowitz was appropriate and proportionate to the findings against Pelcowitz in the Merits Decision;

AND WHEREAS on July 17, 2013, the Commission made a finding that the sanctions sought against IMG were appropriate and proportionate to the findings against IMG in the Merits Decision;

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

IT IS ORDERED:

(a) pursuant to clause 2 of subsection 127(1) of the Act, that trading in any securities by Pelcowitz and IMG cease permanently;

(b) pursuant to clause 2.1 of subsection 127(1) of the Act, that the acquisition of any securities by Pelcowitz and IMG is prohibited permanently;

(c) pursuant to clause 3 of subsection 127(1) of the Act, that any exemptions contained in Ontario securities law do not apply to Pelcowitz and IMG permanently;

(d) pursuant to clause 6 of subsection 127(1) of the Act, that Pelcowitz be reprimanded;

(e) pursuant to clause 8 of subsection 127(1) of the Act, that Pelcowitz be prohibited permanently from becoming or acting as a director or officer of any issuer;

(f) pursuant to clause 8.2 of subsection 127(1) of the Act, that Pelcowitz be prohibited permanently from becoming or acting as a director or officer of a registrant;

(g) pursuant to clause 8.4 of subsection 127(1) of the Act, that Pelcowitz be prohibited permanently from becoming or acting as a director or officer of an investment fund manager;

(h) pursuant to clause 8.5 of subsection 127(1) of the Act, that Pelcowitz be prohibited permanently from becoming or acting as a registrant, as an investment fund manager or as a promoter;

(i) pursuant to section 37 of the Act, that Pelcowitz be prohibited 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;

(j) pursuant to clause 9 of subsection 127(1) of the Act, that Pelcowitz pay an administrative penalty in the minimum amount of $300,000 to be designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act;

(k) pursuant to clause 10 of subsection 127(1) of the Act, that Pelcowitz and IMG disgorge to the Commission a total of $605,029.08 for which they shall be jointly and severally liable, to be designated for allocation to or for the benefit of third parties in accordance with subsection 3.4(2)(b) of the Act; and

(l) pursuant to section 127.1 of the Act, that Pelcowitz pay $100,000 in costs.

DATED at Toronto this 17th day of July 2013.

"James D. Carnwath"

2.1.4 Second Wave Petroleum Inc. – s. 1(10)

Headnote

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

Ontario Statutes

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

July 23, 2013

Bennett Jones LLP
4500 Bankers Hall East
855 - 2 Street SW
Calgary, AB T2P 4K7

Attention: Colin R. Perry

Dear Sir:

Re: Second Wave Petroleum Inc. (the Applicant) - Application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick and Newfoundland and Labrador (the Jurisdictions) that the Applicant is not a reporting issuer

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

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.

"Tom Graham, CA"
Director, Corporate Finance
Alberta Securities Commission

2.1.5 GrowthWorks Enterprises Ltd., formerly Seamark Asset Management Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Paragraph 4.1(1)(b) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – A registered firm wants to permit an individual to act as a dealing, advising or associate advising representative where the individual is registered as a dealing, advising or associate advising representative of another registered firm – The registered firms are affiliated entities and have valid business reasons for the individuals to be registered with both firms – The individuals will have sufficient time to adequately serve both firms – The firms have policies and procedures in place to manage potential conflicts of interest – The exemption from the prohibition is for a limited period of time.

Applicable Legislative Provisions

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions, s. 3.3.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1(1)(b), 15.1.

July 16, 2013

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

AND

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

AND

IN THE MATTER OF
GROWTHWORKS ENTERPRISES LTD., FORMERLY
SEAMARK ASSET MANAGEMENT LTD.
(the Filer)

DECISION

Background

1. The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) seeking an exemption pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) from the requirement under section 4.1(1)(b) of NI 31-103 to permit each of Messrs. David Levi and David Balsdon to be registered as both a dealing representative of the Filer and a dealing representative of Growth Works Capital Ltd. (GrowthWorks) and to permit Mr. Timothy Lee to be registered as both an advising representative of the Filer and an advising representative of GrowthWorks (the Exemption Sought).

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

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

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

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

Interpretation

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

Representations

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

    1. The Filer is a corporation governed by the *Canada Business Corporations Act* and is a subsidiary of Matrix Asset Management Inc. (**Matrix**), a reporting issuer. The common shares of Matrix are listed on The Toronto Stock Exchange. Growth Works Capital Ltd. (**GrowthWorks**) is also a subsidiary of Matrix.

    2. Upon the closing of the SEAMARK Sale (defined below), the head office of the Filer moved to Vancouver, British Columbia and the BCSC became the principal regulator for the Filer.

    3. The Filer is registered in the categories of:

        (a) Portfolio Manager in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador;

        (b) Exempt Market Dealer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador; and

        (c) Investment Fund Manager in British Columbia, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador.

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

    5. The Filer's working capital was previously below the level required under Part 12 of NI 31-103. This working capital deficiency was resolved in relation to the sale of substantially all of the Filer's assets (other than working capital) on July 12, 2013 (the **SEAMARK Sale**) to 8532435 Canada Corp.

    6. In connection with the closing of the SEAMARK Sale, the Filer changed its name to GrowthWorks Enterprises Ltd.

    7. GrowthWorks, the Filer's affiliate, is registered in the categories of:

        (a) Portfolio Manager in British Columbia, Ontario, Saskatchewan, Manitoba and Nova Scotia;

        (b) Mutual Fund Dealer in British Columbia, Ontario, Saskatchewan and Nova Scotia (exempt from membership in the Mutual Fund Dealers Association of Canada);

        (c) Exempt Market Dealer in British Columbia and Ontario; and

        (d) Investment Fund Manager in British Columbia (pending Ontario, Newfoundland and Labrador and Quebec).

    8. GrowthWorks' working capital is currently below the level required under Part 12 of NI 31-103. GrowthWorks has been engaged in discussions with the British Columbia Securities Commission about addressing the working capital deficiency since May 2013.

    9. Currently, GrowthWorks and its affiliates and related companies have two fund management operating divisions — (i) general investment fund management, which may include mutual funds, specialty funds, flow through investments and exempt market products (**Matrix Funds Management Division**) and (ii) venture capital management, which manages a number of regionally focused venture capital funds (the RVC Funds) across Canada (**Venture Capital Management Division**).

    10. Under management contracts (collectively, the **Management Contracts**), the Matrix Funds Management Division provides investment fund management services to the Matrix group of investment funds (the **Matrix Funds**).

11. It is proposed that GrowthWorks transfer the Management Contracts to the Filer (the **Transfers**) to ensure that the investment fund manager for the Matrix Funds has sufficient working capital. It is anticipated that the Transfers will occur on or about July 16, 2013. This closing date will facilitate the renewal of the Matrix Funds' prospectus prior to the lapse date as a receipt for the prospectus will not be issued unless the investment fund manager for the Matrix Funds is compliant with the working capital requirement in NI 31-103.

12. The Filer is subject to conditions of registration set out in the letter of the BCSC dated July 10, 2013 and accepted by the Filer, which conditions may be revoked or varied in accordance with applicable securities legislation (the **Registration Conditions**). Under the Registration Conditions, the Filer's only clients will be the Matrix Funds and the Filer will transfer the Management Contracts to an unrelated registrant and cease managing the Matrix Funds on or before September 16, 2013.

13. Following the Transfers, the activities of GrowthWorks will be limited to management and administration of the RVC Funds and the activities of the Filer will be limited to management and administration of the Matrix Funds.

14. In order for GrowthWorks to continue to manage the RVC Funds, and for the Filer to take on management of the Matrix Funds, the Filer must engage Messrs. Levi, Balsdon and Lee (the Dual Registrants) to act as dealing or advising representatives of the Filer as follows:

    (a) Mr. Levi as a dealing representative (MFD);

    (b) Mr. Balsdon as a dealing representative (EMD); and

    (c) Mr. Lee as an advising representative (PM).

15. Currently, the Dual Registrants have the following positions with, and are registered in the following categories at, GrowthWorks and the Filer:

Name	Growth Works	The Filer
David Levi	President and Chief Executive Officer (CEO) Ultimate Designated Person (UDP) Dealing representative (exempt market dealer (EMD)) Dealing representative (mutual fund dealer (MFD)) Advising representative (portfolio manager (PM))	President and CEO UDP
David Balsdon	Chief Operating Officer (COO) Chief Compliance Officer (CCO) Dealing Representative (EMD)	COO CCO
Tim Lee	Chief Investment Officer, Venture Capital Advising representative (PM)	

16. As part of the Transfers, Mr. Levi will remain UDP for the Filer and Mr. Balsdon will remain CCO for the Filer.

17. The Transfers will have no impact on the management and administration services or fees in respect of the Matrix Funds. Operationally, the same investment fund management staff, dealing and advising representatives for the Matrix Funds immediately prior to the Transfers will continue to perform the same functions immediately after the Transfers.

18. While each of the Dual Registrants will add a registration category at the Filer, the Dual Registrants will be continuing with the same responsibilities as they had prior to the Transfers.

19. Both GrowthWorks and the Filer have policies and procedures in place to address conflict of interest relating to GrowthWorks having two operating divisions (the Matrix Funds Management Division and Venture Capital Management Division), including procedures adopted to restrict the transfer of information.

20. GrowthWorks and the Filer will have the same compliance management structure. GrowthWorks and the Filer will have the same UDP and the same CCO. The same compliance policies and procedures and conflict of interest provisions will be applied at both GrowthWorks and the Filer as are currently applied. This consistent approach will allow GrowthWorks and the Filer, as the sponsoring firms, to supervise how conflicts of interests and other compliance matters are dealt with. In addition, there will remain significant independent oversight of these matters through a number of independent review committees and the Matrix board of directors.

21. It has been proposed that management of the Matrix Funds will be transferred, after the Transfers, to Marquest Asset Management Inc. on or about August 15, 2013 (the **Marquest Transaction**). The Marquest Transaction is subject to consents and approvals, including regulatory, shareholder and unitholder approvals, as well as conditions. As such, it is anticipated that the Filer will be managing the Matrix Funds only for the period from the Transfers to the completion of the Marquest Transaction (the **Transition Period**).

22. After the Transition Period, it is anticipated that:

    (a) Mr. Lee would cease as a registered advising representative of the Filer and would only be a registered advising representative with GrowthWorks;

    (b) Mr. Balsdon would cease as a registered dealing representative of the Filer and GrowthWorks; and

    (c) Mr. Levi would cease as a dealing representative of the Filer.

23. There will not be client confusion for the following reasons:

    (a) the Filer will only be managing the Matrix Funds and will not be permitted, under its conditions of registration, to take on any new clients;

    (b) GrowthWorks will only be managing the RVC Funds;

    (c) Mr. Levi and Mr. Balsdon will not be advising potential purchasers of either the Matrix Funds or the RVC Funds;

    (d) after the Transfers, Mr. Lee will be advising the Matrix Funds only through the Filer and will only be advising the RVC Funds through GrowthWorks; and

    (e) the Dual Registrants will act in the best interests of the Matrix Funds and the RVC Funds, as applicable.

24. As the Dual Registrants already engage in the activities that they will be undertaking at the Filer as part of the Matrix Funds Management Division at GrowthWorks, the Dual Registrants will continue to have sufficient time to adequately serve the Matrix Funds and RVC Funds.

Decision

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

   The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that the Exemption Sought will expire on the date the Filer ceases managing the Matrix Funds as required by the Registration Conditions.

"Mark Wang"
Manager, Legal Services, Capital Markets Regulation British Columbia

2.1.6 O'Leary Funds Management L.P. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of mutual fund transfer of assets – Approval Required because transfer of assets do not meet the criteria for pre-approved reorganizations and transfers in NI 81-102 – Continuing Fund have different investment objectives than Terminating Fund provided with timely and adequate disclosure regarding the Proposed Transfer.

Applicable Legislative Provisions

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

[Translation]

July 19, 2013

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

AND

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

AND

IN THE MATTER OF
O'LEARY FUNDS MANAGEMENT L.P.
(the Filer)

AND

IN THE MATTER OF
O'LEARY STRATEGIC YIELD ADVANTAGED CLASS
(the Terminating Fund)

AND

IN THE MATTER OF
O'LEARY STRATEGIC YIELD PLUS FUND
(the Continuing Fund)

DECISION

Background

The securities regulatory authority or regulators in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer, on behalf of the Terminating Fund, for a decision under the securities legislation of the Jurisdictions (the **Legislation**) approving the transfer of assets of the Terminating Fund into the Continuing Fund (the **Proposed Transfer**) pursuant to paragraph 5.5(1)(b) of *Regulation 81-102 respecting Mutual Funds* (c. V-1.1, r. 39) (Regulation 81-102) (the **Approval Sought**).

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

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

(b) the Filer has provided notice that section 4.7(1) of *Regulation 11-102 respecting Passport System* (c. V-1.1, r. 1) (**Regulation 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador, and

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions* (c. V-1.1, r. 3) and Regulation 11-102 have the same meaning if used in this decision, unless otherwise defined.

"IRC" means O'Leary Funds' independent review committee within the meaning of Regulation 81-107;

"O'Leary Funds" means the Terminating Fund, the Continuing Fund and other mutual funds managed by the Filer;

"Circular" means a proxies and information circular within the meaning of *Regulation 81-106 respecting Investment Fund Continuous Disclosure* (c. V-1.1, r. 42);

"Reference Fund" means the O'Leary Strategic Yield Fund; and

"Regulation 81-107" means *Regulation 81-107 respecting Independent Review Committee for Investment Funds* (c. V-1.1, r. 43).

Representations

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

The Filer

1. The Filer is a limited partnership formed under the laws of Ontario.

2. The Filer's head office is located at, 1010 Sherbrooke Street West, suite 1700, Montreal, Quebec, H3A 2R7.

3. The Filer is duly registered as an investment fund manager under the securities legislation of Québec and acts as manager and trustee of the O'Leary Funds.

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

The Funds

5. The Terminating Fund and Continuing Fund are reporting issuers under the securities legislation of each province of Canada.

6. The Terminating Fund and the Continuing Fund are mutual funds governed by Regulation 81-102. The Continuing Fund is qualified for distribution by simplified prospectus governed by *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure* (c. V-1.1, r.38).

7. The Terminating Fund and the Continuing Fund are not in default of securities legislation in any province of Canada.

8. The Terminating Fund (formerly known as O'Leary Strategic Yield Class) is the sole issued and outstanding class of special shares of O'Leary Funds Inc., a corporation formed under the *Canada Business Corporations Act* by articles of incorporation dated November 18, 2009, as amended on November 20, on December 15, 2009, on October 29, 2010, on January 25, 2011 and on February 15 and April 19, 2013.

9. The investment objectives of the Terminating Fund are "to provide tax-efficient returns similar to those of a diversified income fund managed by the Filer. To achieve its investment objectives, the Fund invests primarily in equity securities and by entering into forward contracts in order to provide the Fund with a return determined with reference to the performance of a diversified income fund managed by the Filer. Alternatively, the Fund may invest directly in fixed income and/or dividend paying equity securities where the Fund considers it would be beneficial to the shareholders to do so."

10. The "diversified income fund" referred to in the investment objectives of the Terminating Fund has at all times been the Reference Fund. The investment objectives of the Reference Fund are "to invest in an actively managed portfolio primarily comprised of publicly-traded corporate bonds, preferred securities, convertible debt securities and dividend-paying common equity securities of mid and large-cap Canadian and global issuers, providing investors with both income and potential for capital appreciation."

11. The Continuing Fund (formerly known as O'Leary Founder's Series Income & Growth Fund) was established under the laws of Ontario pursuant to a declaration of trust dated September 28, 2009 which was amended by an amended and restated declaration of trust dated August 9, 2010, as further amended and restated on November 1, 2010, on January 25, 2011 and on January 31, 2011 and amended and restated by a Master Declaration of Trust, dated June 18, 2012 which was amended on October 19, 2012.

12. The investment objectives of the Continuing Fund are "to invest in an actively managed portfolio comprised primarily of publicly-traded corporate bonds, preferred securities, convertible debt securities and dividend-paying common equity securities of mid and large-cap Canadian and global issuers, providing investors with both income and potential for capital appreciation. The Fund will seek to provide unitholders with periodic distributions in accordance with the distribution policy established for each series."

The Proposed Transfer

13. As described in paragraph 9 hereinabove, in order to achieve its objectives, the Terminating Fund has entered into a character conversion transaction which involves the use of a forward contract (the **Forward Contract**) in order for securityholders to benefit from a return similar to the return of the Reference Fund optimized by an advantageous tax treatment.

14. On March 21, 2013 the federal budget of the Government of Canada proposed amendments to the ITA which are expected to eliminate the tax advantages of character conversion transactions using forward contracts at the maturity or termination of the relevant forward contract. The Terminating Fund's Forward Contract will reach its maturity on December 29, 2014.

15. The Government of Canada has given some guidance with respect to the interpretation of the budget proposals and the Filer's current understanding is that the Terminating Fund may only use available subscription moneys to extend the size of the Forward Contract under limited circumstances. Given the fact that the Terminating Fund is relatively small in size, with approximately $7.3 million of assets under management, and given that the Terminating Fund cannot grow significantly in size through the use of its alternate strategy to "invest directly in fixed income and/or dividend paying equity securities" as set out in its investment objectives, without eroding the tax benefits of the Forward Contract, the Filer has determined that it is in the best interests of the Terminating Fund to proceed with the Proposed Transfer.

16. The Proposed Transfer is expected to be completed on or about July 19, 2013.

17. The Proposed Transfer will be implemented pursuant to the following steps:

    Step 1: Prior to the Proposed Transfer, the Terminating Fund will pre-settle the Forward Contract.

    Step 2: On the date of the Proposed Transfer, the Terminating Fund will transfer all of its assets, less an amount required to satisfy the liabilities of the Terminating Fund, to the Continuing Fund in exchange for units of the Continuing Fund. The units of the Continuing Fund received by the Terminating Fund will have an aggregate net asset value equal to the value of the Terminating Fund's net assets, which units will be issued by the Continuing Fund at each series net asset value per unit as of the close of business on the date of the Proposed Transfer.

    Step 3: The Terminating Fund, if necessary, will pay a capital gains dividend to shareholders so that it will not be subject to Part 1 of the ITA for its current taxation year.

    Step 4: Immediately following the above-noted transfer and dividend, the Terminating Fund will redeem all outstanding shares and distribute the units of the Continuing Fund held in its portfolio as a payment "in kind" of the redemption price of the shares held in the Terminating Fund, so that following the distribution, the securityholders of the Terminating Fund will become unitholders of the Continuing Fund.

    Step 5: The Funds will file an election to have the Proposed Transfer including the exchange of shares for units effected as a "qualifying exchange" under the ITA.

    Step 6: As soon as reasonably possible following the Proposed Transfer the Corporation will be wound up and dissolved.

18. Upon completion of the Proposed Transfer as described in paragraph 17, the holders of shares of the Terminating Fund will receive units of the same series of units of the Continuing Fund as the series of shares which they hold in the Terminating Fund, with the following exceptions: holders of series A shares will receive Founder's series units (in order

to benefit from the same management fee as currently applies to the Series A Shares), holders of series F6 shares will receive series F units and holders of series T6 shares will receive Founder's series units.

19. The currently outstanding series of shares of the Terminating Fund and corresponding series of units of the Continuing Fund which these shareholders will received upon completion of the Proposed Transfer and the corresponding management fees applicable to these units and shares are as follows:

Terminating Fund	Series A and T6 1.95%	Series F and F6 0.95%	Founder's Series 1.95%	Series M No fee
Continuing Fund	Founder's Series 1.95%	Series F 0.95%	Founder's Series 1.95%	Series M No fee

20. Since the Terminating Fund will no longer have the tax advantage of the Forward Contract, the Filer has determined that, in keeping with its stated discretion in the simplified prospectus of the Continuing Fund to adjust the distribution rates from time to time, the current distribution policy of each series of the Continuing Fund will continue and the policy of the relevant series as stated in the simplified prospectus will apply for purposes of distributions to investors in the Terminating Fund after the date of the Proposed Transfer.

21. In accordance with Regulation 81-107, the Filer presented the terms of the Proposed Transfer, as described above in paragraph 17, to the members of the IRC for its recommendation. On May 7, 2013, further to reasonable inquiry, the members of the IRC recommended the Proposed Transfer, subject to the approval of the securityholders and the Decision Makers, on the basis that the transfer would achieve a fair and reasonable result for the Funds.

22. On May 8, 2013, the members of the board of directors of O'Leary Funds Management Inc., the general partner of the Filer and the members of the board of directors of O'Leary Funds Inc., have approved the Proposed Transfer as described above in paragraph 17.

23. On May 10, 2013, a press release was issued and filed on SEDAR and material change report was filed on SEDAR.

24. On May 17, 2013, the simplified prospectus was amended to provide information on the Proposed Transfer.

25. The Proposed Transfer does not require approval of unitholders of the Continuing Fund pursuant to subsection 5.1(g) of Regulation 81-102 because the Filer believes that the Proposed Transfer would not be a material change for this fund, since:

    (a) As part of the Proposed Transfer, the Terminating Fund will transfer to the Continuing Fund assets composed of cash and securities which meet the investment objectives of the Continuing Fund; and

    (b) the net asset value of the Continuing Fund is larger than the net asset value of the Terminating Fund.

26. The Proposed Transfer requires approval of shareholders of the Terminating Fund pursuant to subsection 5.1(f) of Regulation 81-102 since the requirements of subsection 5.3(2) of Regulation 81-102 cannot all be met.

27. On June 4, 2013, in accordance with section 5.4 of Regulation 81-102, a notice of meeting and a circular was sent to securityholders of the Terminating Fund not less than 21 days before the date of the meeting and was filed on SEDAR.

28. The Circular sent to the securityholders of the Terminating Fund:

    (a) complies with paragraph 5.6(1)(f) of the Regulation 81-102;

    (b) gives information on the significant differences between the Terminating Fund and the Continuing Fund;

    (c) states the different measures that will be taken to process the Proposed Transfer in an orderly manner; and

    (d) provides information on the Proposed Transfer to enable the securityholders of the Terminating Fund to make an informed decision regarding the Proposed Transfer (including the exchange of shares for units as described above).

29. On June 28, 2013, more than two thirds of the securityholders of the Terminating Fund have approved the Proposed Transfer during the meeting.

30. Regulatory approval of the Proposed Transfer is required because the Proposed Transfer does not satisfy all of the criteria for pre-approved reorganizations and transfers as set out in section 5.6 of Regulation 81-102 namely because a reasonable person may not consider the fundamental investment objectives of the Terminating Fund and those of the Continuing Fund to be “substantially similar”.

31. Except as described in the preceding paragraph, the Proposed Transfer meets, or will meet, all of the other criteria for pre-approved reorganizations and transfers under section 5.6 of Regulation 81-102.

32. All costs and expenses associated with the Proposed Transfer will be borne by the Filer.

33. No sales charges, redemption fees or other fees or commissions will be payable by securityholders of the Funds in connection with the Proposed Transfer.

34. Unitholders of the Terminating Fund will continue to have the right to redeem shares of the Terminating Fund at any time up to the close of business on the date of the Proposed Transfer.

Decision

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

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

"Josée Deslauriers"
Senior Director Investment Funds and Continuous Disclosure
Autorité des marchés financiers

2.1.7 Vanguard Investments Canada Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to exchange-traded funds for initial and continuous distribution of units – Relief to vary elements of existing relief – Relief to permit the funds' prospectus to not contain an underwriter's certificate and to include a modified statement of investors rights – Relief granted subject to manager filing a prescribed summary document for each fund on SEDAR and other terms and conditions set out in decision document – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify summary document – Securities Act (Ontario) and National Instrument 41-101 General Prospectus Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 59(1) and 144.
National Instrument 41-101 General Prospectus Requirements, s. 19.1 and Item 36.2 of Form 41-101F2.

July 19, 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
VANGUARD INVESTMENTS CANADA INC.
(the Filer)

AND

THE EXISTING EXCHANGE-TRADED FUNDS MANAGED BY THE FILER
(the Existing Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Existing Funds and such other exchange-traded mutual funds as the Filer, or an affiliate of the Filer, may establish in the future (the **Future Funds**, and together with the Existing Funds, the **ETFs** and individually, an **ETF**) for a decision under the securities legislation of the principal regulator (the **Legislation**) that:

1. exempts the Filer and each ETF from

   (a) the requirement to include a certificate of an underwriter in an ETF's prospectus (the **Underwriter's Certificate Requirement**); and

   (b) the requirement to include in an ETF's prospectus the statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in item 36.2 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (the **Prospectus Form Requirement**).

   (collectively, the **Exemption Sought**); and

2. varies all previous decisions granted by the principal regulator prior to the date of this decision that exempted the Filer and the ETFs from the Underwriter's Certificate Requirement (the **Prior Underwriter's Certificate Relief**), by revoking

the Prior Underwriter's Certificate Relief and by revoking, as applicable, the representations relating to prospectus delivery contained in such decisions (the **Prospectus Delivery Representations**).

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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and National Instrument 81-102 *Mutual Funds* (**NI 81-102**) have the same meaning if used in this decision, unless otherwise defined.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on the TSX or another marketplace.

ETF Security means a listed security of an ETF.

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to other exchange-traded funds that are not managed by the Filer and that has received relief under a Prospectus Delivery Decision.

Prospectus Delivery Decision means a decision granting relief from the Prospectus Delivery Requirement to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer dated, July 19, 2013, and any future decision granted to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer that grants similar relief.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Summary Document means a document, in respect of one or more classes or series of ETF Securities being distributed under a prospectus, prepared in accordance with Schedule A.

TSX means the Toronto Stock Exchange.

Representations

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

1. The Filer is a corporation organized under the federal laws of Canada, with a head office in Ontario.

2. Each ETF is, or will be, a mutual fund governed by the laws of the Province of Ontario and a reporting issuer under the laws of some or all of the Jurisdictions.

3. Each ETF is, or will be, subject to NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

4. Each ETF is, or will be, in continuous distribution. The ETF Securities of each ETF are, or will be, listed on the TSX or another marketplace in Canada.

5. The Filer has filed, or will file, a long form prospectus in accordance with National Instrument 41-101 *General Prospectus Requirements* on behalf of the ETFs, subject to any exemptions that have been or may be granted by the applicable securities regulatory authorities.

6. The Filer acts, and will act, as the trustee, investment fund manager and portfolio adviser to the ETFs. The Filer is registered in the Province of Ontario as an adviser for securities in the category of portfolio manager, as an adviser for commodities in the category of commodity trading manager, as a dealer in the category of exempt market dealer and as an investment fund manager.

7. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. ETF Securities may generally only be subscribed for or purchased directly from the ETFs by Authorized Dealers or Designated Brokers (**Creation Units**). Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX or another marketplace in Canada.

8. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers are also generally engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer.

9. According to the Authorized Dealers and Designated Brokers, Creation Units are generally commingled with other ETF Securities purchased by the Authorized Dealers, Designated Brokers and Affiliate Dealers in the secondary market. As such, it is not practicable for the Authorized Dealers, Designated Brokers or Affiliate Dealers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

10. Designated Brokers perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

11. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally may not be purchased directly from an ETF. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another marketplace in Canada. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

12. The Authorized Dealers and Designated Brokers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

13. The Authorized Dealers and Designated Brokers are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities.

14. The Filer generally conducts its own marketing, advertising and promotion of the ETFs. The Filer may, at its discretion, charge an administration fee on the issuance of Creation Units to Authorized Dealers or Designated Brokers.

15. The principal regulator has advised the Filer that it takes the view that the first re-sale of a Creation Unit on the TSX or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Authorized Dealers, Designated Brokers and Affiliate Dealers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities in the secondary market that are not Creation Units would not ordinarily constitute a distribution of such ETF Securities.

16. Under a Prospectus Delivery Decision, Authorized Dealers, Designated Brokers and Affiliate Dealers are exempt from the Prospectus Delivery Requirement in connection with the re-sale of Creation Units to investors on the TSX or another marketplace in Canada. Under a Prospectus Delivery Decision, Other Dealers are also exempt from the Prospectus Delivery Requirement in connection with the re-sale of creation units of other exchange-traded funds that are not managed by the Filer.

17. The Prospectus Delivery Decision includes a condition that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer undertakes that, beginning on or around September 1, 2013, it will, unless it has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Authorized Dealer, Designated Broker,

Affiliate Dealer or Other Dealer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security, not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

18. The Filer will file with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (**SEDAR**) a Summary Document for each class or series of ETF Securities offered by the Filer and provide or make available to the Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, the requisite number of copies of the Summary Document for the purpose of facilitating their compliance with the Prospectus Delivery Decision.

19. The Filer will file a Summary Document for each class or series of ETF Securities offered by the Filer within the timeframe necessary to allow Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers to effect delivery of the Summary Document as contemplated in the Prospectus Delivery Decision by September 1, 2013.

20. The Exemption Sought from the Prospectus Form Requirement is required to reflect the relief provided in the Prospectus Delivery Decision. Accordingly, the Filer will include language in each ETF's prospectus explaining the impact on a purchaser's statutory rights as a result of the Prospectus Delivery Decision in replacement of the language prescribed by the Prospectus Form Requirement.

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, by the later of September 1, 2013 and the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. The Filer files with the applicable Jurisdictions on SEDAR and displays on its website in a manner that would be considered prominent to a reasonable investor the Summary Document for each class or series of ETF Securities of an Existing Fund.

2. The Filer files concurrently on SEDAR the Summary Document for each class or series of ETF Securities when filing a final prospectus for that ETF.

3. The Filer amends the Summary Document at the same time it files any amendments to the ETF's prospectus that affect the disclosure in the Summary Document and files the amended Summary Document with the applicable Jurisdictions on SEDAR and makes it available on its website in a manner that would be considered prominent to a reasonable investor.

4. The Filer provides or makes available to each Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, the number of copies of the Summary Document of each ETF Security that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer reasonably requests in support of compliance with its respective Prospectus Delivery Decision.

5. Each ETF's prospectus, on the date which is the earliest of: (i) the filing of the ETF's preliminary prospectus; (ii) the filing of the ETF's pro forma prospectus; and (iii) when an amendment to the ETF prospectus is next filed,

   (a) incorporates the relevant Summary Document by reference;

   (b) contains the disclosure referred to in paragraph 20 above; and

   (c) discloses both this decision and the Prospectus Delivery Decisions under Item 34.1 of Form 41-101F2 – *Exemptions and Approval*s.

6. The Filer obtains an executed acknowledgement from each Authorized Dealer, Designated Broker and Affiliate Dealer, and uses its best efforts to obtain an acknowledgment from each Other Dealer:

   (a) indicating its election, in connection with the re-sale of Creation Units on the TSX or another marketplace in Canada, to send or deliver the Summary Document in accordance with a Prospectus Delivery Decision or, alternatively, to comply with the Prospectus Delivery Requirement; and

(b) if the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer agrees to deliver the Summary Document in accordance with a Prospectus Delivery Decision:

(i) an undertaking that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under the Prospectus Delivery Decision at the same time to an investor purchasing ETF Securities of each such ETF; and

(ii) confirming that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer has in place written policies and procedures to ensure that it is in compliance with the conditions of the Prospectus Delivery Decision.

7. The Filer will keep records of which Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, have provided it with an acknowledgement under a Prospectus Delivery Decision, and which intend to rely on and comply with the Prospectus Delivery Decision or intend to comply with the Prospectus Delivery Requirement.

8. The Filer files with its principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person, after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

It is the further decision of the principal regulator under the Legislation that the Prior Underwriter's Certificate Relief and the Prospectus Delivery Representations are revoked.

The Exemption Sought terminates on September 1, 2015.

As to the Exemption Sought from the Underwriter's Certificate Requirement and the revocation of the Prior Underwriter's Certificate Relief and Prospectus Delivery Representations:

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Form Requirement:

"Rhonda Goldberg"
Director, Investment Funds Branch
Ontario Securities Commission

APPENDIX A

Contents of Summary Document

General Instructions:

1. *Items 1 to 10 represent the minimum disclosure required in a Summary Document for a fund. The inclusion of additional information is not precluded so long as the Summary Document does not exceed a total of four pages in length (two pages double-sided).*

2. *Terms defined in National Instrument 81-102 Mutual Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Summary Document have the meanings that they have in those national instruments.*

3. *Information in the Summary Document must be clear and concise and presented in plain language.*

4. *The format and presentation of information in the Summary Document is not prescribed but the information must be presented in a manner that assists in readability and comprehension.*

5. *The order of the Items outlined below is not prescribed, except for Items 1 and 2, which must be presented as the first 2 items in the Summary Document.*

6. *Each reference to a fund in this Appendix A refers to an ETF as defined in the decision above.*

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

(a) the title “Summary Document”;

(b) the name of the manager of the fund;

(c) the name of the fund to which the Summary Document pertains; and

(d) the date of the document.

Item 2 – Cautionary Language

Include a statement in italics in substantially the following form:

“The following is a summary of the principal features of this fund. You can find more detailed information about the fund in the prospectus. The prospectus is available on [insert name of the manager of the fund] website at [insert manager of the fund website], or by contacting [insert name of the manager of the fund] at [insert manager of the fund’s email address], or by calling [insert telephone number of the manager of the fund].”

Item 3 – Fund Details

Include the following disclosure:

(a) ticker symbol;

(b) fund identification code(s);

(c) index ticker (as applicable);

(d) exchange;

(e) currency;

(f) inception date;

(g) RSP eligibility;

(h) DRIP eligibility;

(i) expected frequency and timing of distributions, and if applicable, the targeted amount for distributions;

(j) management expense ratio, if available; and

(k) portfolio manager, when the fund is actively managed.

Item 4 – Investment Objectives

Include a description of the fundamental nature of the fund, or the fundamental features of the fund that distinguishes it from other funds.

INSTRUCTIONS:

Include a description of what the fund primarily invests in, or intends to primarily invest in, such as

(a) a description of the fund, including what the fund invests in, and if it is trying to replicate an index, the name of the index, and an overview of the nature of securities covered by the index or the purpose of the index; and

(b) the key investment strategies of the fund.

Item 5 – Investments of the Fund

1. Include a table disclosing:

   (a) the top 10 positions held by the fund; and

   (b) the percentage of net asset value of the fund represented by the top 10 positions.

2. Include at least one, and up to two, charts or tables that illustrate the investment mix of the fund's investment portfolio.

INSTRUCTIONS:

(a) The information required under this Item is intended to give a snapshot of the composition of the fund's investment portfolio. The information required to be disclosed under this Item must be as at a date within 30 days before the date of the Summary Document.

(b) The information required under Item 5(2) must show a breakdown of the fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The fund should use the most appropriate categories given the nature of the fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the fund's MRFP.

(c) For new funds where the information required to be disclosed under this Item is not available, provide a brief statement explaining why the required information is not available.

Item 6 – Risk

1. Include a statement in italics in substantially the following form:

   "All investments involve risk. When you invest in the fund the value of your investment can go down as well as up. For a description of the specific risks of this fund, see the fund's prospectus."

2. If the cover page of the fund's prospectus contains text box risk disclosure, also include a description of those risk factors in the Summary Document.

Item 7 – Fund Expenses

1. Include an introduction using wording similar to the following:

   "You don't pay these expenses directly. They affect you because they reduce the fund's returns."

2. Provide information about the expenses of the fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee and operating expenses.	
Trading expense ratio (TER) These are the fund's trading costs.	
Fund expenses The amount included for fund expenses is the amount arrived at by adding the MER and the TER.	

3. If the information in (2) is unavailable because the fund is new including wording similar to the following:

"The fund's expenses are made up of the management fee, operating expenses and trading costs. The fund's annual management fee is [ ]% of the fund's value. Because this fund is new, its operating expenses and trading costs are not yet available."

INSTRUCTIONS:

Use a bold font or other formatting to indicate that fund expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the fund.

Item 8 – Trailing Commissions

1. If the manager of the fund or another member of the fund's organization pays trailing commissions, include a brief description of these commissions.

2. The description of any trailing commission must include a statement in substantially the following words:

"The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund."

Item 9 – Other Fees

1. Provide information about the amount of fees payable by an investor, other than those already described or payable by designated brokers and underwriters.

2. Include a statement using wording similar to the following:

"You may pay brokerage fees to your dealer when you purchase and sell units of the fund."

INSTRUCTIONS:

(a) Examples include any redemption charges, sales charges or other fees, if any, associated with buying and selling securities of the fund.

(b) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.

Item 10 – Statement of Rights

State in substantially the following words:

Under securities law in some provinces and territories, you have:

- *the right to cancel your purchase within 48 hours after you receive confirmation of the purchase, or*

- *other rights and remedies if this document or the fund's prospectus contains a misrepresentation. You must act within the time limit set by the securities law in your province or territory.*

For more information, see the securities law of your province or territory or ask a lawyer.

Item 11 – Past Performance

If the fund includes past performance:

1. Include an introduction using wording similar to the following:

   This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

   It's important to note that this doesn't tell you how the fund will perform in the future as past performance may not be repeated. Also, your actual after-tax return will depend on your personal tax situation.

2. Show the annual total return of the fund, in chronological order for the lesser of:

   (a) each of the 10 most recently completed calendar years; and

   (b) each of the completed calendar years in which the fund has been in existence and which the fund was a reporting issuer.

3. Show the

   (a) final value, of a hypothetical $1,000 investment in the fund as at the end of the period that ends within 30 days before the date of the Summary Document and consists of the lesser of:

      (i) 10 years, or

      (ii) the time since inception of the fund,

      and

   (b) the annual compounded rate of return that would equate the initial $1,000 investment to the final value.

INSTRUCTIONS:

In responding to the requirements of this Item, a fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a Summary Document.

Item 12 – Benchmark Information

If the Summary Document includes benchmark information, ensure this information is consistent with the fund's MRFP and presented in the same format as Item 11.

2.1.8 Horizons ETFs Management (Canada) Inc. and AlphaPro Management Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to exchange-traded funds for initial and continuous distribution of units – Relief to vary elements of existing relief – Relief to permit the funds' prospectus to not contain an underwriter's certificate and to include a modified statement of investors rights – Relief granted subject to manager filing a prescribed summary document for each fund on SEDAR and other terms and conditions set out in decision document – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify summary document – Securities Act (Ontario) and National Instrument 41-101 General Prospectus Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 59(1), 144.
National Instrument 41-101 General Prospectus Requirements, s. 19.1 and Item 36.2 of Form 41-101F2.

July 19, 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
HORIZONS ETFS MANAGEMENT (CANADA) INC. AND ALPHAPRO MANAGEMENT INC.
(collectively, the Filer)

AND

THE EXISTING EXCHANGE-TRADED FUNDS MANAGED BY THE FILER
(the Existing Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Existing Funds and such other exchange-traded mutual funds as the Filer, or an affiliate of the Filer, may establish in the future (the **Future Funds**, and together with the Existing Funds, the **ETFs** and individually, an **ETF**) for a decision under the securities legislation of the principal regulator (the **Legislation**) that:

1. exempts the Filer and each ETF from

   (a) the requirement to include a certificate of an underwriter in an ETF's prospectus (the **Underwriter's Certificate Requirement**); and

   (b) the requirement to include in an ETF's prospectus the statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in item 36.2 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (the **Prospectus Form Requirement**)

   (collectively, the **Exemption Sought**); and

2. varies all previous decisions granted by the principal regulator prior to the date of this decision that exempted the Filer and the ETFs from the Underwriter's Certificate Requirement (the **Prior Underwriter's Certificate Relief**), by revoking

the Prior Underwriter's Certificate Relief and by revoking, as applicable, the representations relating to prospectus delivery contained in such decisions (the P**rospectus Delivery Representations**).

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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and National Instrument 81-102 *Mutual Funds* (**NI 81-102**) have the same meaning if used in this decision, unless otherwise defined.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on the TSX or another marketplace.

ETF Security means a listed security of an ETF.

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to other exchange-traded funds that are not managed by the Filer and that has received relief under a Prospectus Delivery Decision.

Prospectus Delivery Decision means a decision granting relief from the Prospectus Delivery Requirement to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer dated, July 19, 2013, and any future decision granted to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer that grants similar relief.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Summary Document means a document, in respect of one or more classes or series of ETF Securities being distributed under a prospectus, prepared in accordance with Schedule A.

TSX means the Toronto Stock Exchange.

Representations

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

1. Horizons ETFs Management (Canada) Inc. (**Horizons**) is a corporation organized under the laws of Ontario, with a head office in Ontario. AlphaPro Management Inc. (**AlphaPro**) is a corporation organized under the federal laws of Canada.

2. Each ETF is, or will be, a mutual fund governed by the laws of the Province of Ontario and a reporting issuer under the laws of some or all of the Jurisdictions.

3. Each ETF is, or will be, subject to NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

4. Each ETF is, or will be, in continuous distribution. The ETF Securities of each ETF are, or will be, listed on the TSX or another marketplace in Canada.

5. The Filer has filed, or will file, a long form prospectus in accordance with National Instrument 41-101 *General Prospectus Requirements* on behalf of the ETFs, subject to any exemptions that have been or may be granted by the applicable securities regulatory authorities.

6. The Filer or an affiliate acts, and will act, as the trustee and investment fund manager of the ETFs. Horizons and AlphaPro are each registered in the Province of Ontario as an investment fund manager.

7. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. ETF Securities may generally only be subscribed for or purchased directly from the ETFs by Authorized Dealers or Designated Brokers (**Creation Units**). Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX or another marketplace in Canada.

8. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers are also generally engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer.

9. According to the Authorized Dealers and Designated Brokers, Creation Units are generally commingled with other ETF Securities purchased by the Authorized Dealers, Designated Brokers and Affiliate Dealers in the secondary market. As such, it is not practicable for the Authorized Dealers, Designated Brokers or Affiliate Dealers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

10. Designated Brokers perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

11. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally may not be purchased directly from an ETF. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another marketplace in Canada. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

12. The Authorized Dealers and Designated Brokers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

13. The Authorized Dealers and Designated Brokers are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities.

14. The Filer generally conducts its own marketing, advertising and promotion of the ETFs. The Filer may, at its discretion, charge an administration fee on the issuance of Creation Units to Authorized Dealers or Designated Brokers.

15. The principal regulator has advised the Filer that it takes the view that the first re-sale of a Creation Unit on the TSX or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Authorized Dealers, Designated Brokers and Affiliate Dealers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities in the secondary market that are not Creation Units would not ordinarily constitute a distribution of such ETF Securities.

16. Under a Prospectus Delivery Decision, Authorized Dealers, Designated Brokers and Affiliate Dealers are exempt from the Prospectus Delivery Requirement in connection with the re-sale of Creation Units to investors on the TSX or another marketplace in Canada. Under a Prospectus Delivery Decision, Other Dealers are also exempt from the Prospectus Delivery Requirement in connection with the re-sale of creation units of other exchange-traded funds that are not managed by the Filer.

17. The Prospectus Delivery Decision includes a condition that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer undertakes that, beginning on or around September 1, 2013, it will, unless it has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer in connection with the

purchase, the latest Summary Document filed in respect of the ETF Security, not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

18. The Filer will file with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (**SEDAR**) a Summary Document for each class or series of ETF Securities offered by the Filer and provide or make available to the Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, the requisite number of copies of the Summary Document for the purpose of facilitating their compliance with the Prospectus Delivery Decision.

19. The Filer will file a Summary Document for each class or series of ETF Securities offered by the Filer within the timeframe necessary to allow Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers to effect delivery of the Summary Document as contemplated in the Prospectus Delivery Decision by September 1, 2013.

20. The Exemption Sought from the Prospectus Form Requirement is required to reflect the relief provided in the Prospectus Delivery Decision. Accordingly, the Filer will include language in each ETF's prospectus explaining the impact on a purchaser's statutory rights as a result of the Prospectus Delivery Decision in replacement of the language prescribed by the Prospectus Form Requirement.

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, by the later of September 1, 2013 and the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. The Filer files with the applicable Jurisdictions on SEDAR and displays on its website in a manner that would be considered prominent to a reasonable investor the Summary Document for each class or series of ETF Securities of an Existing Fund.

2. The Filer files concurrently on SEDAR the Summary Document for each class or series of ETF Securities when filing a final prospectus for that ETF.

3. The Filer amends the Summary Document at the same time it files any amendments to the ETF's prospectus that affect the disclosure in the Summary Document and files the amended Summary Document with the applicable Jurisdictions on SEDAR and makes it available on its website in a manner that would be considered prominent to a reasonable investor.

4. The Filer provides or makes available to each Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, the number of copies of the Summary Document of each ETF Security that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer reasonably requests in support of compliance with its respective Prospectus Delivery Decision.

5. Each ETF's prospectus, on the date which is the earliest of: (i) the filing of the ETF's preliminary prospectus; (ii) the filing of the ETF's pro forma prospectus; and (iii) when an amendment to the ETF prospectus is next filed,

   (a) incorporates the relevant Summary Document by reference;

   (b) contains the disclosure referred to in paragraph 20 above; and

   (c) discloses both this decision and the Prospectus Delivery Decisions under Item 34.1 of Form 41-101F2 – *Exemptions and Approvals*.

6. The Filer obtains an executed acknowledgement from each Authorized Dealer, Designated Broker and Affiliate Dealer, and uses its best efforts to obtain an acknowledgment from each Other Dealer:

   (a) indicating its election, in connection with the re-sale of Creation Units on the TSX or another marketplace in Canada, to send or deliver the Summary Document in accordance with a Prospectus Delivery Decision or, alternatively, to comply with the Prospectus Delivery Requirement; and

   (b) if the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer agrees to deliver the Summary Document in accordance with a Prospectus Delivery Decision:

(i) an undertaking that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under the Prospectus Delivery Decision at the same time to an investor purchasing ETF Securities of each such ETF; and

(ii) confirming that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer has in place written policies and procedures to ensure that it is in compliance with the conditions of the Prospectus Delivery Decision.

7. The Filer will keep records of which Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, have provided it with an acknowledgement under a Prospectus Delivery Decision, and which intend to rely on and comply with the Prospectus Delivery Decision or intend to comply with the Prospectus Delivery Requirement.

8. The Filer files with its principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person, after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

It is the further decision of the principal regulator under the Legislation that the Prior Underwriter's Certificate Relief and the Prospectus Delivery Representations are revoked.

The Exemption Sought terminates on September 1, 2015.

As to the Exemption Sought from the Underwriter's Certificate Requirement and the revocation of the Prior Underwriter's Certificate Relief and Prospectus Delivery Representations:

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Form Requirement:

"Rhonda Goldberg"
Director, Investment Funds Branch
Ontario Securities Commission

APPENDIX A

Contents of Summary Document

General Instructions:

1. *Items 1 to 10 represent the minimum disclosure required in a Summary Document for a fund. The inclusion of additional information is not precluded so long as the Summary Document does not exceed a total of four pages in length (two pages double-sided).*

2. *Terms defined in National Instrument 81-102 Mutual Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Summary Document have the meanings that they have in those national instruments.*

3. *Information in the Summary Document must be clear and concise and presented in plain language.*

4. *The format and presentation of information in the Summary Document is not prescribed but the information must be presented in a manner that assists in readability and comprehension.*

5. *The order of the Items outlined below is not prescribed, except for Items 1 and 2, which must be presented as the first 2 items in the Summary Document.*

6. *Each reference to a fund in this Appendix A refers to an ETF as defined in the decision above.*

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

(a) the title “Summary Document”;

(b) the name of the manager of the fund;

(c) the name of the fund to which the Summary Document pertains; and

(d) the date of the document.

Item 2 – Cautionary Language

Include a statement in italics in substantially the following form:

“The following is a summary of the principal features of this fund. You can find more detailed information about the fund in the prospectus. The prospectus is available on [insert name of the manager of the fund] website at [insert manager of the fund website], or by contacting [insert name of the manager of the fund] at [insert manager of the fund’s email address], or by calling [insert telephone number of the manager of the fund].”

Item 3 – Fund Details

Include the following disclosure:

(a) ticker symbol;

(b) fund identification code(s);

(c) index ticker (as applicable);

(d) exchange;

(e) currency;

(f) inception date;

(g) RSP eligibility;

(h) DRIP eligibility;

(i) expected frequency and timing of distributions, and if applicable, the targeted amount for distributions;

(j) management expense ratio, if available; and

(k) portfolio manager, when the fund is actively managed.

Item 4 – Investment Objectives

Include a description of the fundamental nature of the fund, or the fundamental features of the fund that distinguishes it from other funds.

INSTRUCTIONS:

Include a description of what the fund primarily invests in, or intends to primarily invest in, such as

(a) a description of the fund, including what the fund invests in, and if it is trying to replicate an index, the name of the index, and an overview of the nature of securities covered by the index or the purpose of the index; and

(b) the key investment strategies of the fund.

Item 5 – Investments of the Fund

1. Include a table disclosing:

   (a) the top 10 positions held by the fund; and

   (b) the percentage of net asset value of the fund represented by the top 10 positions.

2. Include at least one, and up to two, charts or tables that illustrate the investment mix of the fund's investment portfolio.

INSTRUCTIONS:

(a) The information required under this Item is intended to give a snapshot of the composition of the fund's investment portfolio. The information required to be disclosed under this Item must be as at a date within 30 days before the date of the Summary Document.

(b) The information required under Item 5(2) must show a breakdown of the fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The fund should use the most appropriate categories given the nature of the fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the fund's MRFP.

(c) For new funds where the information required to be disclosed under this Item is not available, provide a brief statement explaining why the required information is not available.

Item 6 – Risk

1. Include a statement in italics in substantially the following form:

   "All investments involve risk. When you invest in the fund the value of your investment can go down as well as up. For a description of the specific risks of this fund, see the fund's prospectus."

2. If the cover page of the fund's prospectus contains text box risk disclosure, also include a description of those risk factors in the Summary Document.

Item 7 – Fund Expenses

1. Include an introduction using wording similar to the following:

   "You don't pay these expenses directly. They affect you because they reduce the fund's returns."

2. Provide information about the expenses of the fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee and operating expenses.	
Trading expense ratio (TER) These are the fund's trading costs.	
Fund expenses The amount included for fund expenses is the amount arrived at by adding the MER and the TER.	

3. If the information in (2) is unavailable because the fund is new including wording similar to the following:

"The fund's expenses are made up of the management fee, operating expenses and trading costs. The fund's annual management fee is [ ]% of the fund's value. Because this fund is new, its operating expenses and trading costs are not yet available."

INSTRUCTIONS:

Use a bold font or other formatting to indicate that fund expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the fund.

Item 8 – Trailing Commissions

1. If the manager of the fund or another member of the fund's organization pays trailing commissions, include a brief description of these commissions.

2. The description of any trailing commission must include a statement in substantially the following words:

"The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund."

Item 9 – Other Fees

1. Provide information about the amount of fees payable by an investor, other than those already described or payable by designated brokers and underwriters.

2. Include a statement using wording similar to the following:

"You may pay brokerage fees to your dealer when you purchase and sell units of the fund."

INSTRUCTIONS:

(a) Examples include any redemption charges, sales charges or other fees, if any, associated with buying and selling securities of the fund.

(b) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.

Item 10 – Statement of Rights

State in substantially the following words:

Under securities law in some provinces and territories, you have:

- *the right to cancel your purchase within 48 hours after you receive confirmation of the purchase, or*

- *other rights and remedies if this document or the fund's prospectus contains a misrepresentation. You must act within the time limit set by the securities law in your province or territory.*

For more information, see the securities law of your province or territory or ask a lawyer.

Item 11 – Past Performance

If the fund includes past performance:

1. Include an introduction using wording similar to the following:

   This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

   It's important to note that this doesn't tell you how the fund will perform in the future as past performance may not be repeated. Also, your actual after-tax return will depend on your personal tax situation.

2. Show the annual total return of the fund, in chronological order for the lesser of:

   (a) each of the 10 most recently completed calendar years; and

   (b) each of the completed calendar years in which the fund has been in existence and which the fund was a reporting issuer.

3. Show the

   (a) final value, of a hypothetical $1,000 investment in the fund as at the end of the period that ends within 30 days before the date of the Summary Document and consists of the lesser of:

      (i) 10 years, or

      (ii) the time since inception of the fund,

      and

   (b) the annual compounded rate of return that would equate the initial $1,000 investment to the final value.

INSTRUCTIONS:

In responding to the requirements of this Item, a fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a Summary Document.

Item 12 – Benchmark Information

If the Summary Document includes benchmark information, ensure this information is consistent with the fund's MRFP and presented in the same format as Item 11.

2.1.9 BlackRock Asset Management Canada Limited

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to exchange-traded funds for initial and continuous distribution of units – Relief to vary elements of existing relief – Relief to permit the funds' prospectus to not contain an underwriter's certificate and to include a modified statement of investors rights – Relief granted subject to manager filing a prescribed summary document for each fund on SEDAR and other terms and conditions set out in decision document – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify summary document – Securities Act (Ontario) and National Instrument 41-101 General Prospectus Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 59(1), 144.
National Instrument 41-101 General Prospectus Requirements, s. 19.1 and Item 36.2 of Form 41-101F2.

July 19, 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
BLACKROCK ASSET MANAGEMENT CANADA LIMITED
(the Filer)

AND

THE EXISTING EXCHANGE-TRADED FUNDS MANAGED BY THE FILER
(the Existing Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Existing Funds and such other exchange-traded mutual funds as the Filer, or an affiliate of the Filer, may establish in the future (the **Future Funds**, and together with the Existing Funds, the **ETFs** and individually, an **ETF**) for a decision under the securities legislation of the principal regulator (the **Legislation**) that:

1. exempts the Filer and each ETF from

   (a) the requirement to include a certificate of an underwriter in an ETF's prospectus (the **Underwriter's Certificate Requirement**); and

   (b) the requirement to include in an ETF's prospectus the statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in item 36.2 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (the **Prospectus Form Requirement**)

   (collectively, the **Exemption Sought**); and

2. varies all previous decisions granted by the principal regulator prior to the date of this decision that exempted the Filer and the ETFs from the Underwriter's Certificate Requirement (the **Prior Underwriter's Certificate Relief**), by revoking

the Prior Underwriter's Certificate Relief and by revoking, as applicable, the representations relating to prospectus delivery contained in such decisions (the **Prospectus Delivery Representations**).

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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and National Instrument 81-102 *Mutual Funds* (**NI 81-102**) have the same meaning if used in this decision, unless otherwise defined.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on the TSX or another marketplace.

ETF Security means a listed security of an ETF.

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to other exchange-traded funds that are not managed by the Filer and that has received relief under a Prospectus Delivery Decision.

Prospectus Delivery Decision means a decision granting relief from the Prospectus Delivery Requirement to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer dated, July 19, 2013, and any future decision granted to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer that grants similar relief.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Summary Document means a document, in respect of one or more classes or series of ETF Securities being distributed under a prospectus, prepared in accordance with Schedule A.

TSX means the Toronto Stock Exchange.

Representations

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

1. The Filer is a corporation amalgamated under the laws of the Province of Ontario, with a head office in Ontario.

2. Each ETF is, or will be, a mutual fund governed by the laws of the Province of Ontario and a reporting issuer under the laws of some or all of the Jurisdictions.

3. Each ETF is, or will be, subject to NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

4. Each ETF is, or will be, in continuous distribution. The ETF Securities of each ETF are, or will be, listed on the TSX or another marketplace in Canada.

5. The Filer has filed, or will file, a long form prospectus in accordance with National Instrument 41-101 *General Prospectus Requirements* on behalf of the ETFs, subject to any exemptions that have been or may be granted by the applicable securities regulatory authorities.

6. The Filer acts, and will act, as the trustee, investment fund manager and portfolio adviser to the ETFs. The Filer is registered in the Province of Ontario as an adviser for securities in the category of portfolio manager, as an adviser for commodities in the category of commodity trading manager, as a dealer in the category of exempt market dealer and as an investment fund manager.

7. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. ETF Securities may generally only be subscribed for or purchased directly from the ETFs by Authorized Dealers or Designated Brokers (**Creation Units**). Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX or another marketplace in Canada.

8. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers are also generally engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer.

9. According to the Authorized Dealers and Designated Brokers, Creation Units are generally commingled with other ETF Securities purchased by the Authorized Dealers, Designated Brokers and Affiliate Dealers in the secondary market. As such, it is not practicable for the Authorized Dealers, Designated Brokers or Affiliate Dealers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

10. Designated Brokers perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

11. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally may not be purchased directly from an ETF. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another marketplace in Canada. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

12. The Authorized Dealers and Designated Brokers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

13. The Authorized Dealers and Designated Brokers are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities.

14. The Filer generally conducts its own marketing, advertising and promotion of the ETFs. The Filer may, at its discretion, charge an administration fee on the issuance of Creation Units to Authorized Dealers or Designated Brokers.

15. The principal regulator has advised the Filer that it takes the view that the first re-sale of a Creation Unit on the TSX or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Authorized Dealers, Designated Brokers and Affiliate Dealers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities in the secondary market that are not Creation Units would not ordinarily constitute a distribution of such ETF Securities.

16. Under a Prospectus Delivery Decision, Authorized Dealers, Designated Brokers and Affiliate Dealers are exempt from the Prospectus Delivery Requirement in connection with the re-sale of Creation Units to investors on the TSX or another marketplace in Canada. Under a Prospectus Delivery Decision, Other Dealers are also exempt from the Prospectus Delivery Requirement in connection with the re-sale of creation units of other exchange-traded funds that are not managed by the Filer.

17. The Prospectus Delivery Decision includes a condition that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer undertakes that, beginning on or around September 1, 2013, it will, unless it has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Authorized Dealer, Designated Broker,

Affiliate Dealer or Other Dealer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security, not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

18. The Filer will file with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (**SEDAR**) a Summary Document for each class or series of ETF Securities offered by the Filer and provide or make available to the Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, the requisite number of copies of the Summary Document for the purpose of facilitating their compliance with the Prospectus Delivery Decision.

19. The Filer will file a Summary Document for each class or series of ETF Securities offered by the Filer within the timeframe necessary to allow Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers to effect delivery of the Summary Document as contemplated in the Prospectus Delivery Decision by September 1, 2013.

20. The Exemption Sought from the Prospectus Form Requirement is required to reflect the relief provided in the Prospectus Delivery Decision. Accordingly, the Filer will include language in each ETF's prospectus explaining the impact on a purchaser's statutory rights as a result of the Prospectus Delivery Decision in replacement of the language prescribed by the Prospectus Form Requirement.

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, by the later of September 1, 2013 and the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. The Filer files with the applicable Jurisdictions on SEDAR and displays on its website in a manner that would be considered prominent to a reasonable investor the Summary Document for each class or series of ETF Securities of an Existing Fund.

2. The Filer files concurrently on SEDAR the Summary Document for each class or series of ETF Securities when filing a final prospectus for that ETF.

3. The Filer amends the Summary Document at the same time it files any amendments to the ETF's prospectus that affect the disclosure in the Summary Document and files the amended Summary Document with the applicable Jurisdictions on SEDAR and makes it available on its website in a manner that would be considered prominent to a reasonable investor.

4. The Filer provides or makes available to each Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, the number of copies of the Summary Document of each ETF Security that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer reasonably requests in support of compliance with its respective Prospectus Delivery Decision.

5. Each ETF's prospectus, on the date which is the earliest of: (i) the filing of the ETF's preliminary prospectus; (ii) the filing of the ETF's pro forma prospectus; and (iii) when an amendment to the ETF prospectus is next filed,

   (a) incorporates the relevant Summary Document by reference;

   (b) contains the disclosure referred to in paragraph 20 above; and

   (c) discloses both this decision and the Prospectus Delivery Decisions under Item 34.1 of Form 41-101F2 – *Exemptions and Approvals*.

6. The Filer obtains an executed acknowledgement from each Authorized Dealer, Designated Broker and Affiliate Dealer, and uses its best efforts to obtain an acknowledgment from each Other Dealer:

   (a) indicating its election, in connection with the re-sale of Creation Units on the TSX or another marketplace in Canada, to send or deliver the Summary Document in accordance with a Prospectus Delivery Decision or, alternatively, to comply with the Prospectus Delivery Requirement; and

(b) if the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer agrees to deliver the Summary Document in accordance with a Prospectus Delivery Decision:

(i) an undertaking that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under the Prospectus Delivery Decision at the same time to an investor purchasing ETF Securities of each such ETF; and

(ii) confirming that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer has in place written policies and procedures to ensure that it is in compliance with the conditions of the Prospectus Delivery Decision.

7. The Filer will keep records of which Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, have provided it with an acknowledgement under a Prospectus Delivery Decision, and which intend to rely on and comply with the Prospectus Delivery Decision or intend to comply with the Prospectus Delivery Requirement.

8. The Filer files with its principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person, after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

It is the further decision of the principal regulator under the Legislation that the Prior Underwriter's Certificate Relief and the Prospectus Delivery Representations are revoked.

The Exemption Sought terminates on September 1, 2015.

As to the Exemption Sought from the Underwriter's Certificate Requirement and the revocation of the Prior Underwriter's Certificate Relief and Prospectus Delivery Representations:

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Form Requirement:

"Rhonda Goldberg"
Director, Investment Funds Branch
Ontario Securities Commission

APPENDIX A

Contents of Summary Document

General Instructions:

1. *Items 1 to 10 represent the minimum disclosure required in a Summary Document for a fund. The inclusion of additional information is not precluded so long as the Summary Document does not exceed a total of four pages in length (two pages double-sided).*

2. *Terms defined in National Instrument 81-102 Mutual Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Summary Document have the meanings that they have in those national instruments.*

3. *Information in the Summary Document must be clear and concise and presented in plain language.*

4. *The format and presentation of information in the Summary Document is not prescribed but the information must be presented in a manner that assists in readability and comprehension.*

5. *The order of the Items outlined below is not prescribed, except for Items 1 and 2, which must be presented as the first 2 items in the Summary Document.*

6. *Each reference to a fund in this Appendix A refers to an ETF as defined in the decision above.*

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

(a) the title “Summary Document”;

(b) the name of the manager of the fund;

(c) the name of the fund to which the Summary Document pertains; and

(d) the date of the document.

Item 2 – Cautionary Language

Include a statement in italics in substantially the following form:

“The following is a summary of the principal features of this fund. You can find more detailed information about the fund in the prospectus. The prospectus is available on [insert name of the manager of the fund] website at [insert manager of the fund website], or by contacting [insert name of the manager of the fund] at [insert manager of the fund’s email address], or by calling [insert telephone number of the manager of the fund].”

Item 3 – Fund Details

Include the following disclosure:

(a) ticker symbol;

(b) fund identification code(s);

(c) index ticker (as applicable);

(d) exchange;

(e) currency;

(f) inception date;

(g) RSP eligibility;

(h) DRIP eligibility;

(i) expected frequency and timing of distributions, and if applicable, the targeted amount for distributions;

(j) management expense ratio, if available; and

(k) portfolio manager, when the fund is actively managed.

Item 4 – Investment Objectives

Include a description of the fundamental nature of the fund, or the fundamental features of the fund that distinguishes it from other funds.

INSTRUCTIONS:

Include a description of what the fund primarily invests in, or intends to primarily invest in, such as

(a) a description of the fund, including what the fund invests in, and if it is trying to replicate an index, the name of the index, and an overview of the nature of securities covered by the index or the purpose of the index; and

(b) the key investment strategies of the fund.

Item 5 – Investments of the Fund

1. Include a table disclosing:

   (a) the top 10 positions held by the fund; and

   (b) the percentage of net asset value of the fund represented by the top 10 positions.

2. Include at least one, and up to two, charts or tables that illustrate the investment mix of the fund's investment portfolio.

INSTRUCTIONS:

(a) The information required under this Item is intended to give a snapshot of the composition of the fund's investment portfolio. The information required to be disclosed under this Item must be as at a date within 30 days before the date of the Summary Document.

(b) The information required under Item 5(2) must show a breakdown of the fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The fund should use the most appropriate categories given the nature of the fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the fund's MRFP.

(c) For new funds where the information required to be disclosed under this Item is not available, provide a brief statement explaining why the required information is not available.

Item 6 – Risk

1. Include a statement in italics in substantially the following form:

   "All investments involve risk. When you invest in the fund the value of your investment can go down as well as up. For a description of the specific risks of this fund, see the fund's prospectus."

2. If the cover page of the fund's prospectus contains text box risk disclosure, also include a description of those risk factors in the Summary Document.

Item 7 – Fund Expenses

1. Include an introduction using wording similar to the following:

   "You don't pay these expenses directly. They affect you because they reduce the fund's returns."

2. Provide information about the expenses of the fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee and operating expenses.	
Trading expense ratio (TER) These are the fund's trading costs.	
Fund expenses The amount included for fund expenses is the amount arrived at by adding the MER and the TER.	

3. If the information in (2) is unavailable because the fund is new including wording similar to the following:

"The fund's expenses are made up of the management fee, operating expenses and trading costs. The fund's annual management fee is [ ]% of the fund's value. Because this fund is new, its operating expenses and trading costs are not yet available."

INSTRUCTIONS:

Use a bold font or other formatting to indicate that fund expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the fund.

Item 8 – Trailing Commissions

1. If the manager of the fund or another member of the fund's organization pays trailing commissions, include a brief description of these commissions.

2. The description of any trailing commission must include a statement in substantially the following words:

"The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund."

Item 9 – Other Fees

1. Provide information about the amount of fees payable by an investor, other than those already described or payable by designated brokers and underwriters.

2. Include a statement using wording similar to the following:

"You may pay brokerage fees to your dealer when you purchase and sell units of the fund."

INSTRUCTIONS:

(a) Examples include any redemption charges, sales charges or other fees, if any, associated with buying and selling securities of the fund.

(b) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.

Item 10 – Statement of Rights

State in substantially the following words:

Under securities law in some provinces and territories, you have:

- *the right to cancel your purchase within 48 hours after you receive confirmation of the purchase, or*

- *other rights and remedies if this document or the fund's prospectus contains a misrepresentation. You must act within the time limit set by the securities law in your province or territory.*

For more information, see the securities law of your province or territory or ask a lawyer.

Item 11 – Past Performance

If the fund includes past performance:

1. Include an introduction using wording similar to the following:

   This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

   It's important to note that this doesn't tell you how the fund will perform in the future as past performance may not be repeated. Also, your actual after-tax return will depend on your personal tax situation.

2. Show the annual total return of the fund, in chronological order for the lesser of:

   (a) each of the 10 most recently completed calendar years; and

   (b) each of the completed calendar years in which the fund has been in existence and which the fund was a reporting issuer.

3. Show the

   (a) final value, of a hypothetical $1,000 investment in the fund as at the end of the period that ends within 30 days before the date of the Summary Document and consists of the lesser of:

      (i) 10 years, or

      (ii) the time since inception of the fund,

      and

   (b) the annual compounded rate of return that would equate the initial $1,000 investment to the final value.

INSTRUCTIONS:

In responding to the requirements of this Item, a fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a Summary Document.

Item 12 – Benchmark Information

If the Summary Document includes benchmark information, ensure this information is consistent with the fund's MRFP and presented in the same format as Item 11.

2.1.10 BMO Asset Management Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to exchange-traded funds for initial and continuous distribution of units – Relief to vary elements of existing relief – Relief to permit the funds' prospectus to not contain an underwriter's certificate and to include a modified statement of investors rights – Relief granted subject to manager filing a prescribed summary document for each fund on SEDAR and other terms and conditions set out in decision document – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify summary document – Securities Act (Ontario) and National Instrument 41-101 General Prospectus Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 59(1), 144.
National Instrument 41-101 General Prospectus Requirements, s. 19.1 and Item 36.2 of Form 41-101F2.

July 19, 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
BMO ASSET MANAGEMENT INC.
(the Filer)

AND

THE EXISTING EXCHANGE-TRADED FUNDS MANAGED BY THE FILER
(the Existing Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Existing Funds and such other exchange-traded mutual funds as the Filer, or an affiliate of the Filer, may establish in the future (the **Future Funds**, and together with the Existing Funds, the **ETFs** and individually, an **ETF**) for a decision under the securities legislation of the principal regulator (the **Legislation**) that:

1. exempts the Filer and each ETF from

   (a) the requirement to include a certificate of an underwriter in an ETF's prospectus (the **Underwriter's Certificate Requirement**); and

   (b) the requirement to include in an ETF's prospectus the statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in item 36.2 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (the **Prospectus Form Requirement**)

   (collectively, the **Exemption Sought**); and

2. varies all previous decisions granted by the principal regulator prior to the date of this decision that exempted the Filer and the ETFs from the Underwriter's Certificate Requirement (the **Prior Underwriter's Certificate Relief**), by revoking

the Prior Underwriter's Certificate Relief and by revoking, as applicable, the representations relating to prospectus delivery contained in such decisions (the **Prospectus Delivery Representations**).

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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and National Instrument 81-102 *Mutual Funds* (**NI 81-102**) have the same meaning if used in this decision, unless otherwise defined.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on the TSX or another marketplace.

ETF Security means a listed security of an ETF.

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to other exchange-traded funds that are not managed by the Filer and that has received relief under a Prospectus Delivery Decision.

Prospectus Delivery Decision means a decision granting relief from the Prospectus Delivery Requirement to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer dated, July 19, 2013, and any future decision granted to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer that grants similar relief.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Summary Document means a document, in respect of one or more classes or series of ETF Securities being distributed under a prospectus, prepared in accordance with Schedule A.

TSX means the Toronto Stock Exchange.

Representations

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

1. The Filer is a corporation organized under the laws of Ontario, with a head office in Ontario.

2. Each ETF is, or will be, a mutual fund governed by the laws of the Province of Ontario and a reporting issuer under the laws of some or all of the Jurisdictions.

3. Each ETF is, or will be, subject to NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

4. Each ETF is, or will be, in continuous distribution. The ETF Securities of each ETF are, or will be, listed on the TSX or another marketplace in Canada.

5. The Filer has filed, or will file, a long form prospectus in accordance with National Instrument 41-101 *General Prospectus Requirements* on behalf of the ETFs, subject to any exemptions that have been or may be granted by the applicable securities regulatory authorities.

6. The Filer acts, and will act, as the investment fund manager of the ETFs. The Filer is registered in the Province of Ontario as an adviser in the categories of portfolio manager and commodity trading manager, as a dealer in the category of exempt market dealer and as an investment fund manager.

7. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. ETF Securities may generally only be subscribed for or purchased directly from the ETFs by Authorized Dealers or Designated Brokers (**Creation Unit**s). Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX or another marketplace in Canada.

8. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers are also generally engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer.

9. According to the Authorized Dealers and Designated Brokers, Creation Units are generally commingled with other ETF Securities purchased by the Authorized Dealers, Designated Brokers and Affiliate Dealers in the secondary market. As such, it is not practicable for the Authorized Dealers, Designated Brokers or Affiliate Dealers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

10. Designated Brokers perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

11. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally may not be purchased directly from an ETF. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another marketplace in Canada. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

12. The Authorized Dealers and Designated Brokers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

13. The Authorized Dealers and Designated Brokers are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities.

14. The Filer generally conducts its own marketing, advertising and promotion of the ETFs. The Filer may, at its discretion, charge an administration fee on the issuance of Creation Units to Authorized Dealers or Designated Brokers.

15. The principal regulator has advised the Filer that it takes the view that the first re-sale of a Creation Unit on the TSX or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Authorized Dealers, Designated Brokers and Affiliate Dealers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities in the secondary market that are not Creation Units would not ordinarily constitute a distribution of such ETF Securities.

16. Under a Prospectus Delivery Decision, Authorized Dealers, Designated Brokers and Affiliate Dealers are exempt from the Prospectus Delivery Requirement in connection with the re-sale of Creation Units to investors on the TSX or another marketplace in Canada. Under a Prospectus Delivery Decision, Other Dealers are also exempt from the Prospectus Delivery Requirement in connection with the re-sale of creation units of other exchange-traded funds that are not managed by the Filer.

17. The Prospectus Delivery Decision includes a condition that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer undertakes that, beginning on or around September 1, 2013, it will, unless it has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, and to whom a trade confirmation is required under the Legislation to be sent or

delivered by the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security, not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

18. The Filer will file with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (**SEDAR**) a Summary Document for each class or series of ETF Securities offered by the Filer and provide or make available to the Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, the requisite number of copies of the Summary Document for the purpose of facilitating their compliance with the Prospectus Delivery Decision.

19. The Filer will file a Summary Document for each class or series of ETF Securities offered by the Filer within the timeframe necessary to allow Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers to effect delivery of the Summary Document as contemplated in the Prospectus Delivery Decision by September 1, 2013.

20. The Exemption Sought from the Prospectus Form Requirement is required to reflect the relief provided in the Prospectus Delivery Decision. Accordingly, the Filer will include language in each ETF's prospectus explaining the impact on a purchaser's statutory rights as a result of the Prospectus Delivery Decision in replacement of the language prescribed by the Prospectus Form Requirement.

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, by the later of September 1, 2013 and the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. The Filer files with the applicable Jurisdictions on SEDAR and displays on its website in a manner that would be considered prominent to a reasonable investor the Summary Document for each class or series of ETF Securities of an Existing Fund.

2. The Filer files concurrently on SEDAR the Summary Document for each class or series of ETF Securities when filing a final prospectus for that ETF.

3. The Filer amends the Summary Document at the same time it files any amendments to the ETF's prospectus that affect the disclosure in the Summary Document and files the amended Summary Document with the applicable Jurisdictions on SEDAR and makes it available on its website in a manner that would be considered prominent to a reasonable investor.

4. The Filer provides or makes available to each Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, the number of copies of the Summary Document of each ETF Security that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer reasonably requests in support of compliance with its respective Prospectus Delivery Decision.

5. Each ETF's prospectus, on the date which is the earliest of: (i) the filing of the ETF's preliminary prospectus; (ii) the filing of the ETF's pro forma prospectus; and (iii) when an amendment to the ETF prospectus is next filed,

   (a) incorporates the relevant Summary Document by reference;

   (b) contains the disclosure referred to in paragraph 20 above; and

   (c) discloses both this decision and the Prospectus Delivery Decisions under Item 34.1 of Form 41-101F2 – *Exemptions and Approvals*.

6. The Filer obtains an executed acknowledgement from each Authorized Dealer, Designated Broker and Affiliate Dealer, and uses its best efforts to obtain an acknowledgment from each Other Dealer:

   (a) indicating its election, in connection with the re-sale of Creation Units on the TSX or another marketplace in Canada, to send or deliver the Summary Document in accordance with a Prospectus Delivery Decision or, alternatively, to comply with the Prospectus Delivery Requirement; and

   (b) if the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer agrees to deliver the Summary Document in accordance with a Prospectus Delivery Decision:

(i) an undertaking that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under the Prospectus Delivery Decision at the same time to an investor purchasing ETF Securities of each such ETF; and

(ii) confirming that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer has in place written policies and procedures to ensure that it is in compliance with the conditions of the Prospectus Delivery Decision.

7. The Filer will keep records of which Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, have provided it with an acknowledgement under a Prospectus Delivery Decision, and which intend to rely on and comply with the Prospectus Delivery Decision or intend to comply with the Prospectus Delivery Requirement.

8. The Filer files with its principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person, after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

It is the further decision of the principal regulator under the Legislation that the Prior Underwriter's Certificate Relief and the Prospectus Delivery Representations are revoked.

The Exemption Sought terminates on September 1, 2015.

As to the Exemption Sought from the Underwriter's Certificate Requirement and the revocation of the Prior Underwriter's Certificate Relief and Prospectus Delivery Representations:

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Form Requirement:

"Rhonda Goldberg"
Director, Investment Funds Branch
Ontario Securities Commission

APPENDIX A

Contents of Summary Document

General Instructions:

1. *Items 1 to 10 represent the minimum disclosure required in a Summary Document for a fund. The inclusion of additional information is not precluded so long as the Summary Document does not exceed a total of four pages in length (two pages double-sided).*

2. *Terms defined in National Instrument 81-102 Mutual Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Summary Document have the meanings that they have in those national instruments.*

3. *Information in the Summary Document must be clear and concise and presented in plain language.*

4. *The format and presentation of information in the Summary Document is not prescribed but the information must be presented in a manner that assists in readability and comprehension.*

5. *The order of the Items outlined below is not prescribed, except for Items 1 and 2, which must be presented as the first 2 items in the Summary Document.*

6. *Each reference to a fund in this Appendix A refers to an ETF as defined in the decision above.*

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

(a) the title “Summary Document”;

(b) the name of the manager of the fund;

(c) the name of the fund to which the Summary Document pertains; and

(d) the date of the document.

Item 2 – Cautionary Language

Include a statement in italics in substantially the following form:

“The following is a summary of the principal features of this fund. You can find more detailed information about the fund in the prospectus. The prospectus is available on [insert name of the manager of the fund] website at [insert manager of the fund website], or by contacting [insert name of the manager of the fund] at [insert manager of the fund’s email address], or by calling [insert telephone number of the manager of the fund].”

Item 3 – Fund Details

Include the following disclosure:

(a) ticker symbol;

(b) fund identification code(s);

(c) index ticker (as applicable);

(d) exchange;

(e) currency;

(f) inception date;

(g) RSP eligibility;

(h) DRIP eligibility;

(i) expected frequency and timing of distributions, and if applicable, the targeted amount for distributions;

(j) management expense ratio, if available; and

(k) portfolio manager, when the fund is actively managed.

Item 4 – Investment Objectives

Include a description of the fundamental nature of the fund, or the fundamental features of the fund that distinguishes it from other funds.

INSTRUCTIONS:

Include a description of what the fund primarily invests in, or intends to primarily invest in, such as

(a) a description of the fund, including what the fund invests in, and if it is trying to replicate an index, the name of the index, and an overview of the nature of securities covered by the index or the purpose of the index; and

(b) the key investment strategies of the fund.

Item 5 – Investments of the Fund

1. Include a table disclosing:

   (a) the top 10 positions held by the fund; and

   (b) the percentage of net asset value of the fund represented by the top 10 positions.

2. Include at least one, and up to two, charts or tables that illustrate the investment mix of the fund's investment portfolio.

INSTRUCTIONS:

(a) The information required under this Item is intended to give a snapshot of the composition of the fund's investment portfolio. The information required to be disclosed under this Item must be as at a date within 30 days before the date of the Summary Document.

(b) The information required under Item 5(2) must show a breakdown of the fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The fund should use the most appropriate categories given the nature of the fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the fund's MRFP.

(c) For new funds where the information required to be disclosed under this Item is not available, provide a brief statement explaining why the required information is not available.

Item 6 – Risk

1. Include a statement in italics in substantially the following form:

   "All investments involve risk. When you invest in the fund the value of your investment can go down as well as up. For a description of the specific risks of this fund, see the fund's prospectus."

2. If the cover page of the fund's prospectus contains text box risk disclosure, also include a description of those risk factors in the Summary Document.

Item 7 – Fund Expenses

1. Include an introduction using wording similar to the following:

   "You don't pay these expenses directly. They affect you because they reduce the fund's returns."

2. Provide information about the expenses of the fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee and operating expenses.	
Trading expense ratio (TER) These are the fund's trading costs.	
Fund expenses The amount included for fund expenses is the amount arrived at by adding the MER and the TER.	

3. If the information in (2) is unavailable because the fund is new including wording similar to the following:

"The fund's expenses are made up of the management fee, operating expenses and trading costs. The fund's annual management fee is [ ]% of the fund's value. Because this fund is new, its operating expenses and trading costs are not yet available."

INSTRUCTIONS:

Use a bold font or other formatting to indicate that fund expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the fund.

Item 8 – Trailing Commissions

1. If the manager of the fund or another member of the fund's organization pays trailing commissions, include a brief description of these commissions.

2. The description of any trailing commission must include a statement in substantially the following words:

"The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund."

Item 9 – Other Fees

1. Provide information about the amount of fees payable by an investor, other than those already described or payable by designated brokers and underwriters.

2. Include a statement using wording similar to the following:

"You may pay brokerage fees to your dealer when you purchase and sell units of the fund."

INSTRUCTIONS:

(a) Examples include any redemption charges, sales charges or other fees, if any, associated with buying and selling securities of the fund.

(b) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.

Item 10 – Statement of Rights

State in substantially the following words:

Under securities law in some provinces and territories, you have:

- *the right to cancel your purchase within 48 hours after you receive confirmation of the purchase, or*

- *other rights and remedies if this document or the fund's prospectus contains a misrepresentation. You must act within the time limit set by the securities law in your province or territory.*

For more information, see the securities law of your province or territory or ask a lawyer.

Item 11 – Past Performance

If the fund includes past performance:

1. Include an introduction using wording similar to the following:

   This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

   It's important to note that this doesn't tell you how the fund will perform in the future as past performance may not be repeated. Also, your actual after-tax return will depend on your personal tax situation.

2. Show the annual total return of the fund, in chronological order for the lesser of:

   (a) each of the 10 most recently completed calendar years; and

   (b) each of the completed calendar years in which the fund has been in existence and which the fund was a reporting issuer.

3. Show the

   (a) final value, of a hypothetical $1,000 investment in the fund as at the end of the period that ends within 30 days before the date of the Summary Document and consists of the lesser of:

      (i) 10 years, or

      (ii) the time since inception of the fund,

      and

   (b) the annual compounded rate of return that would equate the initial $1,000 investment to the final value.

INSTRUCTIONS:

In responding to the requirements of this Item, a fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a Summary Document.

Item 12 – Benchmark Information

If the Summary Document includes benchmark information, ensure this information is consistent with the fund's MRFP and presented in the same format as Item 11.

2.1.11 FT Portfolios Canada Co.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to exchange-traded funds for initial and continuous distribution of units – Relief to vary elements of existing relief – Relief to permit the funds' prospectus to not contain an underwriter's certificate and to include a modified statement of investors rights – Relief granted subject to manager filing a prescribed summary document for each fund on SEDAR and other terms and conditions set out in decision document – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify summary document – Securities Act (Ontario) and National Instrument 41-101 General Prospectus Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 59(1), 144.
National Instrument 41-101 General Prospectus Requirements, s. 19.1 and Item 36.2 of Form 41-101F2.

July 19, 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
FT PORTFOLIOS CANADA CO.
(the Filer)

AND

THE EXISTING EXCHANGE-TRADED FUNDS MANAGED BY THE FILER
(the Existing Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Existing Funds and such other exchange-traded mutual funds as the Filer, or an affiliate of the Filer, may establish in the future (the **Future Funds**, and together with the Existing Funds, the **ETFs** and individually, an **ETF**) for a decision under the securities legislation of the principal regulator (the **Legislation**) that:

1. exempts the Filer and each ETF from

   (a) the requirement to include a certificate of an underwriter in an ETF's prospectus (the **Underwriter's Certificate Requirement**); and

   (b) the requirement to include in an ETF's prospectus the statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in item 36.2 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (the **Prospectus Form Requirement**)

   (collectively, the **Exemption Sought**); and

2. varies all previous decisions granted by the principal regulator prior to the date of this decision that exempted the Filer and the ETFs from the Underwriter's Certificate Requirement (the **Prior Underwriter's Certificate Relief**), by revoking

the Prior Underwriter's Certificate Relief and by revoking, as applicable, the representations relating to prospectus delivery contained in such decisions (the **Prospectus Delivery Representations**).

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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and National Instrument 81-102 *Mutual Funds* (**NI 81-102**) have the same meaning if used in this decision, unless otherwise defined.

Affiliate **Dealer** means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on the TSX or another marketplace.

ETF Security means a listed security of an ETF.

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to other exchange-traded funds that are not managed by the Filer and that has received relief under a Prospectus Delivery Decision.

Prospectus Delivery Decision means a decision granting relief from the Prospectus Delivery Requirement to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer dated, July 19, 2013, and any future decision granted to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer that grants similar relief.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Summary Document means a document, in respect of one or more classes or series of ETF Securities being distributed under a prospectus, prepared in accordance with Schedule A.

TSX means the Toronto Stock Exchange.

Representations

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

1. The Filer is a corporation organized under the laws of Nova Scotia, with a head office in Ontario.

2. Each ETF is, or will be, a mutual fund governed by the laws of the Province of Ontario and a reporting issuer under the laws of some or all of the Jurisdictions.

3. Each ETF is, or will be, subject to NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

4. Each ETF is, or will be, in continuous distribution. The ETF Securities of each ETF are, or will be, listed on the TSX or another marketplace in Canada.

5. The Filer has filed, or will file, a long form prospectus in accordance with National Instrument 41-101 *General Prospectus Requirements* on behalf of the ETFs, subject to any exemptions that have been or may be granted by the applicable securities regulatory authorities.

6. The Filer acts, and will act, as the manager and trustee of the ETFs. The Filer is registered in the Province of Ontario as an investment fund manager and as a mutual fund dealer.

7. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. ETF Securities may generally only be subscribed for or purchased directly from the ETFs by Authorized Dealers or Designated Brokers (**Creation Units**). Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX or another marketplace in Canada.

8. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers are also generally engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer.

9. According to the Authorized Dealers and Designated Brokers, Creation Units are generally commingled with other ETF Securities purchased by the Authorized Dealers, Designated Brokers and Affiliate Dealers in the secondary market. As such, it is not practicable for the Authorized Dealers, Designated Brokers or Affiliate Dealers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

10. Designated Brokers perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

11. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally may not be purchased directly from an ETF. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another marketplace in Canada. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

12. The Authorized Dealers and Designated Brokers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

13. The Authorized Dealers and Designated Brokers are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities.

14. The Filer generally conducts its own marketing, advertising and promotion of the ETFs. The Filer may, at its discretion, charge an administration fee on the issuance of Creation Units to Authorized Dealers or Designated Brokers.

15. The principal regulator has advised the Filer that it takes the view that the first re-sale of a Creation Unit on the TSX or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Authorized Dealers, Designated Brokers and Affiliate Dealers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities in the secondary market that are not Creation Units would not ordinarily constitute a distribution of such ETF Securities.

16. Under a Prospectus Delivery Decision, Authorized Dealers, Designated Brokers and Affiliate Dealers are exempt from the Prospectus Delivery Requirement in connection with the re-sale of Creation Units to investors on the TSX or another marketplace in Canada. Under a Prospectus Delivery Decision, Other Dealers are also exempt from the Prospectus Delivery Requirement in connection with the re-sale of creation units of other exchange-traded funds that are not managed by the Filer.

17. The Prospectus Delivery Decision includes a condition that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer undertakes that, beginning on or around September 1, 2013, it will, unless it has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer in connection with the

purchase, the latest Summary Document filed in respect of the ETF Security, not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

18. The Filer will file with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (**SEDAR**) a Summary Document for each class or series of ETF Securities offered by the Filer and provide or make available to the Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, the requisite number of copies of the Summary Document for the purpose of facilitating their compliance with the Prospectus Delivery Decision.

19. The Filer will file a Summary Document for each class or series of ETF Securities offered by the Filer within the timeframe necessary to allow Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers to effect delivery of the Summary Document as contemplated in the Prospectus Delivery Decision by September 1, 2013.

20. The Exemption Sought from the Prospectus Form Requirement is required to reflect the relief provided in the Prospectus Delivery Decision. Accordingly, the Filer will include language in each ETF's prospectus explaining the impact on a purchaser's statutory rights as a result of the Prospectus Delivery Decision in replacement of the language prescribed by the Prospectus Form Requirement.

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, by the later of September 1, 2013 and the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. The Filer files with the applicable Jurisdictions on SEDAR and displays on its website in a manner that would be considered prominent to a reasonable investor the Summary Document for each class or series of ETF Securities of an Existing Fund.

2. The Filer files concurrently on SEDAR the Summary Document for each class or series of ETF Securities when filing a final prospectus for that ETF.

3. The Filer amends the Summary Document at the same time it files any amendments to the ETF's prospectus that affect the disclosure in the Summary Document and files the amended Summary Document with the applicable Jurisdictions on SEDAR and makes it available on its website in a manner that would be considered prominent to a reasonable investor.

4. The Filer provides or makes available to each Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, the number of copies of the Summary Document of each ETF Security that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer reasonably requests in support of compliance with its respective Prospectus Delivery Decision.

5. Each ETF's prospectus, on the date which is the earliest of: (i) the filing of the ETF's preliminary prospectus; (ii) the filing of the ETF's pro forma prospectus; and (iii) when an amendment to the ETF prospectus is next filed,

   (a) incorporates the relevant Summary Document by reference;

   (b) contains the disclosure referred to in paragraph 20 above; and

   (c) discloses both this decision and the Prospectus Delivery Decisions under Item 34.1 of Form 41-101F2 – *Exemptions and Approvals*.

6. The Filer obtains an executed acknowledgement from each Authorized Dealer, Designated Broker and Affiliate Dealer, and uses its best efforts to obtain an acknowledgment from each Other Dealer:

   (a) indicating its election, in connection with the re-sale of Creation Units on the TSX or another marketplace in Canada, to send or deliver the Summary Document in accordance with a Prospectus Delivery Decision or, alternatively, to comply with the Prospectus Delivery Requirement; and

   (b) if the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer agrees to deliver the Summary Document in accordance with a Prospectus Delivery Decision:

(i) an undertaking that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under the Prospectus Delivery Decision at the same time to an investor purchasing ETF Securities of each such ETF; and

(ii) confirming that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer has in place written policies and procedures to ensure that it is in compliance with the conditions of the Prospectus Delivery Decision.

7. The Filer will keep records of which Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, have provided it with an acknowledgement under a Prospectus Delivery Decision, and which intend to rely on and comply with the Prospectus Delivery Decision or intend to comply with the Prospectus Delivery Requirement.

8. The Filer files with its principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person, after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

It is the further decision of the principal regulator under the Legislation that the Prior Underwriter's Certificate Relief and the Prospectus Delivery Representations are revoked.

The Exemption Sought terminates on September 1, 2015.

As to the Exemption Sought from the Underwriter's Certificate Requirement and the revocation of the Prior Underwriter's Certificate Relief and Prospectus Delivery Representations:

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Form Requirement:

"Rhonda Goldberg"
Director, Investment Funds Branch
Ontario Securities Commission

APPENDIX A

Contents of Summary Document

General Instructions:

1. *Items 1 to 10 represent the minimum disclosure required in a Summary Document for a fund. The inclusion of additional information is not precluded so long as the Summary Document does not exceed a total of four pages in length (two pages double-sided).*

2. *Terms defined in National Instrument 81-102 Mutual Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Summary Document have the meanings that they have in those national instruments.*

3. *Information in the Summary Document must be clear and concise and presented in plain language.*

4. *The format and presentation of information in the Summary Document is not prescribed but the information must be presented in a manner that assists in readability and comprehension.*

5. *The order of the Items outlined below is not prescribed, except for Items 1 and 2, which must be presented as the first 2 items in the Summary Document.*

6. *Each reference to a fund in this Appendix A refers to an ETF as defined in the decision above.*

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

(a) the title “Summary Document”;

(b) the name of the manager of the fund;

(c) the name of the fund to which the Summary Document pertains; and

(d) the date of the document.

Item 2 – Cautionary Language

Include a statement in italics in substantially the following form:

“The following is a summary of the principal features of this fund. You can find more detailed information about the fund in the prospectus. The prospectus is available on [insert name of the manager of the fund] website at [insert manager of the fund website], or by contacting [insert name of the manager of the fund] at [insert manager of the fund’s email address], or by calling [insert telephone number of the manager of the fund].”

Item 3 – Fund Details

Include the following disclosure:

(a) ticker symbol;

(b) fund identification code(s);

(c) index ticker (as applicable);

(d) exchange;

(e) currency;

(f) inception date;

(g) RSP eligibility;

(h) DRIP eligibility;

(i) expected frequency and timing of distributions, and if applicable, the targeted amount for distributions;

(j) management expense ratio, if available; and

(k) portfolio manager, when the fund is actively managed.

Item 4 – Investment Objectives

Include a description of the fundamental nature of the fund, or the fundamental features of the fund that distinguishes it from other funds.

INSTRUCTIONS:

Include a description of what the fund primarily invests in, or intends to primarily invest in, such as

(a) a description of the fund, including what the fund invests in, and if it is trying to replicate an index, the name of the index, and an overview of the nature of securities covered by the index or the purpose of the index; and

(b) the key investment strategies of the fund.

Item 5 – Investments of the Fund

1. Include a table disclosing:

   (a) the top 10 positions held by the fund; and

   (b) the percentage of net asset value of the fund represented by the top 10 positions.

2. Include at least one, and up to two, charts or tables that illustrate the investment mix of the fund's investment portfolio.

INSTRUCTIONS:

(a) The information required under this Item is intended to give a snapshot of the composition of the fund's investment portfolio. The information required to be disclosed under this Item must be as at a date within 30 days before the date of the Summary Document.

(b) The information required under Item 5(2) must show a breakdown of the fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The fund should use the most appropriate categories given the nature of the fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the fund's MRFP.

(c) For new funds where the information required to be disclosed under this Item is not available, provide a brief statement explaining why the required information is not available.

Item 6 – Risk

1. Include a statement in italics in substantially the following form:

   "All investments involve risk. When you invest in the fund the value of your investment can go down as well as up. For a description of the specific risks of this fund, see the fund's prospectus."

2. If the cover page of the fund's prospectus contains text box risk disclosure, also include a description of those risk factors in the Summary Document.

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1. Include an introduction using wording similar to the following:

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2. Provide information about the expenses of the fund in the form of the following table:

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Fund expenses The amount included for fund expenses is the amount arrived at by adding the MER and the TER.	

3. If the information in (2) is unavailable because the fund is new including wording similar to the following:

"The fund's expenses are made up of the management fee, operating expenses and trading costs. The fund's annual management fee is [ ]% of the fund's value. Because this fund is new, its operating expenses and trading costs are not yet available."

INSTRUCTIONS:

Use a bold font or other formatting to indicate that fund expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the fund.

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1. If the manager of the fund or another member of the fund's organization pays trailing commissions, include a brief description of these commissions.

2. The description of any trailing commission must include a statement in substantially the following words:

"The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund."

Item 9 – Other Fees

1. Provide information about the amount of fees payable by an investor, other than those already described or payable by designated brokers and underwriters.

2. Include a statement using wording similar to the following:

"You may pay brokerage fees to your dealer when you purchase and sell units of the fund."

INSTRUCTIONS:

(a) Examples include any redemption charges, sales charges or other fees, if any, associated with buying and selling securities of the fund.

(b) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.

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State in substantially the following words:

Under securities law in some provinces and territories, you have:

- *the right to cancel your purchase within 48 hours after you receive confirmation of the purchase, or*

- *other rights and remedies if this document or the fund's prospectus contains a misrepresentation. You must act within the time limit set by the securities law in your province or territory.*

For more information, see the securities law of your province or territory or ask a lawyer.

Item 11 – Past Performance

If the fund includes past performance:

1. Include an introduction using wording similar to the following:

   This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

   It's important to note that this doesn't tell you how the fund will perform in the future as past performance may not be repeated. Also, your actual after-tax return will depend on your personal tax situation.

2. Show the annual total return of the fund, in chronological order for the lesser of:

   (a) each of the 10 most recently completed calendar years; and

   (b) each of the completed calendar years in which the fund has been in existence and which the fund was a reporting issuer.

3. Show the

   (a) final value, of a hypothetical $1,000 investment in the fund as at the end of the period that ends within 30 days before the date of the Summary Document and consists of the lesser of:

      (i) 10 years, or

      (ii) the time since inception of the fund,

      and

   (b) the annual compounded rate of return that would equate the initial $1,000 investment to the final value.

INSTRUCTIONS:

In responding to the requirements of this Item, a fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a Summary Document.

Item 12 – Benchmark Information

If the Summary Document includes benchmark information, ensure this information is consistent with the fund's MRFP and presented in the same format as Item 11.

2.1.12 First Asset Investment Management Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to exchange-traded funds for initial and continuous distribution of units – Relief to vary elements of existing relief – Relief to permit the funds' prospectus to not contain an underwriter's certificate and to include a modified statement of investors rights – Relief granted subject to manager filing a prescribed summary document for each fund on SEDAR and other terms and conditions set out in decision document – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify summary document – Securities Act (Ontario) and National Instrument 41-101 General Prospectus Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 59(1), 144.
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July 19, 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
FIRST ASSET INVESTMENT MANAGEMENT INC.
(the Filer)

AND

THE EXISTING EXCHANGE-TRADED FUNDS MANAGED BY THE FILER
(the Existing Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Existing Funds and such other exchange-traded mutual funds as the Filer, or an affiliate of the Filer, may establish in the future (the **Future Funds**, and together with the Existing Funds, the **ETFs** and individually, an **ETF**) for a decision under the securities legislation of the principal regulator (the Legislation) that:

1. exempts the Filer and each ETF from

   (a) the requirement to include a certificate of an underwriter in an ETF's prospectus (the **Underwriter's Certificate Requirement**); and

   (b) the requirement to include in an ETF's prospectus the statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in item 36.2 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (the **Prospectus Form Requirement**)

   (collectively, the **Exemption Sought**); and

2. varies all previous decisions granted by the principal regulator prior to the date of this decision that exempted the Filer and the ETFs from the Underwriter's Certificate Requirement (the **Prior Underwriter's Certificate Relief**), by revoking

the Prior Underwriter's Certificate Relief and by revoking, as applicable, the representations relating to prospectus delivery contained in such decisions (the **Prospectus Delivery Representations**).

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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and National Instrument 81-102 *Mutual Funds* (**NI 81-102**) have the same meaning if used in this decision, unless otherwise defined.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on the TSX or another marketplace.

ETF Security means a listed security of an ETF.

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to other exchange-traded funds that are not managed by the Filer and that has received relief under a Prospectus Delivery Decision.

Prospectus Delivery Decision means a decision granting relief from the Prospectus Delivery Requirement to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer dated, July 19, 2013, and any future decision granted to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer that grants similar relief.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Summary Document means a document, in respect of one or more classes or series of ETF Securities being distributed under a prospectus, prepared in accordance with Schedule A.

TSX means the Toronto Stock Exchange.

Representations

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

1. The Filer is a corporation organized under the laws of Ontario, with a head office in Ontario.

2. Each ETF is, or will be, a mutual fund governed by the laws of the Province of Ontario and a reporting issuer under the laws of some or all of the Jurisdictions.

3. Each ETF is, or will be, subject to NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

4. Each ETF is, or will be, in continuous distribution. The ETF Securities of each ETF are, or will be, listed on the TSX or another marketplace in Canada.

5. The Filer has filed, or will file, a long form prospectus in accordance with National Instrument 41-101 *General Prospectus Requirements* on behalf of the ETFs, subject to any exemptions that have been or may be granted by the applicable securities regulatory authorities.

6. The Filer acts, and will act, as the trustee, investment fund manager and portfolio adviser to the ETFs. The Filer is registered in the Province of Ontario as an adviser for securities in the category of portfolio manager, as an adviser for commodities in the category of commodity trading manager, as a dealer in the category of exempt market dealer and as an investment fund manager.

7. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. ETF Securities may generally only be subscribed for or purchased directly from the ETFs by Authorized Dealers or Designated Brokers (**Creation Units**). Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX or another marketplace in Canada.

8. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers are also generally engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer.

9. According to the Authorized Dealers and Designated Brokers, Creation Units are generally commingled with other ETF Securities purchased by the Authorized Dealers, Designated Brokers and Affiliate Dealers in the secondary market. As such, it is not practicable for the Authorized Dealers, Designated Brokers or Affiliate Dealers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

10. Designated Brokers perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

11. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally may not be purchased directly from an ETF. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another marketplace in Canada. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

12. The Authorized Dealers and Designated Brokers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

13. The Authorized Dealers and Designated Brokers are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities.

14. The Filer generally conducts its own marketing, advertising and promotion of the ETFs. The Filer may, at its discretion, charge an administration fee on the issuance of Creation Units to Authorized Dealers or Designated Brokers.

15. The principal regulator has advised the Filer that it takes the view that the first re-sale of a Creation Unit on the TSX or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Authorized Dealers, Designated Brokers and Affiliate Dealers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities in the secondary market that are not Creation Units would not ordinarily constitute a distribution of such ETF Securities.

16. Under a Prospectus Delivery Decision, Authorized Dealers, Designated Brokers and Affiliate Dealers are exempt from the Prospectus Delivery Requirement in connection with the re-sale of Creation Units to investors on the TSX or another marketplace in Canada. Under a Prospectus Delivery Decision, Other Dealers are also exempt from the Prospectus Delivery Requirement in connection with the re-sale of creation units of other exchange-traded funds that are not managed by the Filer.

17. The Prospectus Delivery Decision includes a condition that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer undertakes that, beginning on or around September 1, 2013, it will, unless it has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Authorized Dealer, Designated Broker,

Affiliate Dealer or Other Dealer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security, not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

18. The Filer will file with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (**SEDAR**) a Summary Document for each class or series of ETF Securities offered by the Filer and provide or make available to the Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, the requisite number of copies of the Summary Document for the purpose of facilitating their compliance with the Prospectus Delivery Decision.

19. The Filer will file a Summary Document for each class or series of ETF Securities offered by the Filer within the timeframe necessary to allow Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers to effect delivery of the Summary Document as contemplated in the Prospectus Delivery Decision by September 1, 2013.

20. The Exemption Sought from the Prospectus Form Requirement is required to reflect the relief provided in the Prospectus Delivery Decision. Accordingly, the Filer will include language in each ETF's prospectus explaining the impact on a purchaser's statutory rights as a result of the Prospectus Delivery Decision in replacement of the language prescribed by the Prospectus Form Requirement.

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, by the later of September 1, 2013 and the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. The Filer files with the applicable Jurisdictions on SEDAR and displays on its website in a manner that would be considered prominent to a reasonable investor the Summary Document for each class or series of ETF Securities of an Existing Fund.

2. The Filer files concurrently on SEDAR the Summary Document for each class or series of ETF Securities when filing a final prospectus for that ETF.

3. The Filer amends the Summary Document at the same time it files any amendments to the ETF's prospectus that affect the disclosure in the Summary Document and files the amended Summary Document with the applicable Jurisdictions on SEDAR and makes it available on its website in a manner that would be considered prominent to a reasonable investor.

4. The Filer provides or makes available to each Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, the number of copies of the Summary Document of each ETF Security that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer reasonably requests in support of compliance with its respective Prospectus Delivery Decision.

5. Each ETF's prospectus, on the date which is the earliest of: (i) the filing of the ETF's preliminary prospectus; (ii) the filing of the ETF's pro forma prospectus; and (iii) when an amendment to the ETF prospectus is next filed,

   (a) incorporates the relevant Summary Document by reference;

   (b) contains the disclosure referred to in paragraph 20 above; and

   (c) discloses both this decision and the Prospectus Delivery Decisions under Item 34.1 of Form 41-101F2 – *Exemptions and Approvals*.

6. The Filer obtains an executed acknowledgement from each Authorized Dealer, Designated Broker and Affiliate Dealer, and uses its best efforts to obtain an acknowledgment from each Other Dealer:

   (a) indicating its election, in connection with the re-sale of Creation Units on the TSX or another marketplace in Canada, to send or deliver the Summary Document in accordance with a Prospectus Delivery Decision or, alternatively, to comply with the Prospectus Delivery Requirement; and

(b) if the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer agrees to deliver the Summary Document in accordance with a Prospectus Delivery Decision:

(i) an undertaking that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under the Prospectus Delivery Decision at the same time to an investor purchasing ETF Securities of each such ETF; and

(ii) confirming that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer has in place written policies and procedures to ensure that it is in compliance with the conditions of the Prospectus Delivery Decision.

7. The Filer will keep records of which Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, have provided it with an acknowledgement under a Prospectus Delivery Decision, and which intend to rely on and comply with the Prospectus Delivery Decision or intend to comply with the Prospectus Delivery Requirement.

8. The Filer files with its principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person, after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

It is the further decision of the principal regulator under the Legislation that the Prior Underwriter's Certificate Relief and the Prospectus Delivery Representations are revoked.

The Exemption Sought terminates on September 1, 2015.

As to the Exemption Sought from the Underwriter's Certificate Requirement and the revocation of the Prior Underwriter's Certificate Relief and Prospectus Delivery Representations:

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Form Requirement:

"Rhonda Goldberg"
Director, Investment Funds Branch
Ontario Securities Commission

APPENDIX A

Contents of Summary Document

General Instructions:

1. *Items 1 to 10 represent the minimum disclosure required in a Summary Document for a fund. The inclusion of additional information is not precluded so long as the Summary Document does not exceed a total of four pages in length (two pages double-sided).*

2. *Terms defined in National Instrument 81-102 Mutual Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Summary Document have the meanings that they have in those national instruments.*

3. *Information in the Summary Document must be clear and concise and presented in plain language.*

4. *The format and presentation of information in the Summary Document is not prescribed but the information must be presented in a manner that assists in readability and comprehension.*

5. *The order of the Items outlined below is not prescribed, except for Items 1 and 2, which must be presented as the first 2 items in the Summary Document.*

6. *Each reference to a fund in this Appendix A refers to an ETF as defined in the decision above.*

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

(a) the title “Summary Document”;

(b) the name of the manager of the fund;

(c) the name of the fund to which the Summary Document pertains; and

(d) the date of the document.

Item 2 – Cautionary Language

Include a statement in italics in substantially the following form:

“The following is a summary of the principal features of this fund. You can find more detailed information about the fund in the prospectus. The prospectus is available on [insert name of the manager of the fund] website at [insert manager of the fund website], or by contacting [insert name of the manager of the fund] at [insert manager of the fund’s email address], or by calling [insert telephone number of the manager of the fund].”

Item 3 – Fund Details

Include the following disclosure:

(a) ticker symbol;

(b) fund identification code(s);

(c) index ticker (as applicable);

(d) exchange;

(e) currency;

(f) inception date;

(g) RSP eligibility;

(h) DRIP eligibility;

(i) expected frequency and timing of distributions, and if applicable, the targeted amount for distributions;

(j) management expense ratio, if available; and

(k) portfolio manager, when the fund is actively managed.

Item 4 – Investment Objectives

Include a description of the fundamental nature of the fund, or the fundamental features of the fund that distinguishes it from other funds.

INSTRUCTIONS:

Include a description of what the fund primarily invests in, or intends to primarily invest in, such as

(a) a description of the fund, including what the fund invests in, and if it is trying to replicate an index, the name of the index, and an overview of the nature of securities covered by the index or the purpose of the index; and

(b) the key investment strategies of the fund.

Item 5 – Investments of the Fund

1. Include a table disclosing:

   (a) the top 10 positions held by the fund; and

   (b) the percentage of net asset value of the fund represented by the top 10 positions.

2. Include at least one, and up to two, charts or tables that illustrate the investment mix of the fund's investment portfolio.

INSTRUCTIONS:

(a) The information required under this Item is intended to give a snapshot of the composition of the fund's investment portfolio. The information required to be disclosed under this Item must be as at a date within 30 days before the date of the Summary Document.

(b) The information required under Item 5(2) must show a breakdown of the fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The fund should use the most appropriate categories given the nature of the fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the fund's MRFP.

(c) For new funds where the information required to be disclosed under this Item is not available, provide a brief statement explaining why the required information is not available.

Item 6 – Risk

1. Include a statement in italics in substantially the following form:

   "All investments involve risk. When you invest in the fund the value of your investment can go down as well as up. For a description of the specific risks of this fund, see the fund's prospectus."

2. If the cover page of the fund's prospectus contains text box risk disclosure, also include a description of those risk factors in the Summary Document.

Item 7 – Fund Expenses

1. Include an introduction using wording similar to the following:

   "You don't pay these expenses directly. They affect you because they reduce the fund's returns."

2. Provide information about the expenses of the fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee and operating expenses.	
Trading expense ratio (TER) These are the fund's trading costs.	
Fund expenses The amount included for fund expenses is the amount arrived at by adding the MER and the TER.	

3. If the information in (2) is unavailable because the fund is new including wording similar to the following:

"The fund's expenses are made up of the management fee, operating expenses and trading costs. The fund's annual management fee is [ ]% of the fund's value. Because this fund is new, its operating expenses and trading costs are not yet available."

INSTRUCTIONS:

Use a bold font or other formatting to indicate that fund expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the fund.

Item 8 – Trailing Commissions

1. If the manager of the fund or another member of the fund's organization pays trailing commissions, include a brief description of these commissions.

2. The description of any trailing commission must include a statement in substantially the following words:

"The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund."

Item 9 – Other Fees

1. Provide information about the amount of fees payable by an investor, other than those already described or payable by designated brokers and underwriters.

2. Include a statement using wording similar to the following:

"You may pay brokerage fees to your dealer when you purchase and sell units of the fund."

INSTRUCTIONS:

(a) Examples include any redemption charges, sales charges or other fees, if any, associated with buying and selling securities of the fund.

(b) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.

Item 10 – Statement of Rights

State in substantially the following words:

Under securities law in some provinces and territories, you have:

- *the right to cancel your purchase within 48 hours after you receive confirmation of the purchase, or*

- *other rights and remedies if this document or the fund's prospectus contains a misrepresentation. You must act within the time limit set by the securities law in your province or territory.*

For more information, see the securities law of your province or territory or ask a lawyer.

Item 11 – Past Performance

If the fund includes past performance:

1. Include an introduction using wording similar to the following:

   This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

   It's important to note that this doesn't tell you how the fund will perform in the future as past performance may not be repeated. Also, your actual after-tax return will depend on your personal tax situation.

2. Show the annual total return of the fund, in chronological order for the lesser of:

   (a) each of the 10 most recently completed calendar years; and

   (b) each of the completed calendar years in which the fund has been in existence and which the fund was a reporting issuer.

3. Show the

   (a) final value, of a hypothetical $1,000 investment in the fund as at the end of the period that ends within 30 days before the date of the Summary Document and consists of the lesser of:

      (i) 10 years, or

      (ii) the time since inception of the fund,

      and

   (b) the annual compounded rate of return that would equate the initial $1,000 investment to the final value.

INSTRUCTIONS:

In responding to the requirements of this Item, a fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a Summary Document.

Item 12 – Benchmark Information

If the Summary Document includes benchmark information, ensure this information is consistent with the fund's MRFP and presented in the same format as Item 11.

2.1.13 Invesco Canada Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to exchange-traded funds for initial and continuous distribution of units – Relief to vary elements of existing relief – Relief to permit the funds' prospectus to not contain an underwriter's certificate and to include a modified statement of investors rights – Relief granted subject to manager filing a prescribed summary document for each fund on SEDAR and other terms and conditions set out in decision document – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify summary document – Securities Act (Ontario) and National Instrument 41-101 General Prospectus Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S. 5, as am., ss. 59(1), 144.
National Instrument 41-101 General Prospectus Requirements, s. 19.1 and Item 36.2 of Form 41-101F2.

July 19, 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
INVESCO CANADA LTD.
(the Filer)

AND

THE EXISTING EXCHANGE-TRADED FUNDS MANAGED BY THE FILER
(the Existing Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Existing Funds and such other exchange-traded mutual funds as the Filer, or an affiliate of the Filer, may establish in the future (the **Future Funds**, and together with the Existing Funds, the **ETFs** and individually, an **ETF**) for a decision under the securities legislation of the principal regulator (the **Legislation**) that:

1. exempts the Filer and each ETF from

   (a) the requirement to include a certificate of an underwriter in an ETF's prospectus (the **Underwriter's Certificate Requirement**); and

   (b) the requirement to include in an ETF's prospectus the statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in item 36.2 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (the **Prospectus Form Requirement)**

   (collectively, the **Exemption Sought**); and

2. varies all previous decisions granted by the principal regulator prior to the date of this decision that exempted the Filer and the ETFs from the Underwriter's Certificate Requirement (the **Prior Underwriter's Certificate Relief**), by revoking

the Prior Underwriter's Certificate Relief and by revoking, as applicable, the representations relating to prospectus delivery contained in such decisions (the **Prospectus Delivery Representations**).

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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

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Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on the TSX or another marketplace.

ETF Security means a listed security of an ETF.

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to other exchange-traded funds that are not managed by the Filer and that has received relief under a Prospectus Delivery Decision.

Prospectus Delivery Decision means a decision granting relief from the Prospectus Delivery Requirement to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer dated, July 19, 2013, and any future decision granted to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer that grants similar relief.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Summary Document means a document, in respect of one or more classes or series of ETF Securities being distributed under a prospectus, prepared in accordance with Schedule A.

TSX means the Toronto Stock Exchange.

Representations

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

1. The Filer is a corporation amalgamated under the laws of the Province of Ontario, with a head office in Ontario.

2. Each ETF is, or will be, a mutual fund governed by the laws of the Province of Ontario and a reporting issuer under the laws of some or all of the Jurisdictions.

3. Each ETF is, or will be, subject to NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

4. Each ETF is, or will be, in continuous distribution. The ETF Securities of each ETF are, or will be, listed on the TSX or another marketplace in Canada.

5. The Filer has filed, or will file, a long form prospectus in accordance with National Instrument 41-101 *General Prospectus Requirements* on behalf of the ETFs, subject to any exemptions that have been or may be granted by the applicable securities regulatory authorities.

6. The Filer acts, or will act, as the trustee, investment fund manager and portfolio adviser to each of the ETFs. The Filer is currently registered in the Province of Ontario as an adviser for securities in the category of portfolio manager, as an adviser for commodities in the category of commodity trading manager, as a dealer in the category of exempt market dealer and mutual fund dealer, and as an investment fund manager.

7. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. ETF Securities may generally only be subscribed for or purchased directly from the ETFs by Authorized Dealers or Designated Brokers (**Creation Units**). Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX or another marketplace in Canada.

8. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers are also generally engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer.

9. According to the Authorized Dealers and Designated Brokers, Creation Units are generally commingled with other ETF Securities purchased by the Authorized Dealers, Designated Brokers and Affiliate Dealers in the secondary market. As such, it is not practicable for the Authorized Dealers, Designated Brokers or Affiliate Dealers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

10. Designated Brokers perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

11. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally may not be purchased directly from an ETF. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another marketplace in Canada. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

12. The Authorized Dealers and Designated Brokers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

13. The Authorized Dealers and Designated Brokers are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities.

14. The Filer generally conducts its own marketing, advertising and promotion of the ETFs. The Filer may, at its discretion, charge an administration fee on the issuance of Creation Units to Authorized Dealers or Designated Brokers.

15. The principal regulator has advised the Filer that it takes the view that the first re-sale of a Creation Unit on the TSX or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Authorized Dealers, Designated Brokers and Affiliate Dealers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities in the secondary market that are not Creation Units would not ordinarily constitute a distribution of such ETF Securities.

16. Under a Prospectus Delivery Decision, Authorized Dealers, Designated Brokers and Affiliate Dealers are exempt from the Prospectus Delivery Requirement in connection with the re-sale of Creation Units to investors on the TSX or another marketplace in Canada. Under a Prospectus Delivery Decision, Other Dealers are also exempt from the Prospectus Delivery Requirement in connection with the re-sale of creation units of other exchange-traded funds that are not managed by the Filer.

17. The Prospectus Delivery Decision includes a condition that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer undertakes that, beginning on or around September 1, 2013, it will, unless it has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Authorized Dealer, Designated Broker,

Affiliate Dealer or Other Dealer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security, not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

18. The Filer will file with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (**SEDAR**) a Summary Document for each class or series of ETF Securities offered by the Filer and provide or make available to the Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, the requisite number of copies of the Summary Document for the purpose of facilitating their compliance with the Prospectus Delivery Decision.

19. The Filer will file a Summary Document for each class or series of ETF Securities offered by the Filer within the timeframe necessary to allow Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers to effect delivery of the Summary Document as contemplated in the Prospectus Delivery Decision by September 1, 2013.

20. The Exemption Sought from the Prospectus Form Requirement is required to reflect the relief provided in the Prospectus Delivery Decision. Accordingly, the Filer will include language in each ETF's prospectus explaining the impact on a purchaser's statutory rights as a result of the Prospectus Delivery Decision in replacement of the language prescribed by the Prospectus Form Requirement.

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, by the later of September 1, 2013 and the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. The Filer files with the applicable Jurisdictions on SEDAR and displays on its website in a manner that would be considered prominent to a reasonable investor the Summary Document for each class or series of ETF Securities of an Existing Fund.

2. The Filer files concurrently on SEDAR the Summary Document for each class or series of ETF Securities when filing a final prospectus for that ETF.

3. The Filer amends the Summary Document at the same time it files any amendments to the ETF's prospectus that affect the disclosure in the Summary Document and files the amended Summary Document with the applicable Jurisdictions on SEDAR and makes it available on its website in a manner that would be considered prominent to a reasonable investor.

4. The Filer provides or makes available to each Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, the number of copies of the Summary Document of each ETF Security that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer reasonably requests in support of compliance with its respective Prospectus Delivery Decision.

5. Each ETF's prospectus, on the date which is the earliest of: (i) the filing of the ETF's preliminary prospectus; (ii) the filing of the ETF's pro forma prospectus; and (iii) when an amendment to the ETF prospectus is next filed,

   (a) incorporates the relevant Summary Document by reference;

   (b) contains the disclosure referred to in paragraph 20 above; and

   (c) discloses both this decision and the Prospectus Delivery Decisions under Item 34.1 of Form 41-101F2 – *Exemptions and Approvals*.

6. The Filer obtains an executed acknowledgement from each Authorized Dealer, Designated Broker and Affiliate Dealer, and uses its best efforts to obtain an acknowledgment from each Other Dealer:

   (a) indicating its election, in connection with the re-sale of Creation Units on the TSX or another marketplace in Canada, to send or deliver the Summary Document in accordance with a Prospectus Delivery Decision or, alternatively, to comply with the Prospectus Delivery Requirement; and

(b) if the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer agrees to deliver the Summary Document in accordance with a Prospectus Delivery Decision:

(i) an undertaking that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under the Prospectus Delivery Decision at the same time to an investor purchasing ETF Securities of each such ETF; and

(ii) confirming that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer has in place written policies and procedures to ensure that it is in compliance with the conditions of the Prospectus Delivery Decision.

7. The Filer will keep records of which Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, have provided it with an acknowledgement under a Prospectus Delivery Decision, and which intend to rely on and comply with the Prospectus Delivery Decision or intend to comply with the Prospectus Delivery Requirement.

8. The Filer files with its principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person, after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

It is the further decision of the principal regulator under the Legislation that the Prior Underwriter's Certificate Relief and the Prospectus Delivery Representations are revoked.

The Exemption Sought terminates on September 1, 2015.

As to the Exemption Sought from the Underwriter's Certificate Requirement and the revocation of the Prior Underwriter's Certificate Relief and Prospectus Delivery Representations:

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Form Requirement:

"Rhonda Goldberg"
Director, Investment Funds Branch
Ontario Securities Commission

APPENDIX A

Contents of Summary Document

General Instructions:

1. *Items 1 to 10 represent the minimum disclosure required in a Summary Document for a fund. The inclusion of additional information is not precluded so long as the Summary Document does not exceed a total of four pages in length (two pages double-sided).*

2. *Terms defined in National Instrument 81-102 Mutual Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Summary Document have the meanings that they have in those national instruments.*

3. *Information in the Summary Document must be clear and concise and presented in plain language.*

4. *The format and presentation of information in the Summary Document is not prescribed but the information must be presented in a manner that assists in readability and comprehension.*

5. *The order of the Items outlined below is not prescribed, except for Items 1 and 2, which must be presented as the first 2 items in the Summary Document.*

6. *Each reference to a fund in this Appendix A refers to an ETF as defined in the decision above.*

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

(a) the title “Summary Document”;

(b) the name of the manager of the fund;

(c) the name of the fund to which the Summary Document pertains; and

(d) the date of the document.

Item 2 – Cautionary Language

Include a statement in italics in substantially the following form:

“The following is a summary of the principal features of this fund. You can find more detailed information about the fund in the prospectus. The prospectus is available on [insert name of the manager of the fund] website at [insert manager of the fund website], or by contacting [insert name of the manager of the fund] at [insert manager of the fund’s email address], or by calling [insert telephone number of the manager of the fund].”

Item 3 – Fund Details

Include the following disclosure:

(a) ticker symbol;

(b) fund identification code(s);

(c) index ticker (as applicable);

(d) exchange;

(e) currency;

(f) inception date;

(g) RSP eligibility;

(h) DRIP eligibility;

(i) expected frequency and timing of distributions, and if applicable, the targeted amount for distributions;

(j) management expense ratio, if available; and

(k) portfolio manager, when the fund is actively managed.

Item 4 – Investment Objectives

Include a description of the fundamental nature of the fund, or the fundamental features of the fund that distinguishes it from other funds.

INSTRUCTIONS:

Include a description of what the fund primarily invests in, or intends to primarily invest in, such as

(a) a description of the fund, including what the fund invests in, and if it is trying to replicate an index, the name of the index, and an overview of the nature of securities covered by the index or the purpose of the index; and

(b) the key investment strategies of the fund.

Item 5 – Investments of the Fund

1. Include a table disclosing:

   (a) the top 10 positions held by the fund; and

   (b) the percentage of net asset value of the fund represented by the top 10 positions.

2. Include at least one, and up to two, charts or tables that illustrate the investment mix of the fund's investment portfolio.

INSTRUCTIONS:

(a) The information required under this Item is intended to give a snapshot of the composition of the fund's investment portfolio. The information required to be disclosed under this Item must be as at a date within 30 days before the date of the Summary Document.

(b) The information required under Item 5(2) must show a breakdown of the fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The fund should use the most appropriate categories given the nature of the fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the fund's MRFP.

(c) For new funds where the information required to be disclosed under this Item is not available, provide a brief statement explaining why the required information is not available.

Item 6 – Risk

1. Include a statement in italics in substantially the following form:

   "All investments involve risk. When you invest in the fund the value of your investment can go down as well as up. For a description of the specific risks of this fund, see the fund's prospectus."

2. If the cover page of the fund's prospectus contains text box risk disclosure, also include a description of those risk factors in the Summary Document.

Item 7 – Fund Expenses

1. Include an introduction using wording similar to the following:

   "You don't pay these expenses directly. They affect you because they reduce the fund's returns."

2. Provide information about the expenses of the fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee and operating expenses.	
Trading expense ratio (TER) These are the fund's trading costs.	
Fund expenses The amount included for fund expenses is the amount arrived at by adding the MER and the TER.	

3. If the information in (2) is unavailable because the fund is new including wording similar to the following:

"The fund's expenses are made up of the management fee, operating expenses and trading costs. The fund's annual management fee is [ ]% of the fund's value. Because this fund is new, its operating expenses and trading costs are not yet available."

INSTRUCTIONS:

Use a bold font or other formatting to indicate that fund expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the fund.

Item 8 – Trailing Commissions

1. If the manager of the fund or another member of the fund's organization pays trailing commissions, include a brief description of these commissions.

2. The description of any trailing commission must include a statement in substantially the following words:

"The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund."

Item 9 – Other Fees

1. Provide information about the amount of fees payable by an investor, other than those already described or payable by designated brokers and underwriters.

2. Include a statement using wording similar to the following:

"You may pay brokerage fees to your dealer when you purchase and sell units of the fund."

INSTRUCTIONS:

(a) Examples include any redemption charges, sales charges or other fees, if any, associated with buying and selling securities of the fund.

(b) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.

Item 10 – Statement of Rights

State in substantially the following words:

Under securities law in some provinces and territories, you have:

- *the right to cancel your purchase within 48 hours after you receive confirmation of the purchase, or*

- *other rights and remedies if this document or the fund's prospectus contains a misrepresentation. You must act within the time limit set by the securities law in your province or territory.*

For more information, see the securities law of your province or territory or ask a lawyer.

Item 11 – Past Performance

If the fund includes past performance:

1. Include an introduction using wording similar to the following:

   This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

   It's important to note that this doesn't tell you how the fund will perform in the future as past performance may not be repeated. Also, your actual after-tax return will depend on your personal tax situation.

2. Show the annual total return of the fund, in chronological order for the lesser of:

   (a) each of the 10 most recently completed calendar years; and

   (b) each of the completed calendar years in which the fund has been in existence and which the fund was a reporting issuer.

3. Show the

   (a) final value, of a hypothetical $1,000 investment in the fund as at the end of the period that ends within 30 days before the date of the Summary Document and consists of the lesser of:

      (i) 10 years, or

      (ii) the time since inception of the fund,

      and

   (b) the annual compounded rate of return that would equate the initial $1,000 investment to the final value.

INSTRUCTIONS:

In responding to the requirements of this Item, a fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a Summary Document.

Item 12 – Benchmark Information

If the Summary Document includes benchmark information, ensure this information is consistent with the fund's MRFP and presented in the same format as Item 11.

2.1.14 BMO Nesbitt Burns Inc. and BMO Investorline Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to dealers from the prospectus delivery requirement – Relief granted from requirement to deliver prospectus subject to dealers sending or delivering a prescribed summary disclosure document to purchasers with trade confirmation when acting as agent of the purchaser – Relief conditional on implementing alternative prospectus delivery requirement – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify new alternative prospectus delivery requirement – Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71(1), 147.

July 19, 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
BMO NESBITT BURNS INC. AND
BMO INVESTORLINE INC.
(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 exemptive relief from the Prospectus Delivery Requirement (as defined below) in connection with distributions of an ETF Security (as defined below) (the **Exemption Sought**).

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

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

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

Interpretation

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

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on an exchange or another marketplace.

ETF means an open end mutual fund that has listed a class of securities on an exchange in Canada.

ETF Security means a listed security of an ETF.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Prospectus Right of Rescission means the right of action, given to a purchaser under the Legislation, for rescission or damages against a dealer, for failure of the dealer to send or deliver a prospectus to a purchaser of a security or its agent to whom a prospectus and any amendment was required to be sent or delivered but was not sent or delivered in compliance with the Prospectus Delivery Requirement. In Québec, such a purchaser may apply to have the transaction rescinded or the price revised, at the purchaser's option, without prejudice to the purchaser's claim for damages. Collectively, these rights are referred to as the **Prospectus Rights of Rescission**.

Right of Withdrawal means the right, given to a purchaser under the Legislation, to withdraw from an agreement of purchase and sale for a security to which the Prospectus Delivery Requirement applies if the dealer from which the purchaser purchases the security receives written notice evidencing the intention of the purchaser not to be bound by the agreement within two business days of receipt of the latest prospectus and any amendment. In Québec, this right is called a right to rescind. Collectively, these rights are referred to as the **Rights of Withdrawal**.

Trade Confirmation Right of Rescission means the right, given to a purchaser of an ETF Security under the Legislation in certain circumstances, to rescind the purchase within 48 hours after receiving confirmation of the purchase.

Representations

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

1. The Filers are registered as investment dealers in one or more of the Jurisdictions.

2. The head offices of the Filers are located in Toronto, Ontario.

3. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions pursuant to a prospectus. ETF Securities are generally only subscribed for or purchased directly from the ETF by Authorized Dealers or Designated Brokers. Investors are generally expected to purchase ETF Securities through dealers executing trades using the facilities of an exchange or another marketplace. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

4. Each of the Filers is either: (1) an Authorized Dealer and/or Designated Broker that from time to time subscribes for and purchases newly issued ETF Securities (**Creation Units**) directly from one or more ETFs; or (2) an Affiliate Dealer. The Filers are also generally engaged in purchasing and selling ETF Securities of the same class as the Creation Units in the secondary market. Creation Units are generally commingled with ETF Securities purchased in the secondary market. As such, it is not practicable for the Filers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

5. The Filers may also be engaged in purchasing and selling, in the secondary market, ETF Securities of ETFs for which they are not an Authorized Dealer or Designated Broker.

Prospectus Delivery Requirement

6. The principal regulator has advised the Filers that it takes the view that the first re-sale of a Creation Unit on an exchange or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Filers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities purchased by the Filers in the secondary market, that are not Creation Units, would not ordinarily constitute a distribution of ETF Securities.

7. Compliance with the Prospectus Delivery Requirement is not practicable in the circumstances of re-sales of Creation Units on an exchange or another marketplace by a Filer as the Filer will often not know the identity of a purchaser and will generally not know whether a sale involves Creation Units.

8. The Prospectus Delivery Requirement affects investors in ETF Securities differently depending upon whether their purchase order is filled through the re-sale of Creation Units or through a secondary market trade. The Prospectus Delivery Requirement also affects investors in ETF Securities differently from investors in conventional mutual funds because, unlike sales of conventional mutual funds, only sales of ETF Securities that are Creation Units are distributions under the Legislation.

9. The Filers, when acting for a purchaser of an ETF Security, are required under the Legislation to deliver a trade confirmation to the purchaser in connection with each trade of an ETF Security, unless a Filer is exempt from the requirement in respect of a particular trade. Investors in ETF Securities will be better served if the Filers send or deliver a prescribed summary disclosure document to all purchasers of ETF Securities who are customers of a Filer at the same time as they deliver the trade confirmation, regardless of whether the purchaser's order is filled through the re-sale of a Creation Unit, or through the re-sale of an ETF Security purchased in the secondary market.

10. The principal regulator has granted relief to various ETF Managers from the requirements to include an underwriter's certificate and to include a statement respecting purchasers' statutory rights of withdrawal and rescission in an ETF's prospectus (the **ETF Relief**). Conditions of the ETF Relief include that an ETF must file a prescribed summary disclosure document with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (the **Summary Document**).

Civil Liability for Prospectus Misrepresentations

11. The liability under the prospectus civil liability provisions of the Legislation, of an ETF or its investment fund manager for a misrepresentation in a prospectus, will not be affected by the grant of an exemption from the Prospectus Delivery Requirement. Under such provisions, purchasers of Creation Units offered by a prospectus during the period of distribution have a right of action for damages against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus. Under the secondary market disclosure civil liability provisions of the Legislation, purchasers of ETF Securities that are not Creation Units and, therefore, are not offered by prospectus during the period of distribution, have a similar right of action for damages for misrepresentation in a prospectus against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus.

12. The Filers take the view, in the circumstances, that they are not underwriters within the meaning of the Legislation. The Filers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting. They are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. ETF Managers generally conduct their own marketing, advertising and promotion of the ETFs. The Filers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities. In the circumstances, the Filers take the view that a purchaser of an ETF Security will not be entitled to exercise a statutory right of action for rescission or damages against an Authorized Dealer or Designated Broker in the event that the prospectus contains a misrepresentation.

Right of Withdrawal

13. Under the Legislation, if the Prospectus Delivery Requirement applies in respect of a sale of Creation Units, the purchaser of the Creation Units has a Right of Withdrawal.

14. It is not practicable for the Filers to provide purchasers of Creation Units on an exchange or another marketplace with a prospectus in accordance with the Prospectus Delivery Requirement as a Filer will often not know the identity of a purchaser and will generally not know whether the sale involves Creation Units.

15. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Right of Withdrawal will not be available to the purchaser of Creation Units if a prospectus is not required to be sent or delivered. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Right of Withdrawal will not be available in such circumstances. Under the ETF Relief, an ETF will state in its Summary Document that under the securities legislation of some of the Jurisdictions an investor has the Trade Confirmation

Right of Rescission and other rights and remedies if the Summary Document or prospectus contains a misrepresentation.

Prospectus Right of Rescission

16. Under the Legislation, if a dealer is subject to the Prospectus Delivery Requirement in respect of a sale of Creation Units, the purchaser of the Creation Units has the Prospectus Right of Rescission.

17. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Prospectus Right of Rescission will not be available to the purchaser of Creation Units because the Prospectus Delivery Requirement will not apply. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Prospectus Right of Rescission will not be available in such circumstances.

Trade Confirmation Right of Rescission

18. In applicable Jurisdictions, purchasers of ETF Securities will continue to have the Trade Confirmation Right of Rescission as it is not affected by the grant of an exemption from the Prospectus Delivery Requirement.

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 by the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. Each Filer undertakes to the principal regulator that it will, beginning on or around September 1, 2013, unless the Filer has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Filer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Filer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

2. Each Filer provides to each ETF Manager of an ETF for which it is an Authorized Dealer or Designated Broker, or is an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

3. Each Filer provides to each ETF Manager of an ETF in whose ETF Securities it is generally engaged in purchasing and selling in the secondary market on behalf of its customers, but for which it is not an Authorized Dealer or Designated Broker, or is not an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

4. Each Filer files with the principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

The Exemption Sought terminates on September 1, 2015.

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

2.1.15 TD Securities Inc. and TD Waterhouse Canada Inc.

Headnote

National Policy 11-203 Process For Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to dealers from the prospectus delivery requirement – Relief granted from requirement to deliver prospectus subject to dealers sending or delivering a prescribed summary disclosure document to purchasers with trade confirmation when acting as agent of the purchaser – Relief conditional on implementing alternative prospectus delivery requirement – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify new alternative prospectus delivery requirement – Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71(1), 147.

July 19, 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
TD SECURITIES INC. AND
TD WATERHOUSE CANADA INC.
(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 exemptive relief from the Prospectus Delivery Requirement (as defined below) in connection with distributions of an ETF Security (as defined below) (the **Exemption Sought**).

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

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

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

Interpretation

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

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on an exchange or another marketplace.

ETF means an open end mutual fund that has listed a class of securities on an exchange in Canada.

ETF Security means a listed security of an ETF.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Prospectus Right of Rescission means the right of action, given to a purchaser under the Legislation, for rescission or damages against a dealer, for failure of the dealer to send or deliver a prospectus to a purchaser of a security or its agent to whom a prospectus and any amendment was required to be sent or delivered but was not sent or delivered in compliance with the Prospectus Delivery Requirement. In Québec, such a purchaser may apply to have the transaction rescinded or the price revised, at the purchaser's option, without prejudice to the purchaser's claim for damages. Collectively, these rights are referred to as the **Prospectus Rights of Rescission**.

Right of Withdrawal means the right, given to a purchaser under the Legislation, to withdraw from an agreement of purchase and sale for a security to which the Prospectus Delivery Requirement applies if the dealer from which the purchaser purchases the security receives written notice evidencing the intention of the purchaser not to be bound by the agreement within two business days of receipt of the latest prospectus and any amendment. In Québec, this right is called a right to rescind. Collectively, these rights are referred to as the **Rights of Withdrawal**.

Trade Confirmation Right of Rescission means the right, given to a purchaser of an ETF Security under the Legislation in certain circumstances, to rescind the purchase within 48 hours after receiving confirmation of the purchase.

Representations

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

1. The Filers are registered as investment dealers in one or more of the Jurisdictions.

2. The head offices of the Filers are located in Toronto, Ontario.

3. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions pursuant to a prospectus. ETF Securities are generally only subscribed for or purchased directly from the ETF by Authorized Dealers or Designated Brokers. Investors are generally expected to purchase ETF Securities through dealers executing trades using the facilities of an exchange or another marketplace. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

4. Each of the Filers is either: (1) an Authorized Dealer and/or Designated Broker that from time to time subscribes for and purchases newly issued ETF Securities (**Creation Units**) directly from one or more ETFs; or (2) an Affiliate Dealer. The Filers are also generally engaged in purchasing and selling ETF Securities of the same class as the Creation Units in the secondary market. Creation Units are generally commingled with ETF Securities purchased in the secondary market. As such, it is not practicable for the Filers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

5. The Filers may also be engaged in purchasing and selling, in the secondary market, ETF Securities of ETFs for which they are not an Authorized Dealer or Designated Broker.

Prospectus Delivery Requirement

6. The principal regulator has advised the Filers that it takes the view that the first re-sale of a Creation Unit on an exchange or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Filers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities purchased by the Filers in the secondary market, that are not Creation Units, would not ordinarily constitute a distribution of ETF Securities.

7. Compliance with the Prospectus Delivery Requirement is not practicable in the circumstances of re-sales of Creation Units on an exchange or another marketplace by a Filer as the Filer will often not know the identity of a purchaser and will generally not know whether a sale involves Creation Units.

8. The Prospectus Delivery Requirement affects investors in ETF Securities differently depending upon whether their purchase order is filled through the re-sale of Creation Units or through a secondary market trade. The Prospectus Delivery Requirement also affects investors in ETF Securities differently from investors in conventional mutual funds because, unlike sales of conventional mutual funds, only sales of ETF Securities that are Creation Units are distributions under the Legislation.

9. The Filers, when acting for a purchaser of an ETF Security, are required under the Legislation to deliver a trade confirmation to the purchaser in connection with each trade of an ETF Security, unless a Filer is exempt from the requirement in respect of a particular trade. Investors in ETF Securities will be better served if the Filers send or deliver a prescribed summary disclosure document to all purchasers of ETF Securities who are customers of a Filer at the same time as they deliver the trade confirmation, regardless of whether the purchaser's order is filled through the re-sale of a Creation Unit, or through the re-sale of an ETF Security purchased in the secondary market.

10. The principal regulator has granted relief to various ETF Managers from the requirements to include an underwriter's certificate and to include a statement respecting purchasers' statutory rights of withdrawal and rescission in an ETF's prospectus (the **ETF Relief**). Conditions of the ETF Relief include that an ETF must file a prescribed summary disclosure document with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (the **Summary Document**).

Civil Liability for Prospectus Misrepresentations

11. The liability under the prospectus civil liability provisions of the Legislation, of an ETF or its investment fund manager for a misrepresentation in a prospectus, will not be affected by the grant of an exemption from the Prospectus Delivery Requirement. Under such provisions, purchasers of Creation Units offered by a prospectus during the period of distribution have a right of action for damages against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus. Under the secondary market disclosure civil liability provisions of the Legislation, purchasers of ETF Securities that are not Creation Units and, therefore, are not offered by prospectus during the period of distribution, have a similar right of action for damages for misrepresentation in a prospectus against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus.

12. The Filers take the view, in the circumstances, that they are not underwriters within the meaning of the Legislation. The Filers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting. They are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. ETF Managers generally conduct their own marketing, advertising and promotion of the ETFs. The Filers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities. In the circumstances, the Filers take the view that a purchaser of an ETF Security will not be entitled to exercise a statutory right of action for rescission or damages against an Authorized Dealer or Designated Broker in the event that the prospectus contains a misrepresentation.

Right of Withdrawal

13. Under the Legislation, if the Prospectus Delivery Requirement applies in respect of a sale of Creation Units, the purchaser of the Creation Units has a Right of Withdrawal.

14. It is not practicable for the Filers to provide purchasers of Creation Units on an exchange or another marketplace with a prospectus in accordance with the Prospectus Delivery Requirement as a Filer will often not know the identity of a purchaser and will generally not know whether the sale involves Creation Units.

15. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Right of Withdrawal will not be available to the purchaser of Creation Units if a prospectus is not required to be sent or delivered. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Right of Withdrawal will not be available in such circumstances. Under the ETF Relief, an ETF will state in its Summary Document that under the securities legislation of some of the Jurisdictions an investor has the Trade Confirmation

Right of Rescission and other rights and remedies if the Summary Document or prospectus contains a misrepresentation.

Prospectus Right of Rescission

16. Under the Legislation, if a dealer is subject to the Prospectus Delivery Requirement in respect of a sale of Creation Units, the purchaser of the Creation Units has the Prospectus Right of Rescission.

17. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Prospectus Right of Rescission will not be available to the purchaser of Creation Units because the Prospectus Delivery Requirement will not apply. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Prospectus Right of Rescission will not be available in such circumstances.

Trade Confirmation Right of Rescission

18. In applicable Jurisdictions, purchasers of ETF Securities will continue to have the Trade Confirmation Right of Rescission as it is not affected by the grant of an exemption from the Prospectus Delivery Requirement.

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 by the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. Each Filer undertakes to the principal regulator that it will, beginning on or around September 1, 2013, unless the Filer has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Filer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Filer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

2. Each Filer provides to each ETF Manager of an ETF for which it is an Authorized Dealer or Designated Broker, or is an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

3. Each Filer provides to each ETF Manager of an ETF in whose ETF Securities it is generally engaged in purchasing and selling in the secondary market on behalf of its customers, but for which it is not an Authorized Dealer or Designated Broker, or is not an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

4. Each Filer files with the principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

The Exemption Sought terminates on September 1, 2015.

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

2.1.16 RBC Dominion Securities Inc. and RBC Direct Investing Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to dealers from the prospectus delivery requirement – Relief granted from requirement to deliver prospectus subject to dealers sending or delivering a prescribed summary disclosure document to purchasers with trade confirmation when acting as agent of the purchaser – Relief conditional on implementing alternative prospectus delivery requirement – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify new alternative prospectus delivery requirement – Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71(1), 147.

July 19, 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
RBC DOMINION SECURITIES INC. AND
RBC DIRECT INVESTING INC.
(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 exemptive relief from the Prospectus Delivery Requirement (as defined below) in connection with distributions of an ETF Security (as defined below) (the **Exemption Sought**).

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

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

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

Interpretation

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

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on an exchange or another marketplace.

ETF means an open end mutual fund that has listed a class of securities on an exchange in Canada.

ETF Security means a listed security of an ETF.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Prospectus Right of Rescission means the right of action, given to a purchaser under the Legislation, for rescission or damages against a dealer, for failure of the dealer to send or deliver a prospectus to a purchaser of a security or its agent to whom a prospectus and any amendment was required to be sent or delivered but was not sent or delivered in compliance with the Prospectus Delivery Requirement. In Québec, such a purchaser may apply to have the transaction rescinded or the price revised, at the purchaser's option, without prejudice to the purchaser's claim for damages. Collectively, these rights are referred to as the **Prospectus Rights of Rescission**.

Right of Withdrawal means the right, given to a purchaser under the Legislation, to withdraw from an agreement of purchase and sale for a security to which the Prospectus Delivery Requirement applies if the dealer from which the purchaser purchases the security receives written notice evidencing the intention of the purchaser not to be bound by the agreement within two business days of receipt of the latest prospectus and any amendment. In Québec, this right is called a right to rescind. Collectively, these rights are referred to as the **Rights of Withdrawal**.

Trade Confirmation Right of Rescission means the right, given to a purchaser of an ETF Security under the Legislation in certain circumstances, to rescind the purchase within 48 hours after receiving confirmation of the purchase.

Representations

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

1. The Filers are registered as investment dealers in one or more of the Jurisdictions.

2. The head offices of the Filers are located in Toronto, Ontario.

3. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions pursuant to a prospectus. ETF Securities are generally only subscribed for or purchased directly from the ETF by Authorized Dealers or Designated Brokers. Investors are generally expected to purchase ETF Securities through dealers executing trades using the facilities of an exchange or another marketplace. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

4. Each of the Filers is either: (1) an Authorized Dealer and/or Designated Broker that from time to time subscribes for and purchases newly issued ETF Securities (**Creation Units**) directly from one or more ETFs; or (2) an Affiliate Dealer. The Filers are also generally engaged in purchasing and selling ETF Securities of the same class as the Creation Units in the secondary market. Creation Units are generally commingled with ETF Securities purchased in the secondary market. As such, it is not practicable for the Filers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

5. The Filers may also be engaged in purchasing and selling, in the secondary market, ETF Securities of ETFs for which they are not an Authorized Dealer or Designated Broker.

Prospectus Delivery Requirement

6. The principal regulator has advised the Filers that it takes the view that the first re-sale of a Creation Unit on an exchange or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Filers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities purchased by the Filers in the secondary market, that are not Creation Units, would not ordinarily constitute a distribution of ETF Securities.

7. Compliance with the Prospectus Delivery Requirement is not practicable in the circumstances of re-sales of Creation Units on an exchange or another marketplace by a Filer as the Filer will often not know the identity of a purchaser and will generally not know whether a sale involves Creation Units.

8. The Prospectus Delivery Requirement affects investors in ETF Securities differently depending upon whether their purchase order is filled through the re-sale of Creation Units or through a secondary market trade. The Prospectus Delivery Requirement also affects investors in ETF Securities differently from investors in conventional mutual funds because, unlike sales of conventional mutual funds, only sales of ETF Securities that are Creation Units are distributions under the Legislation.

9. The Filers, when acting for a purchaser of an ETF Security, are required under the Legislation to deliver a trade confirmation to the purchaser in connection with each trade of an ETF Security, unless a Filer is exempt from the requirement in respect of a particular trade. Investors in ETF Securities will be better served if the Filers send or deliver a prescribed summary disclosure document to all purchasers of ETF Securities who are customers of a Filer at the same time as they deliver the trade confirmation, regardless of whether the purchaser's order is filled through the re-sale of a Creation Unit, or through the re-sale of an ETF Security purchased in the secondary market.

10. The principal regulator has granted relief to various ETF Managers from the requirements to include an underwriter's certificate and to include a statement respecting purchasers' statutory rights of withdrawal and rescission in an ETF's prospectus (the **ETF Relief**). Conditions of the ETF Relief include that an ETF must file a prescribed summary disclosure document with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (the **Summary Document**).

Civil Liability for Prospectus Misrepresentations

11. The liability under the prospectus civil liability provisions of the Legislation, of an ETF or its investment fund manager for a misrepresentation in a prospectus, will not be affected by the grant of an exemption from the Prospectus Delivery Requirement. Under such provisions, purchasers of Creation Units offered by a prospectus during the period of distribution have a right of action for damages against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus. Under the secondary market disclosure civil liability provisions of the Legislation, purchasers of ETF Securities that are not Creation Units and, therefore, are not offered by prospectus during the period of distribution, have a similar right of action for damages for misrepresentation in a prospectus against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus.

12. The Filers take the view, in the circumstances, that they are not underwriters within the meaning of the Legislation. The Filers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting. They are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. ETF Managers generally conduct their own marketing, advertising and promotion of the ETFs. The Filers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities. In the circumstances, the Filers take the view that a purchaser of an ETF Security will not be entitled to exercise a statutory right of action for rescission or damages against an Authorized Dealer or Designated Broker in the event that the prospectus contains a misrepresentation.

Right of Withdrawal

13. Under the Legislation, if the Prospectus Delivery Requirement applies in respect of a sale of Creation Units, the purchaser of the Creation Units has a Right of Withdrawal.

14. It is not practicable for the Filers to provide purchasers of Creation Units on an exchange or another marketplace with a prospectus in accordance with the Prospectus Delivery Requirement as a Filer will often not know the identity of a purchaser and will generally not know whether the sale involves Creation Units.

15. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Right of Withdrawal will not be available to the purchaser of Creation Units if a prospectus is not required to be sent or delivered. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Right of Withdrawal will not be available in such circumstances. Under the ETF Relief, an ETF will state in its Summary Document that under the securities legislation of some of the Jurisdictions an investor has the Trade Confirmation

Right of Rescission and other rights and remedies if the Summary Document or prospectus contains a misrepresentation.

Prospectus Right of Rescission

16. Under the Legislation, if a dealer is subject to the Prospectus Delivery Requirement in respect of a sale of Creation Units, the purchaser of the Creation Units has the Prospectus Right of Rescission.

17. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Prospectus Right of Rescission will not be available to the purchaser of Creation Units because the Prospectus Delivery Requirement will not apply. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Prospectus Right of Rescission will not be available in such circumstances.

Trade Confirmation Right of Rescission

18. In applicable Jurisdictions, purchasers of ETF Securities will continue to have the Trade Confirmation Right of Rescission as it is not affected by the grant of an exemption from the Prospectus Delivery Requirement.

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 by the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. Each Filer undertakes to the principal regulator that it will, beginning on or around September 1, 2013, unless the Filer has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Filer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Filer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

2. Each Filer provides to each ETF Manager of an ETF for which it is an Authorized Dealer or Designated Broker, or is an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

3. Each Filer provides to each ETF Manager of an ETF in whose ETF Securities it is generally engaged in purchasing and selling in the secondary market on behalf of its customers, but for which it is not an Authorized Dealer or Designated Broker, or is not an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

4. ach Filer files with the principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

The Exemption Sought terminates on September 1, 2015.

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

2.1.17 Scotia Capital Inc. and DWM Securities Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to dealers from the prospectus delivery requirement – Relief granted from requirement to deliver prospectus subject to dealers sending or delivering a prescribed summary disclosure document to purchasers with trade confirmation when acting as agent of the purchaser – Relief conditional on implementing alternative prospectus delivery requirement – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify new alternative prospectus delivery requirement – Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71(1), 147.

July 19, 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
SCOTIA CAPITAL INC. AND
DWM SECURITIES INC.
(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 exemptive relief from the Prospectus Delivery Requirement (as defined below) in connection with distributions of an ETF Security (as defined below) (the **Exemption Sought**).

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

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

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

Interpretation

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

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on an exchange or another marketplace.

ETF means an open end mutual fund that has listed a class of securities on an exchange in Canada.

ETF Security means a listed security of an ETF.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Prospectus Right of Rescission means the right of action, given to a purchaser under the Legislation, for rescission or damages against a dealer, for failure of the dealer to send or deliver a prospectus to a purchaser of a security or its agent to whom a prospectus and any amendment was required to be sent or delivered but was not sent or delivered in compliance with the Prospectus Delivery Requirement. In Québec, such a purchaser may apply to have the transaction rescinded or the price revised, at the purchaser's option, without prejudice to the purchaser's claim for damages. Collectively, these rights are referred to as the **Prospectus Rights of Rescission**.

Right of Withdrawal means the right, given to a purchaser under the Legislation, to withdraw from an agreement of purchase and sale for a security to which the Prospectus Delivery Requirement applies if the dealer from which the purchaser purchases the security receives written notice evidencing the intention of the purchaser not to be bound by the agreement within two business days of receipt of the latest prospectus and any amendment. In Québec, this right is called a right to rescind. Collectively, these rights are referred to as the **Rights of Withdrawal**.

Trade Confirmation Right of Rescission means the right, given to a purchaser of an ETF Security under the Legislation in certain circumstances, to rescind the purchase within 48 hours after receiving confirmation of the purchase.

Representations

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

1. The Filers are registered as investment dealers in one or more of the Jurisdictions.

2. The head offices of the Filers are located in Toronto, Ontario.

3. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions pursuant to a prospectus. ETF Securities are generally only subscribed for or purchased directly from the ETF by Authorized Dealers or Designated Brokers. Investors are generally expected to purchase ETF Securities through dealers executing trades using the facilities of an exchange or another marketplace. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

4. Each of the Filers is either: (1) an Authorized Dealer and/or Designated Broker that from time to time subscribes for and purchases newly issued ETF Securities (**Creation Units**) directly from one or more ETFs; or (2) an Affiliate Dealer. The Filers are also generally engaged in purchasing and selling ETF Securities of the same class as the Creation Units in the secondary market. Creation Units are generally commingled with ETF Securities purchased in the secondary market. As such, it is not practicable for the Filers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

5. The Filers may also be engaged in purchasing and selling, in the secondary market, ETF Securities of ETFs for which they are not an Authorized Dealer or Designated Broker.

Prospectus Delivery Requirement

6. The principal regulator has advised the Filers that it takes the view that the first re-sale of a Creation Unit on an exchange or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Filers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities purchased by the Filers in the secondary market, that are not Creation Units, would not ordinarily constitute a distribution of ETF Securities.

7. Compliance with the Prospectus Delivery Requirement is not practicable in the circumstances of re-sales of Creation Units on an exchange or another marketplace by a Filer as the Filer will often not know the identity of a purchaser and will generally not know whether a sale involves Creation Units.

8. The Prospectus Delivery Requirement affects investors in ETF Securities differently depending upon whether their purchase order is filled through the re-sale of Creation Units or through a secondary market trade. The Prospectus Delivery Requirement also affects investors in ETF Securities differently from investors in conventional mutual funds because, unlike sales of conventional mutual funds, only sales of ETF Securities that are Creation Units are distributions under the Legislation.

9. The Filers, when acting for a purchaser of an ETF Security, are required under the Legislation to deliver a trade confirmation to the purchaser in connection with each trade of an ETF Security, unless a Filer is exempt from the requirement in respect of a particular trade. Investors in ETF Securities will be better served if the Filers send or deliver a prescribed summary disclosure document to all purchasers of ETF Securities who are customers of a Filer at the same time as they deliver the trade confirmation, regardless of whether the purchaser's order is filled through the re-sale of a Creation Unit, or through the re-sale of an ETF Security purchased in the secondary market.

10. The principal regulator has granted relief to various ETF Managers from the requirements to include an underwriter's certificate and to include a statement respecting purchasers' statutory rights of withdrawal and rescission in an ETF's prospectus (the **ETF Relief**). Conditions of the ETF Relief include that an ETF must file a prescribed summary disclosure document with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (the **Summary Document**).

Civil Liability for Prospectus Misrepresentations

11. The liability under the prospectus civil liability provisions of the Legislation, of an ETF or its investment fund manager for a misrepresentation in a prospectus, will not be affected by the grant of an exemption from the Prospectus Delivery Requirement. Under such provisions, purchasers of Creation Units offered by a prospectus during the period of distribution have a right of action for damages against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus. Under the secondary market disclosure civil liability provisions of the Legislation, purchasers of ETF Securities that are not Creation Units and, therefore, are not offered by prospectus during the period of distribution, have a similar right of action for damages for misrepresentation in a prospectus against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus.

12. The Filers take the view, in the circumstances, that they are not underwriters within the meaning of the Legislation. The Filers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting. They are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. ETF Managers generally conduct their own marketing, advertising and promotion of the ETFs. The Filers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities. In the circumstances, the Filers take the view that a purchaser of an ETF Security will not be entitled to exercise a statutory right of action for rescission or damages against an Authorized Dealer or Designated Broker in the event that the prospectus contains a misrepresentation.

Right of Withdrawal

13. Under the Legislation, if the Prospectus Delivery Requirement applies in respect of a sale of Creation Units, the purchaser of the Creation Units has a Right of Withdrawal.

14. It is not practicable for the Filers to provide purchasers of Creation Units on an exchange or another marketplace with a prospectus in accordance with the Prospectus Delivery Requirement as a Filer will often not know the identity of a purchaser and will generally not know whether the sale involves Creation Units.

15. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Right of Withdrawal will not be available to the purchaser of Creation Units if a prospectus is not required to be sent or delivered. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Right of Withdrawal will not be available in such circumstances. Under the ETF Relief, an ETF will state in its Summary Document that under the securities legislation of some of the Jurisdictions an investor has the Trade Confirmation

Right of Rescission and other rights and remedies if the Summary Document or prospectus contains a misrepresentation.

Prospectus Right of Rescission

16. Under the Legislation, if a dealer is subject to the Prospectus Delivery Requirement in respect of a sale of Creation Units, the purchaser of the Creation Units has the Prospectus Right of Rescission.

17. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Prospectus Right of Rescission will not be available to the purchaser of Creation Units because the Prospectus Delivery Requirement will not apply. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Prospectus Right of Rescission will not be available in such circumstances.

Trade Confirmation Right of Rescission

18. In applicable Jurisdictions, purchasers of ETF Securities will continue to have the Trade Confirmation Right of Rescission as it is not affected by the grant of an exemption from the Prospectus Delivery Requirement.

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 by the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. Each Filer undertakes to the principal regulator that it will, beginning on or around September 1, 2013, unless the Filer has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Filer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Filer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

2. Each Filer provides to each ETF Manager of an ETF for which it is an Authorized Dealer or Designated Broker, or is an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

3. Each Filer provides to each ETF Manager of an ETF in whose ETF Securities it is generally engaged in purchasing and selling in the secondary market on behalf of its customers, but for which it is not an Authorized Dealer or Designated Broker, or is not an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

4. Each Filer files with the principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

The Exemption Sought terminates on September 1, 2015.

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

2.1.18 CIBC World Markets Inc. and CIBC Investor Services Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to dealers from the prospectus delivery requirement – Relief granted from requirement to deliver prospectus subject to dealers sending or delivering a prescribed summary disclosure document to purchasers with trade confirmation when acting as agent of the purchaser – Relief conditional on implementing alternative prospectus delivery requirement – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify new alternative prospectus delivery requirement – Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71(1), 147.

July 19, 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
CIBC WORLD MARKETS INC. AND
CIBC INVESTOR SERVICES INC.
(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 exemptive relief from the Prospectus Delivery Requirement (as defined below) in connection with distributions of an ETF Security (as defined below) (the **Exemption Sought**).

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

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

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

Interpretation

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

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on an exchange or another marketplace.

ETF means an open end mutual fund that has listed a class of securities on an exchange in Canada.

ETF Security means a listed security of an ETF.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Prospectus Right of Rescission means the right of action, given to a purchaser under the Legislation, for rescission or damages against a dealer, for failure of the dealer to send or deliver a prospectus to a purchaser of a security or its agent to whom a prospectus and any amendment was required to be sent or delivered but was not sent or delivered in compliance with the Prospectus Delivery Requirement. In Québec, such a purchaser may apply to have the transaction rescinded or the price revised, at the purchaser's option, without prejudice to the purchaser's claim for damages. Collectively, these rights are referred to as the **Prospectus Rights of Rescission**.

Right of Withdrawal means the right, given to a purchaser under the Legislation, to withdraw from an agreement of purchase and sale for a security to which the Prospectus Delivery Requirement applies if the dealer from which the purchaser purchases the security receives written notice evidencing the intention of the purchaser not to be bound by the agreement within two business days of receipt of the latest prospectus and any amendment. In Québec, this right is called a right to rescind. Collectively, these rights are referred to as the **Rights of Withdrawal**.

Trade Confirmation Right of Rescission means the right, given to a purchaser of an ETF Security under the Legislation in certain circumstances, to rescind the purchase within 48 hours after receiving confirmation of the purchase.

Representations

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

1. The Filers are registered as investment dealers in one or more of the Jurisdictions.

2. The head offices of the Filers are located in Toronto, Ontario.

3. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions pursuant to a prospectus. ETF Securities are generally only subscribed for or purchased directly from the ETF by Authorized Dealers or Designated Brokers. Investors are generally expected to purchase ETF Securities through dealers executing trades using the facilities of an exchange or another marketplace. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

4. Each of the Filers is either: (1) an Authorized Dealer and/or Designated Broker that from time to time subscribes for and purchases newly issued ETF Securities (**Creation Units**) directly from one or more ETFs; or (2) an Affiliate Dealer. The Filers are also generally engaged in purchasing and selling ETF Securities of the same class as the Creation Units in the secondary market. Creation Units are generally commingled with ETF Securities purchased in the secondary market. As such, it is not practicable for the Filers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

5. The Filers may also be engaged in purchasing and selling, in the secondary market, ETF Securities of ETFs for which they are not an Authorized Dealer or Designated Broker.

Prospectus Delivery Requirement

6. The principal regulator has advised the Filers that it takes the view that the first re-sale of a Creation Unit on an exchange or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Filers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities purchased by the Filers in the secondary market, that are not Creation Units, would not ordinarily constitute a distribution of ETF Securities.

7. Compliance with the Prospectus Delivery Requirement is not practicable in the circumstances of re-sales of Creation Units on an exchange or another marketplace by a Filer as the Filer will often not know the identity of a purchaser and will generally not know whether a sale involves Creation Units.

8. The Prospectus Delivery Requirement affects investors in ETF Securities differently depending upon whether their purchase order is filled through the re-sale of Creation Units or through a secondary market trade. The Prospectus Delivery Requirement also affects investors in ETF Securities differently from investors in conventional mutual funds because, unlike sales of conventional mutual funds, only sales of ETF Securities that are Creation Units are distributions under the Legislation.

9. The Filers, when acting for a purchaser of an ETF Security, are required under the Legislation to deliver a trade confirmation to the purchaser in connection with each trade of an ETF Security, unless a Filer is exempt from the requirement in respect of a particular trade. Investors in ETF Securities will be better served if the Filers send or deliver a prescribed summary disclosure document to all purchasers of ETF Securities who are customers of a Filer at the same time as they deliver the trade confirmation, regardless of whether the purchaser's order is filled through the re-sale of a Creation Unit, or through the re-sale of an ETF Security purchased in the secondary market.

10. The principal regulator has granted relief to various ETF Managers from the requirements to include an underwriter's certificate and to include a statement respecting purchasers' statutory rights of withdrawal and rescission in an ETF's prospectus (the **ETF Relief**). Conditions of the ETF Relief include that an ETF must file a prescribed summary disclosure document with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (the **Summary Document**).

Civil Liability for Prospectus Misrepresentations

11. The liability under the prospectus civil liability provisions of the Legislation, of an ETF or its investment fund manager for a misrepresentation in a prospectus, will not be affected by the grant of an exemption from the Prospectus Delivery Requirement. Under such provisions, purchasers of Creation Units offered by a prospectus during the period of distribution have a right of action for damages against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus. Under the secondary market disclosure civil liability provisions of the Legislation, purchasers of ETF Securities that are not Creation Units and, therefore, are not offered by prospectus during the period of distribution, have a similar right of action for damages for misrepresentation in a prospectus against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus.

12. The Filers take the view, in the circumstances, that they are not underwriters within the meaning of the Legislation. The Filers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting. They are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. ETF Managers generally conduct their own marketing, advertising and promotion of the ETFs. The Filers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities. In the circumstances, the Filers take the view that a purchaser of an ETF Security will not be entitled to exercise a statutory right of action for rescission or damages against an Authorized Dealer or Designated Broker in the event that the prospectus contains a misrepresentation.

Right of Withdrawal

13. Under the Legislation, if the Prospectus Delivery Requirement applies in respect of a sale of Creation Units, the purchaser of the Creation Units has a Right of Withdrawal.

14. It is not practicable for the Filers to provide purchasers of Creation Units on an exchange or another marketplace with a prospectus in accordance with the Prospectus Delivery Requirement as a Filer will often not know the identity of a purchaser and will generally not know whether the sale involves Creation Units.

15. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Right of Withdrawal will not be available to the purchaser of Creation Units if a prospectus is not required to be sent or delivered. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Right of Withdrawal will not be available in such circumstances. Under the ETF Relief, an ETF will state in its Summary Document that under the securities legislation of some of the Jurisdictions an investor has the Trade Confirmation

Right of Rescission and other rights and remedies if the Summary Document or prospectus contains a misrepresentation.

Prospectus Right of Rescission

16. Under the Legislation, if a dealer is subject to the Prospectus Delivery Requirement in respect of a sale of Creation Units, the purchaser of the Creation Units has the Prospectus Right of Rescission.

17. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Prospectus Right of Rescission will not be available to the purchaser of Creation Units because the Prospectus Delivery Requirement will not apply. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Prospectus Right of Rescission will not be available in such circumstances.

Trade Confirmation Right of Rescission

18. In applicable Jurisdictions, purchasers of ETF Securities will continue to have the Trade Confirmation Right of Rescission as it is not affected by the grant of an exemption from the Prospectus Delivery Requirement.

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 by the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. Each Filer undertakes to the principal regulator that it will, beginning on or around September 1, 2013, unless the Filer has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Filer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Filer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

2. Each Filer provides to each ETF Manager of an ETF for which it is an Authorized Dealer or Designated Broker, or is an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

3. Each Filer provides to each ETF Manager of an ETF in whose ETF Securities it is generally engaged in purchasing and selling in the secondary market on behalf of its customers, but for which it is not an Authorized Dealer or Designated Broker, or is not an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

4. Each Filer files with the principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

The Exemption Sought terminates on September 1, 2015.

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

2.1.19 National Bank Financial Ltd. and NBCN Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to dealers from the prospectus delivery requirement – Relief granted from requirement to deliver prospectus subject to dealers sending or delivering a prescribed summary disclosure document to purchasers with trade confirmation when acting as agent of the purchaser – Relief conditional on implementing alternative prospectus delivery requirement – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify new alternative prospectus delivery requirement – Securities Act (Ontario).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71(1), 147.

July 19, 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
NATIONAL BANK FINANCIAL LTD. AND
NBCN INC.
(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 exemptive relief from the Prospectus Delivery Requirement (as defined below) in connection with distributions of an ETF Security (as defined below) (the **Exemption Sought**).

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

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

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

Interpretation

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

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on an exchange or another marketplace.

ETF means an open end mutual fund that has listed a class of securities on an exchange in Canada.

ETF Security means a listed security of an ETF.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Prospectus Right of Rescission means the right of action, given to a purchaser under the Legislation, for rescission or damages against a dealer, for failure of the dealer to send or deliver a prospectus to a purchaser of a security or its agent to whom a prospectus and any amendment was required to be sent or delivered but was not sent or delivered in compliance with the Prospectus Delivery Requirement. In Québec, such a purchaser may apply to have the transaction rescinded or the price revised, at the purchaser's option, without prejudice to the purchaser's claim for damages. Collectively, these rights are referred to as the **Prospectus Rights of Rescission**.

Right of Withdrawal means the right, given to a purchaser under the Legislation, to withdraw from an agreement of purchase and sale for a security to which the Prospectus Delivery Requirement applies if the dealer from which the purchaser purchases the security receives written notice evidencing the intention of the purchaser not to be bound by the agreement within two business days of receipt of the latest prospectus and any amendment. In Québec, this right is called a right to rescind. Collectively, these rights are referred to as the **Rights of Withdrawal**.

Trade Confirmation Right of Rescission means the right, given to a purchaser of an ETF Security under the Legislation in certain circumstances, to rescind the purchase within 48 hours after receiving confirmation of the purchase.

Representations

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

1. The Filers are registered as investment dealers in one or more of the Jurisdictions.

2. The head offices of the Filers are located in Toronto, Ontario.

3. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions pursuant to a prospectus. ETF Securities are generally only subscribed for or purchased directly from the ETF by Authorized Dealers or Designated Brokers. Investors are generally expected to purchase ETF Securities through dealers executing trades using the facilities of an exchange or another marketplace. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

4. Each of the Filers is either: (1) an Authorized Dealer and/or Designated Broker that from time to time subscribes for and purchases newly issued ETF Securities (**Creation Units**) directly from one or more ETFs; or (2) an Affiliate Dealer. The Filers are also generally engaged in purchasing and selling ETF Securities of the same class as the Creation Units in the secondary market. Creation Units are generally commingled with ETF Securities purchased in the secondary market. As such, it is not practicable for the Filers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

5. The Filers may also be engaged in purchasing and selling, in the secondary market, ETF Securities of ETFs for which they are not an Authorized Dealer or Designated Broker.

Prospectus Delivery Requirement

6. The principal regulator has advised the Filers that it takes the view that the first re-sale of a Creation Unit on an exchange or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Filers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities purchased by the Filers in the secondary market, that are not Creation Units, would not ordinarily constitute a distribution of ETF Securities.

7. Compliance with the Prospectus Delivery Requirement is not practicable in the circumstances of re-sales of Creation Units on an exchange or another marketplace by a Filer as the Filer will often not know the identity of a purchaser and will generally not know whether a sale involves Creation Units.

8. The Prospectus Delivery Requirement affects investors in ETF Securities differently depending upon whether their purchase order is filled through the re-sale of Creation Units or through a secondary market trade. The Prospectus Delivery Requirement also affects investors in ETF Securities differently from investors in conventional mutual funds because, unlike sales of conventional mutual funds, only sales of ETF Securities that are Creation Units are distributions under the Legislation.

9. The Filers, when acting for a purchaser of an ETF Security, are required under the Legislation to deliver a trade confirmation to the purchaser in connection with each trade of an ETF Security, unless a Filer is exempt from the requirement in respect of a particular trade. Investors in ETF Securities will be better served if the Filers send or deliver a prescribed summary disclosure document to all purchasers of ETF Securities who are customers of a Filer at the same time as they deliver the trade confirmation, regardless of whether the purchaser's order is filled through the re-sale of a Creation Unit, or through the re-sale of an ETF Security purchased in the secondary market.

10. The principal regulator has granted relief to various ETF Managers from the requirements to include an underwriter's certificate and to include a statement respecting purchasers' statutory rights of withdrawal and rescission in an ETF's prospectus (the **ETF Relief**). Conditions of the ETF Relief include that an ETF must file a prescribed summary disclosure document with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (the **Summary Document**).

Civil Liability for Prospectus Misrepresentations

11. The liability under the prospectus civil liability provisions of the Legislation, of an ETF or its investment fund manager for a misrepresentation in a prospectus, will not be affected by the grant of an exemption from the Prospectus Delivery Requirement. Under such provisions, purchasers of Creation Units offered by a prospectus during the period of distribution have a right of action for damages against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus. Under the secondary market disclosure civil liability provisions of the Legislation, purchasers of ETF Securities that are not Creation Units and, therefore, are not offered by prospectus during the period of distribution, have a similar right of action for damages for misrepresentation in a prospectus against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus.

12. The Filers take the view, in the circumstances, that they are not underwriters within the meaning of the Legislation. The Filers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting. They are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. ETF Managers generally conduct their own marketing, advertising and promotion of the ETFs. The Filers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities. In the circumstances, the Filers take the view that a purchaser of an ETF Security will not be entitled to exercise a statutory right of action for rescission or damages against an Authorized Dealer or Designated Broker in the event that the prospectus contains a misrepresentation.

Right of Withdrawal

13. Under the Legislation, if the Prospectus Delivery Requirement applies in respect of a sale of Creation Units, the purchaser of the Creation Units has a Right of Withdrawal.

14. It is not practicable for the Filers to provide purchasers of Creation Units on an exchange or another marketplace with a prospectus in accordance with the Prospectus Delivery Requirement as a Filer will often not know the identity of a purchaser and will generally not know whether the sale involves Creation Units.

15. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Right of Withdrawal will not be available to the purchaser of Creation Units if a prospectus is not required to be sent or delivered. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Right of Withdrawal will not be available in such circumstances. Under the ETF Relief, an ETF will state in its Summary Document that under the securities legislation of some of the Jurisdictions an investor has the Trade Confirmation

Right of Rescission and other rights and remedies if the Summary Document or prospectus contains a misrepresentation.

Prospectus Right of Rescission

16. Under the Legislation, if a dealer is subject to the Prospectus Delivery Requirement in respect of a sale of Creation Units, the purchaser of the Creation Units has the Prospectus Right of Rescission.

17. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Prospectus Right of Rescission will not be available to the purchaser of Creation Units because the Prospectus Delivery Requirement will not apply. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Prospectus Right of Rescission will not be available in such circumstances.

Trade Confirmation Right of Rescission

18. In applicable Jurisdictions, purchasers of ETF Securities will continue to have the Trade Confirmation Right of Rescission as it is not affected by the grant of an exemption from the Prospectus Delivery Requirement.

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 by the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. Each Filer undertakes to the principal regulator that it will, beginning on or around September 1, 2013, unless the Filer has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Filer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Filer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

2. Each Filer provides to each ETF Manager of an ETF for which it is an Authorized Dealer or Designated Broker, or is an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

3. Each Filer provides to each ETF Manager of an ETF in whose ETF Securities it is generally engaged in purchasing and selling in the secondary market on behalf of its customers, but for which it is not an Authorized Dealer or Designated Broker, or is not an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

4. Each Filer files with the principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

The Exemption Sought terminates on September 1, 2015.

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

2.1.20 National Bank Financial Inc. and National Bank Direct Brokerage Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to dealers from the prospectus delivery requirement – Relief granted from requirement to deliver prospectus subject to dealers sending or delivering a prescribed summary disclosure document to purchasers with trade confirmation when acting as agent of the purchaser – Relief conditional on implementing alternative prospectus delivery requirement – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify new alternative prospectus delivery requirement.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 71(1), 147.

[Translation]

July 19, 2013

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

AND

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

AND

IN THE MATTER OF
NATIONAL BANK FINANCIAL INC. AND
NATIONAL BANK DIRECT BROKERAGE INC.
(individually, a Filer and collectively, the Filers)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for exemptive relief from the Prospectus Delivery Requirement (as defined below) in connection with distributions of an ETF Security (as defined below) (the **Exemption Sought**).

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

(a) the Authorité de marchés financier is the principal regulator for this application;

(b) the Filers have provided notice that subsection 4.7(1) of *Regulation 11-102 respecting Passport System* (c. V-1.1, r. 1) (**Regulation 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon Territory and Nunavut; and

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

Interpretation

Terms defined in *Regulation 14-101 Definitions* (c. V-1.1, r.3), and Regulation 11-102 have the same meaning if used in this decision, unless otherwise defined.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Creation Units means newly issued ETF Securities.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on an exchange or another marketplace.

ETF means an open end mutual fund of which a class of securities is listed on an exchange in a jurisdiction of Canada.

ETF Manager means the duly registered investment fund manager of an ETF.

ETF Security or **ETF Securities** means a listed security or listed securities of an ETF in a jurisdiction of Canada.

Prospectus Delivery Requirement means the requirement under the Legislation that obligates a dealer to send or deliver to the subscriber or the purchaser or their representative, within a specified time period and in a specified manner, the prospectus, and any amendment to the prospectus, in respect of an application to subscribe for or purchase securities offered in a distribution. In Québec, this requirement is set forth in section 29 of the *Securities Act*, R.S.Q. c. V-1.1. Collectively, these requirements are referred to as the **Prospectus Delivery Requirements**.

Prospectus Right of Rescission means the right of action, given to a person under the Legislation, for rescission of, or the revision of the price of, the subscription or purchase of an ETF Security or for damages against a dealer for the failure of the dealer to send or deliver a prospectus to the subscriber or the purchaser or its agent to whom a prospectus, and any amendment, was required to be sent or delivered pursuant to the Prospectus Delivery Requirement. In Québec, as set forth in section 214 of the *Securities Act*, R.S.Q. c. V-1.1, such a subscriber or a purchaser may apply to have the transaction rescinded or the price revised, at the subscriber's or the purchaser's option, without prejudice to the subscriber's or the purchaser's claim for damages. Collectively, these rights are referred to as the **Prospectus Rights of Rescission**.

Right of Withdrawal means the right, given to a subscriber or a purchaser under the Legislation, to withdraw from a subscription for or a purchase of securities offered in a distribution if the dealer from which the subscriber or the purchaser subscribed or purchased the securities receives written notice evidencing the intention of the subscriber or the purchaser not to be bound by the subscription or the purchase within two business days of receipt of the latest prospectus or any amendment to the prospectus. In Québec, this right is set forth in section 30 of the *Securities Act*, R.S.Q. c. V-1.1. Collectively, these rights are referred to as the **Rights of Withdrawal**.

Trade Confirmation Right of Rescission means the right, given to a subscriber or purchaser of an ETF Security under the securities legislation of some Canadian jurisdictions in certain circumstances, to rescind the subscription or the purchase within 48 hours after receiving confirmation of the subscription or the purchase.

Representations

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

1. The Filers are duly registered as investment dealers in one or more Canadian jurisdictions.

2. The head office of National Bank Financial Inc. is located at 1115, Metcalfe Street, 5th floor, Sun Life Building, Montreal, Quebec H3B 4S9, and the head office of National Bank Direct Brokerage Inc. is located at 1100, University Street, 7th floor, Montreal, Quebec H3B 2G7.

3. ETF Securities are, or will be, distributed on a continuous basis in one or more Canadian jurisdictions pursuant to a prospectus. ETF Securities are generally only subscribed for or purchased directly from the ETF by Authorized Dealers or Designated Brokers. Investors are generally expected to purchase ETF Securities through dealers executing trades using the facilities of an exchange or another marketplace. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

4. Each of the Filers is either: (1) an Authorized Dealer and/or Designated Broker that from time to time subscribes for and purchases Creation Units directly from one or more ETFs; or (2) an Affiliate Dealer. The Filers are also generally engaged in purchasing and selling ETF Securities of the same class as the Creation Units in the secondary market.

Creation Units are generally commingled with ETF Securities purchased in the secondary market. As such, it is not practicable for the Filers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

5. The Filers may also be engaged in purchasing and selling, in the secondary market, ETF Securities of ETFs for which they are not an Authorized Dealer or Designated Broker.

Prospectus Delivery Requirement

6. Each Decision Maker has advised the Filers that it takes the view that the first re-sale of a Creation Unit on an exchange or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Filers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities purchased by the Filers in the secondary market, that are not Creation Units, would not ordinarily constitute a distribution of ETF Securities.

7. Compliance with the Prospectus Delivery Requirement is not practicable in the circumstances of re-sales of Creation Units on an exchange or another marketplace by a Filer as the Filer will often not know the identity of a subscriber or a purchaser and will generally not know whether a sale involves Creation Units.

8. The Prospectus Delivery Requirement affects purchasers of ETF Securities differently depending upon whether their purchase order is filled through the re-sale of Creation Units or through a secondary market trade. The Prospectus Delivery Requirement also affects purchasers of ETF Securities differently from subscribers of conventional mutual funds securities because only sales of ETF Securities that are Creation Units are distributions under the Legislation.

9. The Filers, when acting for a purchaser of an ETF Security, are required under the Legislation to deliver a trade confirmation to the purchaser in connection with each trade of an ETF Security, unless a Filer is exempt from the requirement in respect of a particular trade. Purchasers of ETF Securities will be better served if the Filers send or deliver a prescribed summary disclosure document to all purchasers of ETF Securities who are customers of a Filer at the same time as they deliver the trade confirmation, regardless of whether the purchaser's order is filled through the re-sale of a Creation Unit, or through the re-sale of an ETF Security purchased in the secondary market.

10. Various ETF Managers have obtained relief from the requirements to include an underwriter's certificate in Canadian jurisdictions where the applicable securities legislation contains such an obligation and to include a statement respecting subscribers' or purchasers' statutory rights of withdrawal and rescission in an ETF's prospectus (the **ETF Relief**). Conditions of the ETF Relief include that an ETF must file a prescribed summary disclosure document with the applicable Canadian jurisdictions on SEDAR (the **Summary Document**).

Civil Liability for Prospectus Misrepresentations

11. The liability under the prospectus civil liability provisions of the Legislation, of an ETF or its investment fund manager for a misrepresentation in a prospectus, will not be affected by the grant of an exemption from the Prospectus Delivery Requirement. Under such provisions, purchasers of Creation Units offered by a prospectus during the period of distribution have a right of action for damages against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus. Under the secondary market disclosure civil liability provisions of the Legislation, purchasers of ETF Securities that are not Creation Units and, therefore, are not offered by prospectus during the period of distribution, have a similar right of action for damages for misrepresentation in a prospectus against the ETF and its investment fund manager without regard to whether the purchaser relied on the misrepresentation and whether or not the purchaser in fact received a copy of the prospectus.

12. The Filers take the view, in the circumstances, that they are not underwriters within the meaning of the Legislation. The Filers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting. They are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. ETF Managers generally conduct their own marketing, advertising and promotion of the ETFs. The Filers generally seek to profit from their ability to subscribe for and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities. In the circumstances, the Filers take the view that a purchaser of ETF Securities will not be entitled to exercise a statutory right of action for rescission or damages against an Authorized Dealer or Designated Broker in the event that the prospectus contains a misrepresentation.

Right of Withdrawal

13. Under the Legislation, if the Prospectus Delivery Requirement applies in respect of a sale of Creation Units, the purchaser of the Creation Units has a Right of Withdrawal.

14. It is not practicable for the Filers to provide purchasers of Creation Units on an exchange or another marketplace with a prospectus in accordance with the Prospectus Delivery Requirement as the Filers will often not know the identity of a purchaser and will generally not know whether the sale involves Creation Units.

15. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Right of Withdrawal will not be available to the purchaser of Creation Units since the Filer will be exempt from the Prospectus Delivery Requirement. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Right of Withdrawal will not be available in such circumstances. Under the ETF Relief, an ETF will state in its Summary Document that under the securities legislation of some Canadian jurisdictions an investor has the Trade Confirmation Right of Rescission and other rights and remedies if the Summary Document or prospectus contains a misrepresentation.

Prospectus Right of Rescission

16. Under the Legislation, if a dealer is subject to the Prospectus Delivery Requirement in respect of a sale of Creation Units, the purchaser of the Creation Units has the Prospectus Right of Rescission.

17. Where the Exemption Sought is being relied upon by a Filer in respect of a re-sale of Creation Units, the Prospectus Right of Rescission will not be available to the purchaser of Creation Units because the Prospectus Delivery Requirement will not apply. Under the ETF Relief, an ETF will state in its prospectus or amendment to its prospectus that the Prospectus Right of Rescission will not be available in such circumstances.

Trade Confirmation Right of Rescission

18. In applicable Canadian jurisdictions, purchasers of ETF Securities will continue to have the Trade Confirmation Right of Rescission as it is not affected by the grant of an exemption from the Prospectus Delivery Requirement.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, provided that by the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. Each Filer undertakes to its principal regulator that it will, beginning on or around September 1st, 2013, unless the Filer has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Filer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Filer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

2. Each Filer provides to each ETF Manager of an ETF for which it is an Authorized Dealer or Designated Broker, or is an Affiliate Dealer, an executed acknowledgement:

    (a) acknowledging receipt of a copy of this decision;

    (b) agreeing to send or deliver the Summary Document in accordance with this decision;

    (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

    (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

3. Each Filer provides to each ETF Manager of each ETF in whose ETF Securities it is generally engaged in purchasing and selling in the secondary market on behalf of its customers, but for which it is not an Authorized Dealer or Designated Broker, or is not an Affiliate Dealer, an executed acknowledgement:

   (a) acknowledging receipt of a copy of this decision;

   (b) agreeing to send or deliver the Summary Document in accordance with this decision;

   (c) undertaking that the Filer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under this decision at the same time to an investor purchasing ETF Securities of each such ETF; and

   (d) confirming that the Filer has in place written policies and procedures to ensure that there is compliance with the conditions of this decision.

4. Each Filer files with the principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

The Exemption Sought terminates on September 1st, 2015.

"Louis Morisset"
President and Chief Executive Officer
Autorité des marchés financiers

2.1.21 Ridgemont Iron Ore Corp. – s. 1(10)(a)(ii)

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).

July 26, 2013

Ridgemont Iron Ore Corp.
c/o Eva Bellissimo
Cassels Brock & Blackwell LLP
40 King Street West
Scotia Plaza, Suite 2100
Toronto, Ontario
M5H 3C2

Dear Sir:

Re: Ridgemont Iron Ore Corp. (the Applicant) – application for a decision under the securities legislation of Ontario and Alberta (the Jurisdictions) that the Applicant is not a reporting issuer

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

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 world-wide;

(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

2.1.22 Choice Properties Real Estate Investment Trust

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – exemption granted from requirement file a BAR for an acquisition that is not significant to the Filer from a practical, commercial, business, or financial perspective.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 8.4, 13.1.

July 19, 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
CHOICE PROPERTIES REAL ESTATE
INVESTMENT TRUST
(THE "FILER" OR THE "REIT")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") for relief from the requirement in Part 8 of National Instrument 51-102 – *Continuous Disclosure Obligations* ("**NI 51-102**") to file a business acquisition report (a "**BAR**") in respect of the Filer's acquisition (the "**Third-Party Tenant Portfolio Acquisition**") of a portfolio of third-party tenant properties located across Canada (the "**Third-Party Tenant Portfolio**") in connection with the Filer's initial public offering ("**IPO**") of trust units on July 5, 2013 (the "**Exemption Sought**").

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

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

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

Interpretation

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

Representations

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

The REIT

1. The RE1T is an unincorporated open-ended real estate investment trust established under the laws of the Province of Ontario by a declaration of trust and its head office is located in Toronto, Ontario.

2. The REIT is a reporting issuer under the securities legislation of each of the provinces and territories of Canada and is not in default of securities legislation in any jurisdiction.

3. The trust units of the REIT are listed and posted for trading on the Toronto Stock Exchange under the symbol "CHP.UN".

4. The REIT completed its IPO of trust units (the "**IPO**") on July 5, 2013 pursuant to a long form prospectus in respect thereof dated June 26, 2013.

5. The net proceeds of the IPO were used by the REIT as partial consideration of its indirect acquisition from Loblaw Companies Limited and its subsidiaries of a portfolio of 425 commercial properties located in Canada, comprising 415 retail properties, one office complex and nine warehouses.

The Third-Party Tenant Portfolio Acquisition

6. In connection with the closing of the IPO on July 5, 2013, the REIT acquired the Third-Party-Tenant Portfolio in conjunction with its IPO of trust units for an aggregate purchase price of approximately $489.8 million (including closing costs of approximately $0.1 million).

7. The Third-Party Tenant Portfolio Acquisition constitutes a "significant acquisition" of the REIT for the purposes of Part 8 of NI 51-102, requiring the REIT to file a BAR within 75 days of the Third-Party Tenant Portfolio Acquisition pursuant to section 8.2(1) of NI 51-102.

Significance Test for the BAR

8. Under Part 8 of NI 51-102, the REIT is required to file a BAR for any completed business acquisition that is determined to be significant based on the acquisition satisfying any of the three significance tests set out in section 8.3(2) of NI 51-102.

9. The Third-Party Tenant Portfolio Acquisition is a significant acquisition under each of the asset test, the investment test and the profit or loss test in section 8.3(2) of NI 51-102.

10. For the purposes of completing its quantitative analysis of the asset test, the investment test and the profit or loss test, the REIT is required to utilize its most recent audited financial statements. Such audited historical financial statements of the REIT were created following the creation of the REIT for purposes of the REIT's IPO prospectus. Accordingly, the applicable audited historical financial statements of the REIT only reflect assets of $10.00, unitholders' equity of $10.00 and financing activities of $10.00 as a result of the issuance of the initial trust unit of the REIT upon its creation and prior to the completion of the REIT's IPO. As a result, the application of the asset test, the investment test and the profit or loss test each produces an anomalous result for the REIT in comparison to the results of such tests when re-applying them using the financial metrics of the REIT that existed immediately following the closing of the REIT's IPO.

11. When using the financial metrics of the REIT that existed upon the closing of its IPO (as opposed to the above-mentioned pre-IPO audited historical financial statements) to calculate the asset test, investment test and profit or loss test with respect to the Third-Party Tenant Portfolio Acquisition, the results indicate that the Third-Party Tenant Portfolio Acquisition represented only 7.24% of the REIT's consolidated assets, 7.07% of the REIT's consolidated investments and 7.07% of the REIT's forecasted net operating income. The application of the asset test, investment test and profit or loss test using the financial metrics of the REIT that existed immediately following the closing of its IPO more accurately reflect the true significance of the Third-Party Tenant Portfolio Acquisition from a business and commercial perspective.

De Minimis Acquisition

12. The REIT does not believe (nor did it believe at the time that it made the Third-Party Tenant Portfolio Acquisition) that the Third-Party Tenant Portfolio Acquisition is significant to it from a practical, commercial, business or financial perspective.

13. The Filer has provided the principal regulator with an additional measure which demonstrates the insignificance of the Third-Party Tenant Portfolio Acquisition to the Filer. This additional measure reflects that the total GLA of the Third-Party Tenant Portfolio represented just 11.7% to the total GLA of the REIT's entire real estate portfolio immediately following the closing of its IPO.

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.

"Sonny Randhawa"
Manager, Corporate Finance
Ontario Securities Commission

2.1.23 KEYreit – s. 1(10)(a)(ii)

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).

July 29, 2013

KEYreit
161 Bay Street, Suite 2300
Toronto, ON M5J 2S1

and

Davies Ward Phillips & Vineberg LLP
155 Wellington Street West
Toronto, ON M5V 3J7

Attn: Brooke Jamison

Dear Sirs/Mesdames:

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

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

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 world-wide;

(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.

"Kathryn Daniels"
Manager, Corporate Finance
Ontario Securities Commission

2.1.24 Winstar Resources Ltd. – s. 1(10)(a)(ii)

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).

Citation: Winstar Resources Ltd., Re, 2013 ABASC 330

July 29, 2013

Osler, Hoskin & Harcourt LLP
Suite 2500, TransCanada Tower
450 - 1st Street SW
Calgary, AB T2P 5H1

Attention: Bryce Kustra

Dear Sir:

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

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

"Cheryl McGillivray"
Manager, Corporate Finance

2.1.25 Halo Resources Ltd. – s. 1(10)(a)(ii)

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).

July 29, 2013

Halo Resources Ltd.
Suite 820, 25 Adelaide Street East
Toronto, ON M5C 3A1

Dear Sirs/Mesdames:

Re: Halo Resources Ltd. (the Applicant) – application for a decision under the securities legislation of Ontario, Alberta, Saskatchewan, 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 world-wide;

(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.

"Sonny Randhawa"
Manager, Corporate Finance
Ontario Securities Commission

2.1.26 Schooner Trust

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer of mortgage pass-through securities previously granted an exemption from the requirements to file annual and interim financial statements, subject to certain conditions. Issuer granted an exemption from the requirements in National Instrument 52-109 to file interim and annual certificates, subject to certain conditions, including the requirement to file alternative forms of annual and interim certificates.

Ontario Rules

National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings.

July 26, 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
SCHOONER TRUST
(THE FILER)

DECISION

Background

The principal regulator in the Jurisdiction has received a further application from the Filer for a decision under the securities legislation of the Jurisdiction of the principal regulator (the Legislation) for an exemption from the provisions of National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (NI 52-109) to file interim certificates and annual certificates (the Exemption Sought).

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

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

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

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions*, MI 11-102, the Financial Statements Decision (as defined below), the Original Decision (as defined below) and the Previous Decision (as defined below) have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer was created pursuant to a declaration of trust dated July 5, 2000 under the laws of the Province of Ontario. The Filer was created under the name of Solar Trust. By a declaration of change of name dated November 17, 2003, the name of the Filer was changed to Schooner Trust.

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

3. The issuer trustee of the Filer is CIBC Mellon Trust Company, whose principal office is located in Toronto, Ontario. The head office of The Toronto-Dominion Bank, the administrative agent of the Filer, is located in Toronto, Ontario.

4. The Filer is a reporting issuer, or the equivalent, in each of the provinces of Canada.

5. The Filer is a "venture issuer" as defined in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102).

6. The Filer is not in default of any of the requirements of the securities legislation in any jurisdiction in Canada.

7. The Filer does not carry on any activities other than activities related to issuing asset-backed securities and purchasing assets in connection thereto.

8. The Filer has no material assets or liabilities other than its rights and obligations arising from issuing asset-backed securities and acquiring assets in connection thereto.

9. Pursuant to an MRRS decision document dated May 20, 2005 and an order dated November 29, 2004 of the New Brunswick Securities Commission (collectively, the Financial Statements Decision), the Filer is exempted, on certain terms and conditions, from the requirements of the securities legislation in the Jurisdictions concerning, *inter alia*, the preparation, filing and delivery of interim and annual financial statements (the Financial Statements).

10. Pursuant to an MRRS decision document dated May 31, 2005 (the Original Decision), the Filer was exempted, on certain terms and conditions, from the requirements in MI 52-109 to file interim and annual certificates, which relief terminated on June 1, 2008.

11. Pursuant to a decision dated July 18, 2008 (the Previous Decision), the Filer is exempted, on certain terms and conditions, from the requirements in NI 52-109 to file interim and annual certificates, which relief terminates on the earlier of (i) June 1, 2013, or (ii) the date on which a rule regarding the continuous disclosure requirements for asset-backed securities issuers comes into force in a jurisdiction of Canada.

12. The representations contained in the Financial Statements Decision, the Original Decision and the Previous Decision remain true and accurate and are incorporated by reference into this decision document as representations of the Filer.

Decision

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

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

(a) the Filer is not required to prepare, file and deliver Financial Statements under the securities legislation of any jurisdiction in Canada, whether pursuant to exemptive relief or otherwise;

(b) for each financial year of the Filer, within 120 days of the end of the financial year (or within 90 days of the end of a financial year of the Filer if the Filer is not a venture issuer at the end of such financial year), the Filer or its duly appointed representative or agent will file through SEDAR an annual certificate in the form set out in Schedule "A" of this decision document and personally signed by a person who, at the time of filing of the annual certificate, is a senior officer of the Filer, a Servicer or an administrative agent of the Filer;

(c) if the Filer voluntarily files an AIF, as defined in NI 51-102, for a financial year after it has filed the annual certificate referred to in paragraph (b) above for the financial year, the Filer will file through SEDAR a second annual certificate that:

(i) is in the form set out in Schedule "A" of this decision document;

(ii) is personally signed by a person who, at the time of filing of the second annual certificate, is a senior officer of the same person or company of which the senior officer who signed the annual certificate referred to in paragraph (b) is an officer; and

(iii) certifies the AIF in addition to the other documents identified in the annual certificate;

(d) for each interim period, within 60 days of the end of the interim period (or within 45 days of the end of an interim period of the Filer if the Filer is not a venture issuer at the end of such interim period), the Filer or its duly appointed representative or agent will file through SEDAR an interim certificate in the form set out in Schedule "B" of this decision document and personally signed by a person who, at the time of filing of the interim certificate, is a senior officer of the Filer, a Servicer or an administrative agent of the Filer; and

(e) the Exemption Sought will cease to be effective in a jurisdiction of Canada on the date on which a specific rule regarding substantive continuous disclosure requirements for asset-backed securities issuers (other than issuers of asset-backed commercial paper) comes into force in that jurisdiction.

"Kathryn Daniels"
Deputy Director, Corporate Finance

SCHEDULE "A"

Certification of annual filings for issuers of asset-backed securities

I, ***<identify (i) the certifying individual, (ii) his or her position in relation to the issuer and (iii) the name of the issuer>***, certify that:

1. I have reviewed the following documents of ***<identify issuer>*** (the issuer):

   (a) the servicer reports for each month in the financial year ended ***<insert financial year end>*** (the servicer reports);

   (b) annual MD&A in respect of the issuer's pool(s) of assets for the financial year ended ***<insert the relevant date>*** (the annual MD&A);

   (c) AIF for the financial year ended ***<insert the relevant date>*** (the AIF); [if applicable] and

   (d) each annual statement of compliance regarding fulfillment of the obligations of the servicer(s) under the related servicing agreement(s) for the financial year ended ***<insert the relevant date>*** (the annual compliance certificate(s)),

   (the servicer reports, the annual MD&A, the AIF [if applicable] and the annual compliance certificate(s) are together the annual filings);

2. Based on my knowledge, having exercised reasonable diligence, the annual filings, taken as a whole, do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make the statements not misleading in light of the circumstances under which they were made, with respect to the periods covered by the annual filings;

3. Based on my knowledge, having exercised reasonable diligence, all of the distribution, servicing and other information and all of the reports on assessment of compliance with servicing criteria for asset-backed securities and the annual accountant's report respecting compliance by the servicer(s) with servicing criteria for asset-backed securities required to be filed under the decision(s) ***<identify the decision(s)>*** as of the date of this certificate, other than material change reports and press releases, have been filed with the securities regulatory authorities through SEDAR;

4. Option #1 ***<use this alternative if a servicer is providing the certificate>***

   I am responsible for reviewing the activities performed by the servicer(s) and based on my knowledge, having exercised reasonable diligence, and the compliance review(s) conducted in preparing the annual compliance certificate(s), and except as disclosed in the annual filings, the servicer(s) [has/have] fulfilled [its/their] obligations under the servicing agreement(s); and

   Option #2 ***<use this alternative if the Issuer or the administrative agent is providing the certificate>***

   Based on my knowledge, having exercised reasonable diligence, and the annual compliance certificate(s), and except as disclosed in the annual filings, the servicer(s) [has/have] fulfilled [its/their] obligations under the servicing agreement(s); and

5. The annual filings disclose all material instances of noncompliance with the servicing criteria based on the [servicer's/servicers'] assessment of compliance with such criteria.

[In giving the certifications above, I have reasonably relied on information provided to me by the following unaffiliated parties ***<insert name of issuer, servicer, sub-servicer, co-servicer, administrative agent, reporting agent or trustee>***.]

Date: ***<insert date of filing>***

_____

[Signature]
[Title]
<indicate the capacity in which the certifying officer is providing the certificate>

NOTE TO READER

This certificate does not include representations relating to the establishment and maintenance of disclosure controls and procedures (DC&P) and internal control over financial reporting (ICFR), as defined in National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (NI 52-109). In particular, the certifying officer filing this certificate is not making any representations relating to the establishment and maintenance of:

i) controls and other procedures designed to provide reasonable assurance that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted under securities legislation is recorded, processed, summarized and reported within the time periods specified in securities legislation; and

ii) a process to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP.

The issuer's certifying officer is responsible for ensuring that processes are in place to provide him or her with sufficient knowledge to support the representations he or she is making in this certificate. Investors should be aware that inherent limitations on the ability of a certifying officer of the issuer to design and implement on a cost effective basis DC&P and ICFR, as defined in NI 52-109, may result in additional risks to the quality, reliability, transparency and timeliness of interim and annual filings and other reports provided under securities legislation.

SCHEDULE "B"

Certification of interim filings for issuers of asset-backed securities

I, ***<identify (i) the certifying individual, (ii) his or her position in relation to the issuer and (iii) the name of the issuer>***, certify that:

1. I have reviewed the following documents of ***<identify issuer>*** (the issuer):

   (a) the servicer reports for each month in the interim period ended ***<insert relevant date>*** (the servicer reports); and

   (b) interim MD&A in respect of the issuer's pool(s) of assets for the interim period ended ***<insert the relevant date>*** (the interim MD&A),

   (the servicer reports and the interim MD&A are together the interim filings);

2. Based on my knowledge, having exercised reasonable diligence, the interim filings, taken as a whole, do not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that is necessary to make the statements not misleading in light of the circumstances under which they were made, with respect to the periods covered by the interim filings; and

3. Based on my knowledge, having exercised reasonable diligence, all of the distribution, servicing and other information required to be filed under the decision(s) <identify the decision(s)> as of the date of this certificate, other than material change reports and press releases, have been filed with the securities regulatory authorities through SEDAR.

[In giving the certifications above, I have reasonably relied on information provided to me by the following unaffiliated parties ***<insert name of issuer, servicer, sub-servicer, co-servicer, administrative agent, reporting agent or trustee >***.]

Date: ***<insert date of filing>***

_____
[Signature]
[Title]
<indicate the capacity in which the certifying officer is providing the certificate>

NOTE TO READER

This certificate does not include representations relating to the establishment and maintenance of disclosure controls and procedures (DC&P) and internal control over financial reporting (ICFR), as defined in National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (NI 52-109). In particular, the certifying officer filing this certificate is not making any representations relating to the establishment and maintenance of:

i) controls and other procedures designed to provide reasonable assurance that information required to be disclosed by the issuer in its annual filings, interim filings or other reports filed or submitted under securities legislation is recorded, processed, summarized and reported within the time periods specified in securities legislation; and

ii) a process to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with the issuer's GAAP.

The issuer's certifying officer is responsible for ensuring that processes are in place to provide him or her with sufficient knowledge to support the representations he or she is making in this certificate. Investors should be aware that inherent limitations on the ability of a certifying officer of the issuer to design and implement on a cost effective basis DC&P and ICFR, as defined in NI 52-109, may result in additional risks to the quality, reliability, transparency and timeliness of interim and annual filings and other reports provided under securities legislation.

2.1.27 Sun Life Global Investments (Canada) Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to permit corporate class funds to invest in underlying fund of funds – Relief needed to facilitate creation of corporate class funds that seek to replicate performance of existing mutual fund trusts, which may invest more than 10% of their assets in other funds – each corporate class to invest in one trust fund – investment objectives of corporate class will state the name of trust fund it invests in – fund of fund investing by corporate classes and trust funds will otherwise comply with s. 2.5 of NI 81-102.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 2.5(2)(b), 19.1.

July 19, 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
SUN LIFE GLOBAL INVESTMENTS (CANADA) INC.
(the Filer)

AND

IN THE MATTER OF
THE CORPORATE CLASSES (as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Corporate Classes for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Corporate Classes from section 2.5(2)(b) of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) to permit each Corporate Class to purchase or hold securities of a Trust Fund (as defined below), which Trust Fund will hold more than 10% of its net asset value in, amongst other things, securities of one or more Underlying Funds (as defined below) (the **Exemption Sought**).

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

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

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

Interpretation

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

Corporate Classes means the New Corporate Classes and any other future mutual funds managed by the Filer that will each be a class of a mutual fund corporation, and which seeks a similar return as a Trust Fund by investing all or substantially all of its assets in units of that Trust Fund.

NI 81-101 means National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

New Corporate Classes means each of Sun Life BlackRock Canadian Balanced Class, Sun Life BlackRock Canadian Equity Class, Sun Life Dynamic Equity Income Class, Sun Life Dynamic Strategic Yield Class, Sun Life Managed Conservative Class, Sun Life Managed Moderate Class, Sun Life Managed Balanced Class, Sun Life Managed Balanced Growth Class and Sun Life Managed Growth Class.

Trust Funds means the existing and future mutual fund trusts managed by the Filer in which a Corporate Class may invest pursuant to the Exemption Sought.

Underlying Fund means each mutual fund in which a Trust Fund may invest from time to time in accordance with NI 81-102 or an exemption therefrom.

Representations

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

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

2. The Filer is registered as: (i) an investment fund manager in Ontario, Quebec and Newfoundland and Labrador; (ii) a portfolio manager in Ontario; (iii) a mutual fund dealer in each of the Jurisdictions; and (iv) a commodity trading manager in Ontario.

3. The Filer acts, or will act, as manager of each Corporate Class and each Trust Fund.

4. The Underlying Funds may be managed by the Filer, its affiliates and/or other investment fund managers unrelated to the Filer.

5. None of the Filer, the Corporate Classes or the Trust Funds are in default of securities legislation in any of the Jurisdictions.

6. Each Corporate Class will be a class of a mutual fund corporation established under the laws of one of the Jurisdictions or of Canada, and will be a reporting issuer under the laws of one or more Jurisdictions subject to NI 81-102, subject to any relief therefrom granted by applicable securities regulatory authorities.

7. Each Trust Fund is or will be an open-end mutual fund trust established under the laws of one of the Jurisdictions, and will be a reporting issuer under the laws of one or more Jurisdictions and subject to NI 81-102, subject to any relief therefrom granted by applicable securities regulatory authorities.

8. The securities of each Corporate Class will be qualified for distribution pursuant to a simplified prospectus, annual information form and Fund Facts that will be prepared and filed in accordance with NI 81-101. A preliminary simplified prospectus, annual information form and Fund Facts in respect of each New Corporate Class have been filed via SEDAR in the Jurisdictions on June 7, 2013 under SEDAR Project No. 2073754.

9. The securities of each Trust Fund have been offered, are offered, or will be offered under a simplified prospectus, annual information and fund facts in accordance with NI 81-101.

10. Each Corporate Class is intended to provide investors a version of a Trust Fund but with the flexibility to switch to another mutual fund that is a class of the same mutual fund corporation on a tax-deferred basis. Each Corporate Class will seek a similar return as a Trust Fund by investing all or substantially all of its assets in units of the applicable Trust Fund.

11. Each Trust Fund is or will be a fund-of-funds that invests or will invest in one or more Underlying Funds and may also invest directly in cash, bonds or other debt securities, fixed income securities, other income-producing securities and/or equity securities.

12. An investment by a Trust Fund in securities of the Underlying Funds is and will be made in accordance with the provisions of section 2.5 of NI 81-102 (or pursuant to an exemption therefrom), including the prohibition that no Underlying Fund will hold more than 10% of its net asset value in securities of other mutual funds unless otherwise permitted by NI 81-102.

13. The Filer has determined that it would be more efficient and less costly for each Corporate Class if the Corporate Class achieves its investment objectives by investing all, or substantially all, of its assets in units of the applicable Trust Fund, instead of investing directly in the same securities and in the same proportions in which the Trust Fund invests.

14. An investment by a Corporate Class in units of its applicable Trust Fund will be made in accordance with the provisions of section 2.5 of NI 81-102, except for the requirements in section 2.5(2)(b) of NI 81-102, as a Corporate Class' investment in units of its applicable Trust Fund would result in a multi-tier fund structure with respect to the Trust Fund's investment in one or more Underlying Funds.

15. The simplified prospectus of each Corporate Class will disclose (i) in the investment objective, the name of the applicable Trust Fund that the Corporate Class will invest in, and (ii) in the investment strategies, the investment strategies of the Trust Fund. Accordingly, the simplified prospectus of each Corporate Class will disclose that the accountability for portfolio management is at the level of the Trust Fund with respect to the selection of Underlying Funds and any other securities.

16. The simplified prospectus of each Corporate Class and each Trust Fund discloses or will disclose that fees and expenses will not be duplicated as a result of investments in other mutual funds.

17. Each Corporate Class will comply with the requirements under NI 81-106 *Investment Fund Continuous Disclosure* relating to top 25 positions portfolio holdings disclosure in its management reports of fund performance and the requirements in Form 81-101F3 *Contents of Fund Facts Document* relating to top 10 positions portfolio holdings disclosure in its Fund Facts as if the Corporate Class were investing directly in the Underlying Funds.

18. An investment by a Corporate Class in its applicable Trust Fund and by a Trust Fund in the applicable Underlying Funds represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Corporate Class and of the Trust Fund, respectively.

Decision

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

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

(a) the proposed investment of each Corporate Class in a Trust Fund is otherwise made in compliance with all other requirements of section 2.5 of NI 81-102, and

(b) The investment objectives of each Corporate Class as stated in the simplified prospectus, states the name of the Trust Fund in which the Corporate Class invests.

"Vera Nunes"
Manager, Investment Funds
Ontario Securities Commission

2.1.28 Softchoice Corporation – s. 1(10)(a)(ii)

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).

July 30, 2013

Stikeman Elliott LLP
5300 Commere Court West
199 Bay Street
Toronto, Ontario
M5L 1B9

Dear Mr. Devereux:

Re: Softchoice Corporation (the Applicant) – application for a decision under the securities legislation of Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Newfoundland and Labrador, Nova Scotia, New Brunswick, Prince Edward Island, Northwest Territories, Nunavut and Yukon (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 world-wide;

(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

2.1.29 RBC Global Asset Management Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Novel exemptive relief granted to exchange-traded funds for initial and continuous distribution of units – Relief to vary elements of existing relief – Relief to permit the funds' prospectus to not contain an underwriter's certificate and to include a modified statement of investors rights – Relief granted subject to manager filing a prescribed summary document for each fund on SEDAR and other terms and conditions set out in decision document – Relief subject to sunset clause – Consistent with the implementation of the Canadian Securities Administrators Point of Sale Disclosure Initiative underway, rule-making contemplated to codify summary document – Securities Act (Ontario) and National Instrument 41-101 General Prospectus Requirements.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 59(1), 144.
National Instrument 41-101 General Prospectus Requirements, s. 19.1 and Item 36.2 of Form 41-101F2.

July 19, 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
RBC GLOBAL ASSET MANAGEMENT INC.
(the Filer)

AND

THE EXISTING EXCHANGE-TRADED FUNDS MANAGED BY THE FILER
(the Existing Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Existing Funds and such other exchange-traded mutual funds as the Filer, or an affiliate of the Filer, may establish in the future (the **Future Funds**, and together with the Existing Funds, the **ETFs** and individually, an **ETF**) for a decision under the securities legislation of the principal regulator (the **Legislation**) that:

1. exempts the Filer and each ETF from

   (a) the requirement to include a certificate of an underwriter in an ETF's prospectus (the **Underwriter's Certificate Requirement**); and

   (b) the requirement to include in an ETF's prospectus the statement respecting purchasers' statutory rights of withdrawal and remedies of rescission or damages in substantially the form prescribed in item 36.2 of Form 41-101F2 – *Information Required in an Investment Fund Prospectus* (the **Prospectus Form Requirement**)

   (collectively, the **Exemption Sought**); and

2. varies all previous decisions granted by the principal regulator prior to the date of this decision that exempted the Filer and the ETFs from the Underwriter's Certificate Requirement (the **Prior Underwriter's Certificate Relief**), by revoking

the Prior Underwriter's Certificate Relief and by revoking, as applicable, the representations relating to prospectus delivery contained in such decisions (the **Prospectus Delivery Representations**).

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 all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and National Instrument 81-102 *Mutual Funds* (**NI 81-102**) have the same meaning if used in this decision, unless otherwise defined.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (as defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of an ETF (an **ETF Manager**) authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more ETFs on a continuous basis from time to time.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with an ETF Manager to perform certain duties in relation to the ETF, including posting a liquid two-way market for the trading of the ETF's listed securities on the TSX or another marketplace.

ETF Security means a listed security of an ETF.

Other Dealer means a registered dealer that acts as authorized dealer or designated broker to other exchange-traded funds that are not managed by the Filer and that has received relief under a Prospectus Delivery Decision.

Prospectus Delivery Decision means a decision granting relief from the Prospectus Delivery Requirement to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer dated, July 19, 2013, and any future decision granted to a Designated Broker, Authorized Dealer, Affiliate Dealer or Other Dealer that grants similar relief.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Summary Document means a document, in respect of one or more classes or series of ETF Securities being distributed under a prospectus, prepared in accordance with Schedule A.

TSX means the Toronto Stock Exchange.

Representations

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

1. The Filer is a corporation organized under the federal laws of Canada, with a head office in Ontario.

2. Each ETF is, or will be, a mutual fund governed by the laws of the Province of Ontario and a reporting issuer under the laws of some or all of the Jurisdictions.

3. Each ETF is, or will be, subject to NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.

4. Each ETF is, or will be, in continuous distribution. The ETF Securities of each ETF are, or will be, listed on the TSX or another marketplace in Canada.

5. The Filer has filed, or will file, a long form prospectus in accordance with National Instrument 41-101 *General Prospectus Requirements* on behalf of the ETFs, subject to any exemptions that have been or may be granted by the applicable securities regulatory authorities.

6. The Filer acts, and will act, as the trustee, investment fund manager and portfolio adviser to the ETFs. The Filer is registered in the Province of Ontario as an adviser for securities in the category of portfolio manager, as an adviser for commodities in the category of commodity trading manager, as a dealer in the category of exempt market dealer and as an investment fund manager.

7. ETF Securities are, or will be, distributed on a continuous basis in one or more of the Jurisdictions under a prospectus. ETF Securities may generally only be subscribed for or purchased directly from the ETFs by Authorized Dealers or Designated Brokers (**Creation Units**). Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX or another marketplace in Canada.

8. In addition to subscribing for and re-selling Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers are also generally engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market. Other Dealers may also be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market despite not being an Authorized Dealer, Designated Broker or Affiliate Dealer.

9. According to the Authorized Dealers and Designated Brokers, Creation Units are generally commingled with other ETF Securities purchased by the Authorized Dealers, Designated Brokers and Affiliate Dealers in the secondary market. As such, it is not practicable for the Authorized Dealers, Designated Brokers or Affiliate Dealers to determine whether a particular re-sale of ETF Securities involves Creation Units or ETF Securities purchased in the secondary market.

10. Designated Brokers perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

11. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally may not be purchased directly from an ETF. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX or another marketplace in Canada. ETF Securities may also be issued directly to ETF investors upon the reinvestment of distributions of income or capital gains.

12. The Authorized Dealers and Designated Brokers do not provide the same services in connection with a distribution of Creation Units as would typically be provided by an underwriter in a conventional underwriting.

13. The Authorized Dealers and Designated Brokers are not involved in the preparation of an ETF's prospectus, do not incur any marketing costs or receive any underwriting fees or commissions from the ETFs or the ETF Managers in connection with the distribution of Creation Units. The Authorized Dealers and Designated Brokers generally seek to profit from their ability to create and redeem ETF Securities by engaging in arbitrage trading to capture spreads between the trading prices of ETF Securities and their underlying securities and by making markets for their clients to facilitate client trading in ETF Securities.

14. The Filer generally conducts its own marketing, advertising and promotion of the ETFs. The Filer may, at its discretion, charge an administration fee on the issuance of Creation Units to Authorized Dealers or Designated Brokers.

15. The principal regulator has advised the Filer that it takes the view that the first re-sale of a Creation Unit on the TSX or another marketplace in Canada will generally constitute a distribution of Creation Units under the Legislation and that the Authorized Dealers, Designated Brokers and Affiliate Dealers are subject to the Prospectus Delivery Requirement in connection with such re-sales. Re-sales of ETF Securities in the secondary market that are not Creation Units would not ordinarily constitute a distribution of such ETF Securities.

16. Under a Prospectus Delivery Decision, Authorized Dealers, Designated Brokers and Affiliate Dealers are exempt from the Prospectus Delivery Requirement in connection with the re-sale of Creation Units to investors on the TSX or another marketplace in Canada. Under a Prospectus Delivery Decision, Other Dealers are also exempt from the Prospectus Delivery Requirement in connection with the re-sale of creation units of other exchange-traded funds that are not managed by the Filer.

17. The Prospectus Delivery Decision includes a condition that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer undertakes that, beginning on or around September 1, 2013, it will, unless it has previously done so, send or deliver to each purchaser of an ETF Security who is a customer of the Authorized Dealer, Designated Broker,

Affiliate Dealer or Other Dealer, and to whom a trade confirmation is required under the Legislation to be sent or delivered by the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer in connection with the purchase, the latest Summary Document filed in respect of the ETF Security, not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after the purchase of the ETF Security.

18. The Filer will file with the applicable Jurisdictions on the System for Electronic Document Analysis and Retrieval (**SEDAR**) a Summary Document for each class or series of ETF Securities offered by the Filer and provide or make available to the Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, the requisite number of copies of the Summary Document for the purpose of facilitating their compliance with the Prospectus Delivery Decision.

19. The Filer will file a Summary Document for each class or series of ETF Securities offered by the Filer within the timeframe necessary to allow Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers to effect delivery of the Summary Document as contemplated in the Prospectus Delivery Decision by September 1, 2013.

20. The Exemption Sought from the Prospectus Form Requirement is required to reflect the relief provided in the Prospectus Delivery Decision. Accordingly, the Filer will include language in each ETF's prospectus explaining the impact on a purchaser's statutory rights as a result of the Prospectus Delivery Decision in replacement of the language prescribed by the Prospectus Form Requirement.

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, by the later of September 1, 2013 and the date a particular condition is first applicable to a Filer, and on an ongoing basis thereafter, the Filer will be in compliance with the following conditions:

1. The Filer files with the applicable Jurisdictions on SEDAR and displays on its website in a manner that would be considered prominent to a reasonable investor the Summary Document for each class or series of ETF Securities of an Existing Fund.

2. The Filer files concurrently on SEDAR the Summary Document for each class or series of ETF Securities when filing a final prospectus for that ETF.

3. The Filer amends the Summary Document at the same time it files any amendments to the ETF's prospectus that affect the disclosure in the Summary Document and files the amended Summary Document with the applicable Jurisdictions on SEDAR and makes it available on its website in a manner that would be considered prominent to a reasonable investor.

4. The Filer provides or makes available to each Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer, the number of copies of the Summary Document of each ETF Security that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer reasonably requests in support of compliance with its respective Prospectus Delivery Decision.

5. Each ETF's prospectus, on the date which is the earliest of: (i) the filing of the ETF's preliminary prospectus; (ii) the filing of the ETF's pro forma prospectus; and (iii) when an amendment to the ETF prospectus is next filed,

   (a) incorporates the relevant Summary Document by reference;

   (b) contains the disclosure referred to in paragraph 20 above; and

   (c) discloses both this decision and the Prospectus Delivery Decisions under Item 34.1 of Form 41-101F2 – *Exemptions and Approvals*.

6. The Filer obtains an executed acknowledgement from each Authorized Dealer, Designated Broker and Affiliate Dealer, and uses its best efforts to obtain an acknowledgment from each Other Dealer:

   (a) indicating its election, in connection with the re-sale of Creation Units on the TSX or another marketplace in Canada, to send or deliver the Summary Document in accordance with a Prospectus Delivery Decision or, alternatively, to comply with the Prospectus Delivery Requirement; and

(b) if the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer agrees to deliver the Summary Document in accordance with a Prospectus Delivery Decision:

(i) an undertaking that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer will attach or bind one ETF's Summary Document with another ETF's Summary Document only if the documents are being sent or delivered under the Prospectus Delivery Decision at the same time to an investor purchasing ETF Securities of each such ETF; and

(ii) confirming that the Authorized Dealer, Designated Broker, Affiliate Dealer or Other Dealer has in place written policies and procedures to ensure that it is in compliance with the conditions of the Prospectus Delivery Decision.

7. The Filer will keep records of which Authorized Dealers, Designated Brokers, Affiliate Dealers and Other Dealers, have provided it with an acknowledgement under a Prospectus Delivery Decision, and which intend to rely on and comply with the Prospectus Delivery Decision or intend to comply with the Prospectus Delivery Requirement.

8. The Filer files with its principal regulator, to the attention of the Director, Investment Funds Branch, on or before January 31st in each calendar year, a certificate signed by an ultimate designated person certifying that, to the best of the knowledge of such person, after making due inquiry, the Filer has complied with the terms and conditions of this decision during the previous calendar year.

It is the further decision of the principal regulator under the Legislation that the Prior Underwriter's Certificate Relief and the Prospectus Delivery Representations are revoked.

The Exemption Sought terminates on September 1, 2015.

As to the Exemption Sought from the Underwriter's Certificate Requirement and the revocation of the Prior Underwriter's Certificate Relief and Prospectus Delivery Representations:

"James E.A. Turner"
Vice-Chair
Ontario Securities Commission

"Mary G. Condon"
Vice-Chair
Ontario Securities Commission

As to the Exemption Sought from the Prospectus Form Requirement:

"Rhonda Goldberg"
Director, Investment Funds Branch
Ontario Securities Commission

APPENDIX A

Contents of Summary Document

General Instructions:

1. *Items 1 to 10 represent the minimum disclosure required in a Summary Document for a fund. The inclusion of additional information is not precluded so long as the Summary Document does not exceed a total of four pages in length (two pages double-sided).*

2. *Terms defined in National Instrument 81-102 Mutual Funds, National Instrument 81-105 Mutual Fund Sales Practices or National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Summary Document have the meanings that they have in those national instruments.*

3. *Information in the Summary Document must be clear and concise and presented in plain language.*

4. *The format and presentation of information in the Summary Document is not prescribed but the information must be presented in a manner that assists in readability and comprehension.*

5. *The order of the Items outlined below is not prescribed, except for Items 1 and 2, which must be presented as the first 2 items in the Summary Document.*

6. *Each reference to a fund in this Appendix A refers to an ETF as defined in the decision above.*

Item 1 – Introduction

Include at the top of the first page a heading consisting of:

(a) the title “Summary Document”;

(b) the name of the manager of the fund;

(c) the name of the fund to which the Summary Document pertains; and

(d) the date of the document.

Item 2 – Cautionary Language

Include a statement in italics in substantially the following form:

“The following is a summary of the principal features of this fund. You can find more detailed information about the fund in the prospectus. The prospectus is available on [insert name of the manager of the fund] website at [insert manager of the fund website], or by contacting [insert name of the manager of the fund] at [insert manager of the fund’s email address], or by calling [insert telephone number of the manager of the fund].”

Item 3 – Fund Details

Include the following disclosure:

(a) ticker symbol;

(b) fund identification code(s);

(c) index ticker (as applicable);

(d) exchange;

(e) currency;

(f) inception date;

(g) RSP eligibility;

(h) DRIP eligibility;

(i) expected frequency and timing of distributions, and if applicable, the targeted amount for distributions;

(j) management expense ratio, if available; and

(k) portfolio manager, when the fund is actively managed.

Item 4 – Investment Objectives

Include a description of the fundamental nature of the fund, or the fundamental features of the fund that distinguishes it from other funds.

INSTRUCTIONS:

Include a description of what the fund primarily invests in, or intends to primarily invest in, such as

(a) a description of the fund, including what the fund invests in, and if it is trying to replicate an index, the name of the index, and an overview of the nature of securities covered by the index or the purpose of the index; and

(b) the key investment strategies of the fund.

Item 5 – Investments of the Fund

1. Include a table disclosing:

   (a) the top 10 positions held by the fund; and

   (b) the percentage of net asset value of the fund represented by the top 10 positions.

2. Include at least one, and up to two, charts or tables that illustrate the investment mix of the fund's investment portfolio.

INSTRUCTIONS:

(a) The information required under this Item is intended to give a snapshot of the composition of the fund's investment portfolio. The information required to be disclosed under this Item must be as at a date within 30 days before the date of the Summary Document.

(b) The information required under Item 5(2) must show a breakdown of the fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The fund should use the most appropriate categories given the nature of the fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the fund's MRFP.

(c) For new funds where the information required to be disclosed under this Item is not available, provide a brief statement explaining why the required information is not available.

Item 6 – Risk

1. Include a statement in italics in substantially the following form:

   "All investments involve risk. When you invest in the fund the value of your investment can go down as well as up. For a description of the specific risks of this fund, see the fund's prospectus."

2. If the cover page of the fund's prospectus contains text box risk disclosure, also include a description of those risk factors in the Summary Document.

Item 7 – Fund Expenses

1. Include an introduction using wording similar to the following:

   "You don't pay these expenses directly. They affect you because they reduce the fund's returns."

2. Provide information about the expenses of the fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee and operating expenses.	
Trading expense ratio (TER) These are the fund's trading costs.	
Fund expenses The amount included for fund expenses is the amount arrived at by adding the MER and the TER.	

3. If the information in (2) is unavailable because the fund is new including wording similar to the following:

"The fund's expenses are made up of the management fee, operating expenses and trading costs. The fund's annual management fee is [ ]% of the fund's value. Because this fund is new, its operating expenses and trading costs are not yet available."

INSTRUCTIONS:

Use a bold font or other formatting to indicate that fund expenses is the total of all ongoing expenses set out in the chart and is not a separate expense charged to the fund.

Item 8 – Trailing Commissions

1. If the manager of the fund or another member of the fund's organization pays trailing commissions, include a brief description of these commissions.

2. The description of any trailing commission must include a statement in substantially the following words:

"The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund."

Item 9 – Other Fees

1. Provide information about the amount of fees payable by an investor, other than those already described or payable by designated brokers and underwriters.

2. Include a statement using wording similar to the following:

"You may pay brokerage fees to your dealer when you purchase and sell units of the fund."

INSTRUCTIONS:

(a) Examples include any redemption charges, sales charges or other fees, if any, associated with buying and selling securities of the fund.

(b) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.

Item 10 – Statement of Rights

State in substantially the following words:

Under securities law in some provinces and territories, you have:

- *the right to cancel your purchase within 48 hours after you receive confirmation of the purchase, or*

- *other rights and remedies if this document or the fund's prospectus contains a misrepresentation. You must act within the time limit set by the securities law in your province or territory.*

For more information, see the securities law of your province or territory or ask a lawyer.

Item 11 – Past Performance

If the fund includes past performance:

1. Include an introduction using wording similar to the following:

   This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

   It's important to note that this doesn't tell you how the fund will perform in the future as past performance may not be repeated. Also, your actual after-tax return will depend on your personal tax situation.

2. Show the annual total return of the fund, in chronological order for the lesser of:

   (a) each of the 10 most recently completed calendar years; and

   (b) each of the completed calendar years in which the fund has been in existence and which the fund was a reporting issuer.

3. Show the

   (a) final value, of a hypothetical $1,000 investment in the fund as at the end of the period that ends within 30 days before the date of the Summary Document and consists of the lesser of:

      (i) 10 years, or

      (ii) the time since inception of the fund,

      and

   (b) the annual compounded rate of return that would equate the initial $1,000 investment to the final value.

INSTRUCTIONS:

In responding to the requirements of this Item, a fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a Summary Document.

Item 12 – Benchmark Information

If the Summary Document includes benchmark information, ensure this information is consistent with the fund's MRFP and presented in the same format as Item 11.

2.2 Orders

2.2.1 Energy Syndications Inc. 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
ENERGY SYNDICATIONS INC.,
GREEN SYNDICATIONS INC.,
SYNDICATIONS CANADA INC.,
DANIEL STRUMOS, MICHAEL BAUM
and DOUGLAS WILLIAM CHADDOCK

ORDER
(Sections 127 and 127.1 of the Securities Act)

WHEREAS on March 30, 2012, the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing, pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**"), in relation to a Statement of Allegations filed by Staff of the Commission ("**Staff**") on March 30, 2012 in respect of Energy Syndications Inc. ("**Energy**"), Green Syndications Inc. ("**Green**"), Syndications Canada Inc. ("**Syndications**"), Daniel Strumos, ("**Strumos**"), Michael Baum ("**Baum**"), and Douglas William Chaddock ("**Chaddock**") (collectively, the "**Respondents**");

AND WHEREAS the Commission conducted a hearing on the merits with respect to the allegations against the Respondents on May 15, 16, 17, 22, 23 and 29, 2013 (the "**Merits Hearing**");

AND WHEREAS on June 20, 2013, the Commission issued its reasons and decision on the merits in this matter (the "**Merits Decision**");

AND WHEREAS on June 20, 2013, the Commission ordered that: (i) Staff shall file and serve written submissions on sanctions and costs by July 10, 2013; (ii) the Respondents shall file and serve written submissions on sanctions and costs by July 31, 2013; (iii) Staff shall file and serve written reply submissions on sanctions and costs by August 14, 2013; (iv) the hearing to determine sanctions and costs will be held at the offices of the Commission at 20 Queen Street West, 17th floor, Toronto, on September 4, 2013, at 10:00 a.m., or such further or other dates as agreed by the parties and set by the Office of the Secretary; and (v) 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 proceeding (the "**Sanctions and Costs Scheduling Order**");

AND WHEREAS on July 15, 2013, Strumos retained counsel to represent him in the sanctions and costs hearing;

AND WHEREAS on July 23, 2013, counsel for Strumos requested that the date for Strumos to file and serve his written submissions on sanctions and costs be extended to August 16, 2013, and that the date for Staff to file reply written submissions on sanctions and costs be extended to August 26, 2013;

AND WHEREAS Chaddock, on his own behalf and on behalf of Energy, Green and Syndications, and Staff consent to the amended schedule;

IT IS ORDERED THAT the Sanctions and Costs Scheduling Order is amended as follows:

1. the date for the Respondents to file and serve written submissions on sanctions and costs is extended, on consent, to August 16, 2013; and

2. the date for Staff to file and serve reply written submissions on sanctions and costs is extended, on consent, to August 26, 2013.

DATED at Toronto this 24th day of July, 2013.

"Alan J. Lenczner"

2.2.2 Paul Azeff et al. – Rule 3 of the OSC Rules of Procedure

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

AND

IN THE MATTER OF
PAUL AZEFF, KORIN BOBROW,
MITCHELL FINKELSTEIN,
HOWARD JEFFREY MILLER AND
MAN KIN CHENG (a.k.a. FRANCIS CHENG)

ORDER
(Rule 3 of the Ontario Securities Commission's
Rules of Procedure (2012), 35 O.S.C.B. 10071)

WHEREAS on September 22, 2010, the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing, pursuant to ss. 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "***Securities Act***"), accompanied by a Statement of Allegations of Staff of the Commission ("**Staff**") with respect to the respondents Howard Jeffrey Miller ("**Miller**") and Man Kin Cheng ("**Cheng**") for a hearing to commence on October 18, 2010;

AND WHEREAS Miller and Cheng were served with the Notice of Hearing and Statement of Allegations dated September 22, 2010 on September 22, 2010;

AND WHEREAS at a hearing on October 18, 2010, counsel for Staff, counsel for Cheng, and Miller, appearing on his own behalf, consented to the scheduling of a confidential pre-hearing conference on January 11, 2011 at 3:00 p.m.;

AND WHEREAS on November 11, 2010, the Commission issued a Notice of Hearing, pursuant to ss. 127 and 127.1 of the *Securities Act*, accompanied by an Amended Statement of Allegations of Staff which added the respondents Paul Azeff ("**Azeff**"), Korin Bobrow ("**Bobrow**") and Mitchell Finkelstein ("**Finkelstein**"), for a hearing to commence on January 11, 2011;

AND WHEREAS Miller, Cheng, Azeff, Bobrow and Finkelstein (together, the "**Respondents**") were served with the Notice of Hearing and Amended Statement of Allegations dated November 11, 2010 on November 11, 2010;

AND WHEREAS following a hearing on January 11, 2011, counsel for Staff, counsel for Azeff, Bobrow, Finkelstein and Cheng, and Miller, appearing on his own behalf, attended a confidential pre-hearing conference;

AND WHEREAS at the confidential pre-hearing conference on January 11, 2011, all parties made submissions regarding the disclosure made by Staff and it was ordered by the Commission, on the consent of all parties, that Staff and the Respondents would exchange written proposals concerning outstanding disclosure issues and that a motion date would be set for February 22, 2011 regarding disclosure issues, if necessary;

AND WHEREAS at the request of the Respondents, and on the consent of Staff, it was agreed that the February 22, 2011 motion date would be adjourned to April 8, 2011;

AND WHEREAS a disclosure motion was held on April 8, 2011 and, after submissions by the parties, the Panel issued a Confidentiality Order and Adjournment Order dated April 8, 2011, adjourning the Respondents' disclosure motion and the hearing in this matter to a pre-hearing conference, the date of which was to be agreed to by the parties and provided to the Office of the Secretary;

AND WHEREAS on April 18, 2011, Staff filed an Amended Amended Statement of Allegations;

AND WHEREAS the Panel issued an amended Confidentiality Order and Adjournment Order dated April 19, 2011 scheduling, on consent of all parties, a confidential pre-hearing conference on June 2, 2011 at 10:00 a.m.;

AND WHEREAS all parties consented to an adjournment of the confidential pre-hearing conference from June 2, 2011 at 10:00 a.m. to August 17, 2011 at 10:00 a.m. to allow Staff to provide the Respondents with further disclosure in this matter;

AND WHEREAS on July 6, 2011, counsel for Finkelstein served Staff with motion materials seeking a stay of the proceeding against him (the "**Stay Motion**") and Staff indicated that: a) it intended to bring a motion that the Stay Motion is premature and should be heard at the hearing on the merits (the "**Prematurity Motion**"); and b) it intended to bring a motion to

seek leave to put before the Panel at the hearing of the Stay Motion certain "without prejudice" communications (the "**Privilege Motion**");

AND WHEREAS counsel for Azeff and Bobrow indicated that they intend to bring a motion to compel records from a third party (the "**Third Party**" and the "**Third Party Records Motio**n");

AND WHEREAS the Respondents advised that they may seek to continue the hearing of the previous disclosure motion, which had been held on April 8, 2011 and had been adjourned on April 8, 2011 and June 1, 2011, or may bring other motions relating to disclosure issues (the "**Disclosure Motion**");

AND WHEREAS a pre-hearing conference was held on August 17, 2011 and Staff and the Respondents made submissions regarding the scheduling of the various motions, including the Stay Motion, the Prematurity Motion, the Privilege Motion, the Third Party Records Motion and the Disclosure Motion;

AND WHEREAS on August 30, 2011, the Commission ordered that the Privilege Motion be heard on September 26, 2011; the Prematurity Motion and the Stay Motion be heard together commencing on November 9, 2011; the Third Party Records Motion be scheduled to be heard on a date after the Prematurity Motion and the Stay Motion have been heard and decided; the Disclosure Motion be adjourned to a date that will be fixed after the four motions have been heard and decided; and dates for the hearing on the merits of the matter be set after the five motions have been heard and decided (the "**Scheduling Order**");

AND WHEREAS the Privilege Motion, the Prematurity Motion and the Stay Motion have been heard and decided in accordance with the Scheduling Order;

AND WHEREAS Staff requested a pre-hearing conference to request, among other things, that the Scheduling Order be amended to schedule the Third Party Records Motion, the Disclosure Motion and the hearing on the merits;

AND WHEREAS a pre-hearing conference was held on October 2, 2012 at which time Staff and counsel for the Respondents attended and made submissions;

AND WHEREAS on October 2, 2012, the Commission ordered that the request for a summons to compel the production of certain records of a third party and any motion to quash such summons proceed in accordance with Rule 4.7, and that a pre-hearing conference be held on January 16, 2013 at which time the Commission would consider scheduling the Disclosure Motion and the hearing on the merits;

AND WHEREAS a pre-hearing conference was held on January 16, 2013, and Staff and the Respondents made submissions regarding the scheduling of the Third Party Records Motion, the Disclosure Motion and the hearing on the merits;

AND WHEREAS on January 16, 2013, the Commission ordered that: (i) the Third Party Records Motion to review the issuance of a summons shall be heard on April 8, 2013 at 10:00 a.m.; (ii) the Disclosure Motion shall be heard on July 17, 2013 at 10:00 a.m.; and (iii) the hearing on the merits shall commence on May 5, 2014, and continue up to and including June 20, 2014, save and except for Monday, May 19 (Victoria Day), and the alternate Tuesdays each month when meetings of the Commission are scheduled, the dates of which are unknown at this time;

AND WHEREAS on February 28, 2013, counsel for Bobrow, on notice to counsel for Azeff and Staff, requested an adjournment of the Third Party Records Motion, and Staff did not oppose the adjournment request, provided that the dates for the Disclosure Motion and the hearing on the merits are preserved;

AND WHEREAS on April 4, 2013, the Commission ordered that the date of April 8, 2013 for the hearing of the Third Party Records Motion be vacated and that the Third Party Records Motion be adjourned to July 9, 2013 at 10:00 a.m.;

AND WHEREAS on May 6, 2013, at the request of Bobrow and Azeff, the Commission issued a summons for documents from the Third Party (the "**Third Party Summons**");

AND WHEREAS on June 28, 2013, the Third Party filed its motion record for the Third Party Records Motion to quash part of the Third Party Summons;

AND WHEREAS the Third Party indicated that it asserts solicitor-client privilege over all documents protected by its privilege;

AND WHEREAS the Third Party Records Motion was scheduled to be argued on July 9, 2013;

AND WHEREAS on July 9, 2013, Staff, counsel for the Third Party and counsel for Bobrow, who also appeared as agent for counsel for Azeff, attended before the Commission and advised that the Third Party Records Motion had been settled on consent of Azeff, Bobrow and the Third Party on the terms of this Order;

AND WHEREAS this Order is without prejudice to Azeff and/or Bobrow seeking a further summons to obtain the preparation notes that the Third Party's counsel used to interview Azeff and Bobrow on November 25, 2010 and is also without prejudice to the Third Party moving to quash such summons provided any further summons and/or motion to quash is brought within a reasonable period of time of the Third Party Documents (defined below) being provided or a further summons being issued;

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

IT IS ORDERED THAT the Third Party Summons is quashed, on consent, without adjudication, on the following terms:

A. That all documents produced by the Third Party to Bobrow pursuant to the Order shall be redacted to remove any information that may identify CIBC's clients and agents, and any information for employees other than Azeff and Bobrow (the "**Confidentiality Terms**");

B. That the Third Party will not produce any documents that do not relate to Azeff and Bobrow. If a document relates to Azeff and Bobrow and other Third Party employees or agents, the Third Party will produce those parts of the document that relate to Azeff and Bobrow, redacted pursuant to the Confidentiality Terms;

That Azeff and Bobrow shall pay to the Third Party reasonable copying costs actually incurred by or for the Third Party in producing documents pursuant to this Order, as specified below;

C. Subject to the Confidentiality Terms, the Third Party shall produce to Bobrow: (collectively, the "**Third Party Documents**")

1) Two Compliance Reports of the Third Party dated October 6, 2010 and November 5, 2010, concerning the trading activity of Azeff and/or Bobrow;

2) All factual data and documents provided by the Third Party to its counsel that relate to Azeff and Bobrow only;

3) All emails still in possession of the Third Party from the work accounts of Azeff and Bobrow between January 1, 2002 and May 31, 2004, subject to (a) reasonable search terms being provided to the Third Party by Azeff and Bobrow, and (b) Azeff and Bobrow reimbursing the Third Party for costs incurred in reviewing and producing the emails in accordance with the Confidentiality Terms, such costs to be set at (i) $3000, if the search terms return less than 3001 emails, or (ii) such reasonable costs that are actually incurred by the Third Party, if the search terms return more than 3000 emails. If emails are no longer in possession of the Third Party, the Third Party shall promptly advise Bobrow of this fact;

4) The reasonable basis files that were kept by Azeff and Bobrow between January 1, 2002 and December 31, 2010 still in the possession of the Third Party, subject to Azeff and Bobrow reimbursing the Third Party for any costs greater than $1000 incurred in reviewing and producing these reasonable basis files in accordance with the Confidentiality Terms;

5) Information still in possession of the Third Party for all trades executed under the IA codes registered to Azeff and/or Bobrow between January 1, 2002 and December 31, 2009 in an electronic spreadsheet format; and

D. The two Compliance Reports specified above are to be produced on or before July 26, 2013. The Third Party shall make best efforts to produce, on a rolling productions basis, the remainder of the Third Party Documents to Bobrow before October 31, 2013, and in any event, no later than December 31, 2013.

DATED at Toronto this 16th day of July, 2013.

"Edward P. Kerwin"

2.2.3 New Moon Minerals Corp. – s. 144

Headnote

Section 144 – full revocation of cease trade order upon remedying of defaults.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.

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

AND

IN THE MATTER OF
NEW MOON MINERALS CORP.
(the Applicant)

ORDER
(Section 144)

WHEREAS the securities of New Moon Minerals Corp. (the "Applicant") are subject to a temporary cease trade order dated June 14, 2013 issued by the Director of the Ontario Securities Commission (the "Commission), pursuant to paragraph 2 of subsection 127 (1) and subsection 127(5) of the Act, as extended by a further cease trade order dated June 26, 2013 made by the Director, pursuant to paragraph 2 of subsection 127(1) of the Act (collectively, the "Ontario Cease Trade Order"), ordering that all trading in the securities of the Applicant, whether direct or indirect, cease until the order is revoked by the Director;

AND WHEREAS the Ontario Cease Trade Order was made on the basis that the Applicant was in default of certain filing requirements under Ontario securities law as described in the Ontario Cease Trade Order;

AND WHEREAS the Applicant having applied to the Ontario Securities Commission (the "Commission") for an order pursuant to section 144 of the Act to revoke the Ontario Cease Trade Order;

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a corporation incorporated under the federal laws of Canada. The head office of the Applicant is located in Delta, British Columbia.

2. The Applicant is a reporting issuer or the equivalent under the securities legislation of the provinces of British Columbia, Alberta, Saskatchewan, Manitoba and Ontario (the "Reporting Jurisdictions"). The Applicant is not a reporting issuer in any other jurisdiction in Canada.

3. The Applicant's authorized share capital consists of an unlimited number of common shares without par value of which 33,879,351 shares are issued and outstanding.

4. The Applicant's common shares are not listed for trading on any stock exchange.

5. The Ontario Cease Trade Order was issued as a result of the Applicant's failure to file its annual financial statements along with associated Management's Discussion and Analysis (the "MD&A") and applicable executive officers' certificates required under National Instrument 52-109 – *Certification of Disclosure in Issuers' Annual and Interim Filings* ("NI 52-109") for the year ending January 31, 2013 (the "Annual Filings").

6. The Applicant was also subject to a similar cease trade order issued by the British Columbia Securities Commission on June 7, 2013 as a result of the failure to file the Annual Filings within the time prescribed by the applicable securities legislation. A formal application for revocation of the cease trade order in British Columbia is not required, as the filing of the Annual Filings constitutes such application (which was completed on July 2, 2013). The cease trade order issued by the British Columbia Securities Commission was revoked on July 3, 2013 and no cease trade orders exist in respect of the Applicant's securities in any jurisdiction other than Ontario.

7. Since the issuance of the Ontario Cease Trade Order, the Applicant has filed, among other things, the following continuous disclosure documents with the Reporting Jurisdictions on July 2, 2013:

   (a) Form 13-502F1 – *Class 1 Reporting Issuers – Participation Fee* for the year ended January 31, 2013;

   (b) Annual Financial Statements and MD&A for the year ended January 31, 2013; and

   (c) Certificates pursuant to NI 52-109 for the year ended January 31, 2013.

8. The Applicant is not in default of any requirements of the Ontario Cease Trade Order or the Legislation.

9. The Applicant has filed all outstanding continuous disclosure documents that are required to be filed in the Reporting Jurisdictions.

10. The Applicant has paid all outstanding activity, participation and late filing fees that are required to be paid.

11. The Applicant's SEDAR profile and SEDI issuer profile supplement are current and accurate.

12. Upon the issuance of this revocation order, the Applicant will issue a news release and concurrently file a material change report on SEDAR announcing the revocation of the Ontario Cease Trade Order.

AND UPON considering the application and the recommendation of the staff of the Commission;

AND UPON the Director being satisfied that it would not be prejudicial to the public interest to revoke the Ontario Cease Trade Order.

IT IS ORDERED pursuant to section 144 of the Act that the Ontario Cease Trade Order is revoked.

DATED this 25th day of July, 2013.

"Kathryn Daniels"
Deputy Director, Corporate Finance

2.2.4 Innovative Gifting Inc. 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
INNOVATIVE GIFTING INC., TERENCE LUSHINGTON,
Z2A CORP. AND CHRISTINE HEWITT

ORDER
(Sections 127 and 127.1)

WHEREAS on March 2, 2010, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990 c. S.5, as amended (the "Act"), accompanied by a Statement of Allegations dated March 2, 2010 filed by Staff of the Commission ("Staff") in respect of Innovative Gifting Inc., Terence Lushington, Z2A Corp. and Christine Hewitt;

AND WHEREAS on March 29, 2011, the Commission issued an order approving a Settlement Agreement between Staff and Innovative Gifting Inc. and Terence Lushington;

AND WHEREAS a hearing on the merits with respect to the allegations against Christine Hewitt and Z2A Corp. (the "Respondents") was held before the Commission on October 3, 4, 5, 6, 12 and 24, November 8, and December 21, 2011 (the Merits Hearing);

AND WHEREAS following Merits Hearing, the Commission issued its Reasons and Decision with respect to the merits on July 25, 2013;

IT IS ORDERED that Staff and the Respondents shall appear before the Commission on August 12, 2013 at 10:00 a.m. at the offices of the Commission at 20 Queen Street West, Toronto, ON, for the purposes of scheduling the hearing with respect to sanctions and costs.

DATED at Toronto this 25th day of July, 2013.

"Paulette L. Kennedy"

2.2.5 Tricoastal Capital Partners LLC et al. – ss. 127(1), 127(5)

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

AND

IN THE MATTER OF
TRICOASTAL CAPITAL PARTNERS LLC,
TRICOASTAL CAPITAL MANAGEMENT LTD.
and KEITH MACDONALD SUMMERS

ORDER
(Subsections 127(1) & 127(5))

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

1. Keith MacDonald Summers ("Summers") is an individual who resides in Ontario. He is the sole director of Tricoastal Capital Management Ltd. ("Tricoastal Capital") and principal of Tricoastal Capital Partners LLC ("Tricoastal Partners"). Summers is not currently registered to trade in securities in Ontario;

2. Tricoastal Partners is a corporation incorporated in the State of Delaware and has never been a reporting issuer in Ontario or registered to trade in securities in Ontario;

3. Tricoastal Capital is a corporation incorporated in the Province of Ontario and has never been a reporting issuer in Ontario or registered to trade in securities in Ontario;

4. Summers, Tricoastal Partners and Tricoastal Capital (collectively, the "Respondents") appear to be trading securities without registration or an exemption to the registration requirements contrary section 25 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act");

5. The Respondents appear to be trading in securities that would constitute a distribution without a prospectus or an appropriate exemption from the prospectus requirement contrary to section 53 of the Act; and,

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

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

AND WHEREAS by Commission order made April 12, 2013 pursuant to section 3.5(3) of the Act each of Howard I. Wetston, James E. A. Turner, Mary G. Condon, James D. Carnwath, Edward P. Kerwin, Vern Krishna, Alan J. Lenczner, Christopher Portner, and C. Wesley Scott acting alone, is authorized to make orders under subsections 127(1) and 127(5) of the Act;

IT IS ORDERED pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities by the Respondents or their agents shall cease;

IT IS FURTHER ORDERED pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that the exemptions contained in Ontario securities law do not apply to the Respondents or their agents; and

IT IS FURTHER ORDERED pursuant to subsection 127(6) of the Act that this order shall take effect immediately and shall expire on the fifteenth day after its making unless extended by order of the Commission.

DATED at Toronto this 25th day of July, 2013.

"James Turner"

2.2.6 Paul Azeff et al. – Rules 1.6(2), 3, 6 and 9 of the OSC Rules of Procedure

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

AND

IN THE MATTER OF
PAUL AZEFF, KORIN BOBROW,
MITCHELL FINKELSTEIN, HOWARD JEFFREY MILLER
AND MAN KIN CHENG (a.k.a. FRANCIS CHENG)

ORDER
(Rules 1.6(2), 3, 6 and 9 of the
Ontario Securities Commission's Rules of Procedure
(2012), 35 O.S.C.B. 10071)

WHEREAS on September 22, 2010, the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing, pursuant to ss. 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "***Securities Act***"), accompanied by a Statement of Allegations of Staff of the Commission ("**Staff**") with respect to the respondents Howard Jeffrey Miller ("**Miller**") and Man Kin Cheng ("**Cheng**") for a hearing to commence on October 18, 2010;

AND WHEREAS Miller and Cheng were served with the Notice of Hearing and Statement of Allegations dated September 22, 2010 on September 22, 2010;

AND WHEREAS at a hearing on October 18, 2010, counsel for Staff, counsel for Cheng, and Miller, appearing on his own behalf, consented to the scheduling of a confidential pre-hearing conference on January 11, 2011 at 3:00 p.m.;

AND WHEREAS on November 11, 2010, the Commission issued a Notice of Hearing, pursuant to ss. 127 and 127.1 of the *Securities Act*, accompanied by an Amended Statement of Allegations of Staff which added the respondents Paul Azeff ("**Azeff**"), Korin Bobrow ("**Bobrow**") and Mitchell Finkelstein ("**Finkelstein**"), for a hearing to commence on January 11, 2011;

AND WHEREAS Miller, Cheng, Azeff, Bobrow and Finkelstein (together, the "**Respondents**") were served with the Notice of Hearing and Amended Statement of Allegations dated November 11, 2010 on November 11, 2010;

AND WHEREAS following a hearing on January 11, 2011, counsel for Staff, counsel for Azeff, Bobrow, Finkelstein and Cheng, and Miller, appearing on his own behalf, attended a confidential pre-hearing conference;

AND WHEREAS at the confidential pre-hearing conference on January 11, 2011, all parties made submissions regarding the disclosure made by Staff and it was ordered by the Commission, on the consent of all parties, that Staff and the Respondents would exchange written proposals concerning outstanding disclosure issues and that a motion date would be set for February 22, 2011 regarding disclosure issues, if necessary;

AND WHEREAS at the request of the Respondents, and on the consent of Staff, it was agreed that the February 22, 2011 motion date would be adjourned to April 8, 2011;

AND WHEREAS a disclosure motion was held on April 8, 2011 and, after submissions by the parties, the Panel issued a Confidentiality Order and Adjournment Order dated April 8, 2011, adjourning the Respondents' disclosure motion and the hearing in this matter to a pre-hearing conference, the date of which was to be agreed to by the parties and provided to the Office of the Secretary;

AND WHEREAS on April 18, 2011, Staff filed an Amended Amended Statement of Allegations;

AND WHEREAS the Panel issued an amended Confidentiality Order and Adjournment Order dated April 19, 2011 scheduling, on consent of all parties, a confidential pre-hearing conference on June 2, 2011 at 10:00 a.m.;

AND WHEREAS all parties consented to an adjournment of the confidential pre-hearing conference from June 2, 2011 at 10:00 a.m. to August 17, 2011 at 10:00 a.m. to allow Staff to provide the Respondents with further disclosure in this matter;

AND WHEREAS on July 6, 2011, counsel for Finkelstein served Staff with motion materials seeking a stay of the proceeding against him (the "**Stay Motion**") and Staff indicated that: a) it intended to bring a motion that the Stay Motion is premature and should be heard at the hearing on the merits (the "**Prematurity Motion**"); and b) it intended to bring a motion to seek leave to put before the Panel at the hearing of the Stay Motion certain "without prejudice" communications (the "**Privilege Motion**");

AND WHEREAS counsel for Azeff and Bobrow indicated that they intend to bring a motion to compel records from a third party (the "**Third Party**" and the "**Third Party Records Motion**");

AND WHEREAS the Respondents advised that they may seek to continue the hearing of the previous disclosure motion, which had been held on April 8, 2011 and had been adjourned on April 8, 2011 and June 1, 2011, or may bring other motions relating to disclosure issues (the "**Disclosure Motion**");

AND WHEREAS a pre-hearing conference was held on August 17, 2011 and Staff and the Respondents made submissions regarding the scheduling of the various motions, including the Stay Motion, the Prematurity Motion, the Privilege Motion, the Third Party Records Motion and the Disclosure Motion;

AND WHEREAS on August 30, 2011, the Commission ordered that the Privilege Motion be heard on

September 26, 2011; the Prematurity Motion and the Stay Motion be heard together commencing on November 9, 2011; the Third Party Records Motion be scheduled to be heard on a date after the Prematurity Motion and the Stay Motion have been heard and decided; the Disclosure Motion be adjourned to a date that will be fixed after the four motions have been heard and decided; and dates for the hearing on the merits of the matter be set after the five motions have been heard and decided (the "**Scheduling Order**");

AND WHEREAS the Privilege Motion, the Prematurity Motion and the Stay Motion have been heard and decided in accordance with the Scheduling Order;

AND WHEREAS Staff requested a pre-hearing conference to request, among other things, that the Scheduling Order be amended to schedule the Third Party Records Motion, the Disclosure Motion and the hearing on the merits;

AND WHEREAS a pre-hearing conference was held on October 2, 2012 at which time Staff and counsel for the Respondents attended and made submissions;

AND WHEREAS on October 2, 2012, the Commission ordered that the request for a summons to compel the production of certain records of a third party and any motion to quash such summons proceed in accordance with Rule 4.7 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071 (the "***Rules of Procedure***"), and that a pre-hearing conference be held on January 16, 2013 at which time the Commission would consider scheduling the Disclosure Motion and the hearing on the merits;

AND WHEREAS a pre-hearing conference was held on January 16, 2013, and Staff and the Respondents made submissions regarding the scheduling of the Third Party Records Motion, the Disclosure Motion and the hearing on the merits;

AND WHEREAS on January 16, 2013, the Commission ordered that: 1) the Third Party Records Motion to review the issuance of a summons shall be heard on April 8, 2013 at 10:00 a.m.; 2) the Disclosure Motion shall be heard on July 17, 2013 at 10:00 a.m.; and 3) the hearing on the merits shall commence on May 5, 2014, and continue up to and including June 20, 2014, save and except for Monday, May 19 (Victoria Day), and the alternate Tuesdays each month when meetings of the Commission are scheduled, the dates of which are unknown at this time;

AND WHEREAS on February 28, 2013, counsel for Bobrow, on notice to counsel for Azeff and Staff, requested an adjournment of the Third Party Records Motion, and Staff did not oppose the adjournment request, provided that the dates for the Disclosure Motion and the hearing on the merits were preserved;

AND WHEREAS on April 4, 2013, the Commission ordered that the date of April 8, 2013 for the hearing of the Third Party Records Motion be vacated and that the Third Party Records Motion be adjourned to July 9, 2013 at 10:00 a.m.;

AND WHEREAS on May 6, 2013, at the request of Bobrow and Azeff, the Commission issued a summons for documents from the Third Party (the "**Third Party Summons**");

AND WHEREAS on June 28, 2013, the Third Party filed its motion record for the Third Party Records Motion seeking an order to quash part of the Third Party Summons;

AND WHEREAS the Third Party indicated that it asserted solicitor-client privilege over all documents protected by its privilege;

AND WHEREAS the Third Party Records Motion was scheduled to be argued on July 9, 2013;

AND WHEREAS on July 9, 2013, Staff, counsel for the Third Party and counsel for Bobrow, who also appeared as agent for counsel for Azeff, attended before the Commission and advised that the Third Party Records Motion had been settled on consent of Azeff, Bobrow and the Third Party on the terms of a draft order to be filed with the Commission;

AND WHEREAS on July 9, 2013, counsel for Bobrow, who also appeared as agent for counsel for Azeff, requested that the date for the Disclosure Motion, scheduled for July 17, 2013, be vacated and that the time set aside on July 17, 2013 be scheduled for the hearing of a motion to adjourn the hearing on the merits (the "**Adjournment Motion**") and a pre-hearing conference;

AND WHEREAS on July 11, 2013, the Commission ordered that: 1) the hearing of the Disclosure Motion, which was scheduled for July 17, 2013, be vacated; 2) the hearing of the Adjournment Motion be held on July 17, 2013 at 9:30 a.m.; and 3) immediately after the hearing of the Adjournment Motion on July 17, 2013, a confidential pre-hearing conference be held on July 17, 2013;

AND WHEREAS on July 16, 2013, the Commission made an order in respect of the Third Party Records Motion (the "**Third Party Records Order**"), which ordered, amongst other things, that the Third Party shall make best efforts to produce, on a rolling productions basis, the documents subject to the Third Party Records Order (the "**Third Party Documents**") to Bobrow before October 31, 2013, and in any event, no later than December 31, 2013;

AND WHEREAS on July 17, 2013, Staff and counsel for Bobrow, who also appeared as agent for counsel for Azeff, and counsel for Miller, Cheng and Finkelstein attended before the Commission and made submissions regarding the Adjournment Motion brought by counsel for Bobrow;

AND WHEREAS counsel for Bobrow submitted that he is counsel for a respondent in a criminal matter in another province (the "**Criminal Matter**"), in which target trial dates were set following a case management conference on May 21, 2013, and that the target trial dates in the criminal matter conflict with the scheduled dates for the hearing on the merits in this matter;

AND WHEREAS counsel for Bobrow advised the Commission that the target trial dates are expected to be affirmed at the next appearance in connection with the Criminal Matter on July 29, 2013;

AND WHEREAS the Commission has considered the relevant factors listed in Rule 9.2 of the *Rules of Procedure* and has considered the submissions of the parties, taking particular note of the following factors:

1. all parties, including the Respondents Azeff, Finkelstein, Cheng and Miller, consent to the adjournment, save and except Staff;

2. no previous adjournment requests have been made by any Respondent in this matter;

3. the delay that will result from granting the Adjournment Motion is relatively short;

4. the Adjournment Motion was brought 9.5 months before the scheduled start date for the hearing on the merits;

5. given that counsel for Bobrow was retained in November, 2010 at the outset of these proceedings, retaining new counsel for a hearing on the merits in this matter in May and June, 2014 would impose significant cost on and prejudice to Bobrow;

6. the requested adjournment would not impose any cost on the Commission or on any of the parties; and

7. Staff has not demonstrated any specific prejudice if the Adjournment Motion is granted;

AND WHEREAS the Respondents were made aware of the Commission's view that a further request for adjournment would be subject to strict scrutiny and the Commission likely would be reluctant to grant another adjournment of the hearing on the merits;

AND WHEREAS on July 17, 2013, Staff and counsel for Bobrow, who also appeared as agent for counsel for Azeff and Finkelstein, and counsel for Miller and Cheng attended a confidential pre-hearing conference immediately following the hearing of the Adjournment Motion;

AND WHEREAS the Commission encouraged the parties to ensure that any further motions would be brought before the Commission in a timely fashion to avoid any further delay of the hearing on the merits;

AND WHEREAS the parties agreed that a disclosure motion will be held on November 20, 2013 at 10:00 a.m. and a confidential pre-hearing conference will be held on January 16, 2014 at 10:00 a.m.;

AND WHEREAS Staff and counsel for Bobrow agreed that counsel for Bobrow will use his best efforts to provide to Staff any relevant Third Party Documents that Bobrow and Azeff intend to rely upon as evidence at the hearing on the merits before June 1, 2014, and in any event, no later than July 1, 2014;

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

IT IS ORDERED THAT:

1. the Adjournment Motion brought by Bobrow is granted;

2. the dates scheduled for the hearing on the merits, commencing on May 5, 2014 and continuing up to and including June 20, 2014, save and except for certain dates, shall be vacated;

3. the hearing on the merits shall commence on September 15, 2014, and continue up to and including November 7, 2014, save and except for September 25 and 26, 2014 (Rosh Hashanah), October 13, 2014 (Thanksgiving) and the dates on which meetings of the Commission are scheduled, being September 23, October 7, 21 and November 4, 2014;

4. a disclosure motion shall be held on November 20, 2013 at 10:00 a.m.;

5. a confidential pre-hearing conference shall be held on January 16, 2014 at 10:00 a.m.; and

6. counsel for Bobrow will use his best efforts to provide to Staff any relevant Third Party Documents that Bobrow and Azeff intend to rely upon as evidence at the hearing on the merits before June 1, 2014, and in any event, shall provide such Third Party Documents to Staff no later than July 1, 2014.

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

"Edward P. Kerwin"

2.2.7 Great Lakes Nickel Limited – s. 144

Headnote

Application for a revocation of a cease trade order – subject to cease trade order as a result of its failure to file financial statements – Issuer has brought its filings up-to-date – Issuer is otherwise not in default of applicable securities legislation – Issuer has provided an undertaking to the Commission that it will not complete (a) a restructuring transaction involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada, (b) a reverse take-over with a reverse take-over acquirer that has a direct or indirect, existing or proposed, material underlying business which is not located in Canada, or (c) a significant acquisition involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada, unless the issuer files a preliminary prospectus and a final prospectus with the Ontario Securities Commission and obtains receipts for the preliminary prospectus and the final prospectus from the Director under the Act.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127(1), 127(5), 127(8), 144.

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

AND

IN THE MATTER OF
GREAT LAKES NICKEL LIMITED
(THE "COMPANY")

ORDER
(Section 144)

WHEREAS the securities of the Company are subject to a temporary cease trade order dated December 4, 2002 issued by a Manager of the Ontario Securities Commission (the "**Commission**"), pursuant to paragraph 2 of subsection 127(1) and subsection 127(5) of the Act, as extended by a further cease trade order dated December 16, 2002 made by a Manager of the Commission (collectively, the "**Cease Trade Order**"), ordering that the trading in the securities of the Company cease until the Cease Trade Order is revoked by the Commission;

AND WHEREAS the Cease Trade Order was made on the basis that the Company was in default of certain filing requirements under Ontario securities laws as described in the Cease Trade Order;

AND WHEREAS the Company is also subject to a cease trade order dated December 11, 2002 issued by a Manager pursuant to section 164 of the *Securities Act* (British Columbia) (the "**BC Cease Trade Order**") ordering that the trading in the securities of the Company cease until the BC Cease Trade Order is revoked by the Executive Director;

AND WHEREAS the Company is also subject to a cease trade order dated February 21, 2003 issued by a Member pursuant to section 198 of the *Securities Act* (Alberta) (the "**Alberta Cease Trade Order**") ordering that the trading in the securities of the Company cease until the Alberta Cease Trade Order is revoked by the Executive Director;

AND WHEREAS the Company is also subject to a cease trade order dated December 6, 2002 issued by the Director pursuant to section 318 of the *Loi sur les valeurs mobilièrs* (the "**Québec Cease Trade Order**") ordering that the trading in the securities of the Company cease until the Québec Cease Trade Order is revoked by the Director;

AND WHEREAS the Company has applied to the Commission pursuant to section 144 of the Act for a revocation of the Cease Trade Order (the "**Application**");

AND WHEREAS the Company has concurrently applied to the British Columbia Securities Commission for an order for revocation of the BC Cease Trade Order, the Alberta Securities Commission for an order for revocation of the Alberta Cease Trade Order and the Autorité des marches financiers for an order for revocation of the Québec Cease Trade Order;

AND WHEREAS the Company has represented to the Commission that:

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

2. The Company's registered and head office is located at 545 King Street North, Waterloo, Ontario, Canada, N2L 5Z6.

3. The Company is a junior natural resource exploration company.

4. The Company is a reporting issuer under the securities legislation of the provinces of Ontario, British Columbia, Alberta and Québec.

5. The Company's authorized share capital consists of an unlimited number of common shares of which 5,641,524 common shares are issued and outstanding (the "**Common Shares**").

6. The Company issued a non-interest bearing promissory note with a face value of $1 million on January 1, 1986 (the "**Note**"). The current principal balance outstanding on the Note is $975,823. The Note is held by 153078 Canada Inc., a company that is indirectly controlled by Robin Lowe. The board of the Company and 153078 Canada Inc. amended the terms of the Note as described in Note 4 of the audited annual financial statements

for the year ended December 31, 2012. Mr. Lowe would have cancelled the Note for the benefit of the Company, but has agreed to amend the Note at the request of the Company as the financial outcome is more favourable to the Company. The amendments to the Note are in the spirit of the Commission's November 2, 2010 partial revocation order as repayment of the Note is now payable only out of 50% of the royalty payments derived from production of minerals from the Pardee property. The Note has also been amended to expire on December 31, 2020. Management of the Company is currently of the view that no additional payments on the promissory note will be made in the future.

7. Due to financial difficulties, the Company effectively ceased operations in 2002 and was unable to file its financial statements and other continuous disclosure documents.

8. The Cease Trade Order, the BC Cease Trade Order, the Alberta Cease Trade Order and the Québec Cease Trade Order were issued as a result of the failure of the Company to file its financial statements.

9. The Common Shares were subject to a suspension of trading resulting from the issuance of the Cease Trade Order, the BC Cease Trade Order, the Alberta Cease Trade Order and the Québec Cease Trade Order, and on June 20, 2003 the Common Shares were delisted from the TSX Venture Exchange.

10. Other than a cease trade order of the Commission issued on June 12, 1998 which was revoked on June 26, 1998, the Cease Trade Order, the BC Cease Trade Order, the Alberta Cease Trade Order and the Québec Cease Trade Order, the Company has not been subject to any cease trade order in any jurisdiction.

11. On November 2, 2010, the Commission issued a partial revocation order in respect of the Cease Trade Order, pursuant to which, on February 15, 2011, Robin Lowe, among other things, indirectly acquired 2,652,533 Common Shares from Jacobus Hanemaayer, Community Expansion Inc. and 153078 Canada Inc. in connection with a purchase agreement between the parties dated February 11, 2012 (the "**Acquisition**"). Prior to the Acquisition, Robin Lowe held, directly or indirectly, approximately 7% of the Common Shares. Robin Lowe's intention in seeking and obtaining the partial revocation order from the Commission was to complete the Acquisition and to, among other things, meet with the board of the Company, to organize a shareholder meeting of the Company to be elected as a director, to approve the sale of the Pardee property, to bring up-to-date and file the financial statements and continuous disclosure documents of the Company and to apply for a full revocation order.

12. As a result of the closing of the Acquisition, Robin Lowe owns, directly or indirectly, 3,047,419 Common Shares, being approximately 54% of the outstanding Common Shares.

13. The Common Shares are not currently listed for trading on any exchange or marketplace and the Company has no current plans to have any of its securities listed for trading on any exchange or marketplace.

14. Other than the Note and the Common Shares, the Company has no securities outstanding.

15. The Company held a special meeting of shareholders on September 30, 2011 at which, among other things, a new board of directors was elected and a transaction involving an option agreement with Rio Tinto Exploration Canada Inc. ("**RTEC**") to acquire a 100% undivided interest in the Company's Pardee property was approved.

16. On November 18, 2011, the Company entered into an agreement with RTEC regarding an option by RTEC to acquire a 100% undivided interest in certain mining properties forming the Company's Pardee property in Ontario. The basic terms of the agreement are that RTEC may exercise the option upon paying $5,500,000 to the Company over the course of seven (7) years, at which time it will grant the Company a 2% net smelter returns royalty. During the option period, RTEC will have the right to make all exploration and development decisions and the Company will provide to RTEC all project data that it holds or has the right to receive. RTEC may elect to withdraw from the Pardee property at any time after making the first payment under the option, with no interest earned and no further rights and obligations. RTEC is required to maintain the Pardee property in good standing during the option period.

17. The Company's SEDAR profile and SEDI issuer profile supplement are current and accurate.

18. The Company has prepared and filed on SEDAR under the Company's profile its audited financial statements for the fiscal periods ended December 31, 2009, 2010, 2011 and 2012, including management's discussion and analysis for such periods, its interim unaudited financial statements for the period ended March 31, 2013, including management's discussion and analysis for that period and accompanying certificates as required by National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the "**Outstanding Continuous Disclosure Documents**").

19. The Company was inactive for the period between 2002 and early 2011 and the continuous disclosure documents listed in Schedule "A" hereto ("**Unfiled Continuous Disclosure Documents**") were not filed and will not be filed on SEDAR as they relate to periods that ended more than three years prior to the date hereof and would not provide useful or relevant information to shareholders of the Company or the public.

20. The Company confirms that there are no significant transactions or litigation that relate to the Unfiled Continuous Disclosure Documents.

21. The Company confirms that it will, to the extent necessary, disclose any material changes in its continuous disclosure filings for the year ended December 31, 2012.

22. The Company has paid all outstanding activity, participation and late filing fees to the Commission and has paid all outstanding activity, participation and late filing fees to the securities regulatory authority or regulator in each of the provinces of British Columbia, Alberta and Québec in connection with the filing of the Outstanding Continuous Disclosure Documents.

23. Other than the Unfiled Continuous Disclosure Documents, the Company has filed all outstanding continuous disclosure documents that are required to be filed under Ontario securities law and is not in default of any requirements in applicable securities legislation in any jurisdiction.

24. The Company held an annual general meeting of shareholders on December 28, 2012 at which shareholders (i) received the audited financial statements of the Company for the fiscal periods ended December 31, 2009, 2010 and 2011, (ii) appointed KPMG LLP as auditors of the Company, and (iii) elected directors to serve until the next annual meeting.

25. The Company's current directors are Robin Lowe, Greg Lowe, Roy Annett, Michael Power and Marcus Martin (collectively, the "**Directors**"). The Company's current executive officers are Robin Lowe, the President and Chief Executive Officer, and Greg Lowe, the Chief Financial Officer, Secretary and Treasurer. The Company's Directors were elected at the Company's special meeting of shareholders on September 30, 2011 and more recently at the Company's annual and general meeting of shareholders on December 28, 2012. On September 30, 2011, Robin Lowe was appointed the President and Chief Executive Officer and Greg Lowe was appointed the Chief Financial Officer, Secretary and Treasurer. There are no current or incoming directors, executive officers or promoters other than those which have been disclosed herein.

26. The Company is not considering, nor is it involved in any discussions relating to, a reverse takeover, merger, amalgamation or other form of combination or transaction similar to any of the foregoing. However, it is the intention of management of the Company to investigate opportunities going forward. The Company has provided the Commission with an undertaking that the Company will not complete: (a) a restructuring transaction involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada, (b) a reverse take-over with a reverse take-over acquirer that has direct or indirect, existing or proposed, material underlying business which is not located in Canada, or (c) a significant acquisition involving, directly or indirectly, an existing or proposed, material underlying business which is not located in Canada, unless, (A) the Company files a preliminary prospectus and a final prospectus with the Commission and obtains receipts for the preliminary prospectus and the final prospectus from the Director under the Act, (B) the Company files or delivers with the preliminary prospectus and the final prospectus the documents required by Part 9 of National Instrument 41-101 *General Prospectus Requirements* ("**NI 41-101**") including a completed personal information form and authorization in the form set out in Appendix A of NI 41-101 for each current and incoming director, executive officer and promoter of the Company, and (C) the preliminary prospectus and the final prospectus contain the information required by the applicable securities legislation, including the information required for a probable restructuring transaction, reverse takeover or significant acquisition (as applicable).

27. The Company has filed a completed personal information form and authorization form for each director and executive officer of the Company in the form of Appendix A of National Instrument 41-101 *General Prospectus Requirements*.

28. Upon the issuance of this revocation order, the Company will issue a news release and file a material change report on SEDAR disclosing the revocation of the cease trade orders and outlining the Company's future plans. The material change report will include disclosure on what remedial continuous disclosure documents have been filed on SEDAR and a description of the undertaking referred to in paragraph 26 above. The Company will concurrently file the news release and a material change report regarding the revocation of the cease trade orders on SEDAR.

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

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

IT IS ORDERED pursuant to section 144 of the Act that the Cease Trade Order is revoked.

DATED at Toronto, Ontario on this 30th day of July, 2013.

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

Schedule "A"

1. Interim financial statements for the period ended September 30, 2002 (and related MD&A).
2. Audited financial statements for the period ended December 31, 2002 (and related MD&A).
3. Interim financial statements for the period ended March 31, 2003 (and related MD&A).
4. Interim financial statements for the period ended June 30, 2003 (and related MD&A).
5. Interim financial statements for the period ended September 30, 2003 (and related MD&A).
6. Audited financial statements for the period ended December 31, 2003(and related MD&A).
7. Interim financial statements for the period ended March 31, 2004 (and related MD&A).
8. Interim financial statements for the period ended June 30, 2004 (and related MD&A).
9. Interim financial statements for the period ended September 30, 2004 (and related MD&A).
10. Audited financial statements for the period ended December 31, 2004 (and related MD&A).
11. Interim financial statements for the period ended March 31, 2005 (and related MD&A).
12. Interim financial statements for the period ended June 30, 2005 (and related MD&A).
13. Interim financial statements for the period ended September 30, 2005 (and related MD&A).
14. Audited financial statements for the period ended December 31, 2005(and related MD&A) .
15. Interim financial statements for the period ended March 31, 2006 (and related MD&A).
16. Interim financial statements for the period ended June 30, 2006 (and related MD&A).
17. Interim financial statements for the period ended September 30, 2006 (and related MD&A).
18. Audited financial statements for the period ended December 31, 2006 (and related MD&A).
19. Interim financial statements for the period ended March 31, 2007 (and related MD&A).
20. Interim financial statements for the period ended June 30, 2007 (and related MD&A).

21. Interim financial statements for the period ended September 30, 2007 (and related MD&A).

22. Audited financial statements for the period ended December 31, 2007 (and related MD&A).

23. Interim financial statements for the period ended March 31, 2008 (and related MD&A) .

24. Interim financial statements for the period ended June 30, 2008 (and related MD&A).

25. Interim financial statements for the period ended September 30, 2008 (and related MD&A).

26. Audited financial statements for the period ended December 31, 2008 (and related MD&A).

27. Interim financial statements for the period ended March 31, 2009 (and related MD&A).

28. Interim financial statements for the period ended June 30, 2009 (and related MD&A).

29. Interim financial statements for the period ended September 30, 2009 (and related MD&A).

30. National Instrument 52-109 Certificates for each filing period commencing on March 31, 2009 and ending on September 30, 2009 (both interim and annual).

31. Meeting materials (including management information circular and form of proxy) for 2003 annual meeting.

32. Meeting materials (including management information circular and form of proxy) for 2004 annual meeting.

33. Meeting materials (including management information circular and form of proxy) for 2005 annual meeting.

34. Meeting materials (including management information circular and form of proxy) for 2006 annual meeting.

35. Meeting materials (management information circular and form of proxy) for 2007 annual meeting.

36. Meeting materials (including management information circular and form of proxy) for 2008 annual meeting.

37. Meeting materials (including management information circular and form of proxy) for 2009 annual meeting.

38. Meeting materials (including management information circular and form of proxy) for 2010 annual meeting.

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Innovative Gifting Inc. et al. – s. 127

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

AND

IN THE MATTER OF
INNOVATIVE GIFTING INC., TERENCE LUSHINGTON,
Z2A CORP. and CHRISTINE HEWITT

REASONS AND DECISION
(Section 127 of the Act)

Hearing:	October 3, 4, 5, 6, 12 and 24, 2011 November 8, 2011 December 21, 2011		
Decision:	July 25, 2013		
Panel:	Paulette L. Kennedy	–	Commissioner
Appearances:	Michelle Vaillancourt	–	For Staff of the Commission
	Marc Boissonneault	–	For Z2A Corp. and Christine Hewitt

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REASONS AND DECISION

I. BACKGROUND

A. Introduction

[1] This was a hearing (the "**Merits 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 allegations made against Z2A Corp. ("**Z2A**") and Christine Hewitt ("**Hewitt**") (together, the "**Respondents**") by Staff of the Commission ("**Staff**") in a Statement of Allegations dated March 2, 2010, in connection with which the Commission issued a Notice of Hearing on the same date.

[2] Prior to the hearing, the Commission approved a settlement agreement between Staff and the former respondents Innovative Gifting Inc. ("**IGI**") and Terence Lushington ("**Lushington**") on March 29, 2011 (*Re Innovative Gifting Inc.* (2011), 34 O.S.C.B. 3799 (the "**Lushington Settlement**")). As a result, the only remaining respondents at the time of the Merits Hearing were Ms. Hewitt and Z2A.

B. The IGI Program

[3] Staff's allegations against Hewitt and Z2A centre on their alleged involvement in the "IGI Program". IGI ran what was described as a charitable gifting program (the "**IGI Program**"). The IGI Program was promoted on the IGI website as "a tax-efficient program to maximize the impact of donations for philanthropists, potential donors, and charities". Prospective donors were informed that cash donations to a designated registered Canadian charity would be matched by a "gift of minority, non-controlling shares trading on the Frankfurt Stock Exchange".

[4] Under the IGI Program, donors would contribute money to charities and receive in exchange shares in a company, the market value of which shares was purportedly a multiple (six to eight times) of the value of their monetary contribution to the charity. IGI promotional material indicates that for every $1,000 in cash donated, $6,000 in shares would be issued in the name of the donor. Donors were led to believe that the shares they were issued were provided by a "non-resident Swiss philanthropist".

[5] The donor had the choice of donating the shares received to the charity. If the shares were so donated, for each $1,000 cash donation, the donor would then receive a charitable receipt for a total of $7,000 representing the $1,000 cash donation and the $6,000 share donation. If the shares were not donated to the charity, the participating donor was required to hold the shares for a number of years.

[6] In the circumstances before me at the Merits Hearing, the particular shares "donated" as part of the IGI Program were shares in RCT Global Networks Inc. ("**RCT**"). RCT was an Ontario corporation involved in the construction industry that became listed on the Frankfurt Stock Exchange in June 2008. RCT is not a respondent in this matter.

C. Staff's Theory of the Respondents' Involvement in the IGI Program

[7] Hewitt became involved in the IGI Program in late November of 2008. On November 26, 2008, Hewitt signed an agreement with IGI on behalf of Z2A "to facilitate the understanding that Z2A's relationship between the philanthropists as a liaison is to complete the legal documentation process and administer the share certificates in the donor's name". Under this agreement, Z2A's compensation for "administrative services" provided in connection with the IGI Program was 10% of the cash donated, payable to Z2A by IGI.

[8] In connection with the IGI Program, the Respondents received sets of lists of donor names from IGI. Hewitt would forward these lists to Drew Reid ("**Reid**"), an individual connected to RCT. Reid would deal with the transfer agent and would then attend at Z2A's offices with certificates for shares of RCT in the names of the individuals on the lists. Hewitt checked the spelling of the names and share amounts on the share certificates against the lists provided to her by IGI and then delivered the share certificates to IGI's offices.

[9] For this work, Z2A provided invoices to IGI for "Fees for Liaison / Intermediary services rendered in the following matters: RCT Global Networks philanthropist / done contribution to Canadian registered charities per CRA 2008 donation

incentive program". In respect of shares issued to approximately 500 donors in December 2008 and January 2009, Staff submits that Z2A was paid $230,453.10 for work performed over a period of 18 days.

[10] Staff submits that the Respondents played a key role in the IGI Program by facilitating the supply of RCT shares to the IGI Program. Staff characterizes Hewitt's role as being IGI's "liaison" to the "philanthropist".

D. Allegations

[11] Given that the distribution of RCT shares under the IGI Program was contingent upon the payment of monies by the "donors" to the charities (90% of which funds flowed or were to have flowed through IGI), Staff submits that the distribution of RCT shares was a trade in securities under the Act.

[12] Staff submits that Hewitt and Z2A performed acts in furtherance of these trades in RCT shares by arranging for the issuance of RCT shares in the names of the "donors" in the IGI Program. In return, Staff submits that Z2A received a commission equal to 10% of the cash "donated" by the participants.

[13] Staff makes the following allegations against Hewitt and Z2A in the Statement of Allegations:

(a) During the time between and including September, 2008 and January, 2009 (the "**Material Time**"), the Respondents traded in securities of RCT without being registered to trade in securities, contrary to subsection 25(1)(a) of the Act and contrary to the public interest; and

(b) During the Material Time, Hewitt, being a director and officer of Z2A, did authorize, permit or acquiesce in the commission of the violations of sections 25 and 53 of the Act, as set out above, by Z2A or by the employees, agents or representatives of Z2A, contrary to section 129.2 of the Act and contrary to the public interest.

[14] Staff alleges that the Respondents participated in acts, solicitations, conduct or negotiations directly or indirectly in furtherance of the sale or disposition of securities for valuable consideration, in circumstances where there were no exemptions available to the Respondents under the Act. Further, Staff submits that approximately 1.3 million shares issued to over 90 donors in the IGI Program were not previously issued and therefore the trades in those shares constituted a distribution under the Act.

II. USE OF HEARSAY EVIDENCE

[15] Section 15 of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended permits the Commission to admit evidence in a hearing that may not otherwise be admissible in a court, including hearsay evidence. Section 15 states:

> 15. (1) Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,
>
> (a) any oral testimony; and
>
> (b) any document or other thing
>
> relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

[16] Although admissible, the weight to be accorded to hearsay evidence must be determined by the Panel. During the Merits Hearing, I admitted hearsay evidence tendered by the parties, subject to my consideration of the weight to be given to that evidence.

III. EVIDENCE – WITNESS TESTIMONY

[17] Five witnesses testified at the Merits Hearing. The witnesses called on behalf of Staff were: Peter Black ("**Black**"), the Executive Director of Furry World Rescue Mission ("**Furry World**"); Reid; and Lori Toledano ("**Toledano**"), who was a Staff investigator in this case. Hewitt testified on her own behalf and also called Julie Morais ("**Morais**"), the former Office Manager at Z2A, as a witness.

A. Peter Black

[18] Black has been the Executive Director of the charity Furry World since 2008, is its only employee and is one of four or five members of its board of directors. Black described Furry World as an advocacy charity for animal rights with particular

reference to having animals recognized as sentient beings and not as property. He testified that Furry World conducts seminars at the University of Toronto on a monthly basis.

[19] According to Black, Furry World has received funding through "sweat equity", personal contributions and through an attempt to generate donations through IGI. All donations received by Furry World in 2008 were made through the IGI Program.

Furry World's Initial Involvement with the IGI Program

[20] Black testified that Furry World became involved with IGI in August 2008 when it was approached by Joseph Lee ("**Lee**"), who proposed a plan through which Furry World could receive donations. Lee provided Black with a draft agreement between Furry World and IGI in the form of a letter. The agreement, which is addressed to IGI, was dated October 3, 2008 and states in part:

> IGI is engaged with a network of gifting entities whose intention is to make a gift and to thereby enhance gift-giving for charitable purposes. You assist the network by seeking out persons (the "Donors") who also intend to make a gift to charities.

The agreement was signed by Black, as the Executive Director of Furry World, and Lee, as the "Managing Partner's" of IGI.

[21] It was explained to Black that in addition to the cash component of the donation, there would be a share donation made as part of the IGI Program. Black understood that the IGI Program secured shares for participating charities through a philanthropist. A tax receipt would be issued to the donor for the value of the shares and for any cash that was donated at the same time. The aggregate amount of the cash component and the value of the shares was to translate into a payment to IGI.

[22] Furry World was later contacted by Lushington, who explained that Lee was no longer associated with IGI and, as a result, a new contract would have to be signed. On this basis, Black signed another contract with IGI on November 26, 2008, which included additional terms not in the original agreement. The November 26, 2008 agreement, in the form of a letter addressed to IGI, stated in part:

> IGI shall present prospective donors to us, and if IGI retains financial planners or other third parties for this service, you shall charge us a cash sum equal to eighteen per cent (18%) (Including GST) of the aggregate donated amount (including cash and the securities, if any) by each donor. The aggregate is based on $1 cash donation and $4 in the public market quoted value of each share donated. If shares are not donated by the donor you shall charge us an amount equal to 90% of the cash donation.
>
> (a) 18% of the aggregate cash gift received by you and shares to be donated to you by each Donor if the donated shares' value is to equal approx. four (4) times the cash gifted to you by the Donor; or
>
> (b) 12.9% of the aggregate cash gift received by you and shares to be donated to you by each Donor if the donated shares' value is to equal approx. six (6) times the cash gifted to you by the Donor; or
>
> (c) 10% of the aggregate cash gift received by you and share to be donated to you by each Donor if the donated shares' value is to equal approx. eight (8) times the cash gifted to you by the Donor.

Furry World's Participation in the IGI Program

[23] Furry World participated in the IGI Program, receiving money beginning on or about November 25, 2008 and continuing until the first week of January 2009. In addition to the cash donations, Furry World was "gifted" shares in RCT.

[24] Black was presented with invoices sent from IGI to Furry World. The invoices listed donor names, the cash amount each donor donated and the assigned value of the RCT shares "donated" by each donor. The invoices also listed "Marketing, Promotion and Fundraising Fees", which were equal to 90% of the total cash amount donated by the donors, payable to IGI by Furry World.

[25] Black confirmed that 90% of the cash donated to Furry World was paid to IGI and testified that these invoices were a summary of payments made. Once the cheques from the donors cleared, Furry World would make the payments to IGI.

[26] Black confirmed that the donors had a choice as to whether they wanted to donate their RCT shares to the charity or keep them. Some individuals who made cash donations to Furry World held on to their shares and others donated them to Furry World. Black testified that the timing for Furry World's receipt of the RCT shares varied; sometimes Furry World would receive

the shares at the same time as the cash donations and other times the shares would be provided later. The practice was for IGI to bundle the share certificates according to the invoice to which they related. Black would attend at the IGI offices to pick up invoices, donor cheques and share certificates.

[27] Black testified that, in total, Furry World retained approximately $250,000 of the cash donated under the IGI Program. This amount includes the money held back by Furry World once it learned that the Commission had issued a temporary order that IGI cease trading in securities.

[28] Black testified that his last meeting with IGI was on or about February 25, 2009, some time after he learned of the Commission's investigation into IGI on about January 15, 2009. I note that the Commission obtained a warrant to search the IGI premises on January 19, 2009 and on February 20, 2009, the Commission issued a temporary order prohibiting trading in securities by IGI.

Christine Hewitt

[29] Black first met Hewitt at the IGI offices on a Sunday evening in December 2008. He testified that Hewitt was introduced to a group of IGI customers (or potential customers) as a "representative of the philanthropist", testifying: "I can't remember the exact word. All I can remember is that she was there vis-à-vis the philanthropist, vis-à-vis shares" (Hearing Transcript, October 3, 2011 at page 80, lines 12 to 14). According to Black, Hewitt arrived at the IGI offices with Lushington and provided Black with the following information with respect to the RCT shares Furry World was to receive through the IGI Program:

> She said it would make the charity rich, that the orders would do greater than it was in terms of the stability function. She said that she was conducting a promotion campaign for the early year of 2009, that she worked closely with the philanthropist and these companies [RCT], and that she guaranteed that the shares were marketable or liquid and had true value.
>
> (Hearing Transcript, October 3, 2011 at page 44, lines 7 to 13)

[30] In December 2008, Black attended at the IGI offices five or six times; Hewitt was also there on a number of these occasions. Black testified that on one of these occasions in December 2008 he had a discussion with Hewitt during which he asked her if the RCT shares were bona fide and whether she was comfortable with the charities accepting them. Black described Hewitt's response as follows: "She assured me that the stocks were good stocks and that the charity would not be a risk and that it was her recommendation that we should continue" (Hearing Transcript, October 3, 2011 at page 82, line 24 to page 83, line 2). Black testified that he was one of six or eight people present for this conversation who were all told that Hewitt was there vis-à-vis the philanthropist and a provider of the stock certificates and that she was there to answer their questions as to the *bona fides* of the transaction:

> … she was not a representative of IGI. She was a representative of the philanthropist. She was introduced by Mr. Lushington as not a member of IGI but as representative of the philanthropist and a person that was going to supply the securities and specifically RCT Global, and there were six or eight people in the room that were there. And just as I was there to satisfy to networks that the charity was a bona fide charity, that it had federal status and operating in good faith, she too was there as a marketing device by Mr. Lushington and IGI to supply the bona fides for the securities.
>
> (Hearing Transcript, October 3, 2011 at page 84, line 22 to page 85, line 8)

[31] According to Black's testimony, the "philanthropist" was not identified by anyone at IGI because he wished to remain anonymous.

[32] On April 3, 2009, Black wrote a letter to Robert Tummonds ("**Tummonds**"), the Chief Executive Officer of RCT, who by that time had been identified to Furry World as "the philanthropist" in the IGI Program. In this letter, Black expressed his concern that the shares in RCT that had been provided to Furry World were not "tradable *per se*", and wrote:

> When conducting due diligence on participating in your direct philanthropy, we conducted interviews with a person purporting to be your Liaison, namely, Christine Hewitt of Z2A. Ms. Hewitt assured the charity that RCT Global Networks was planning significant Investor Relations activities in 2009 and was also considering expanding their presence in other Exchanges. Ms. Hewitt further reported that the Investor Relations Campaign was scheduled for the first half on 2009 [sic] and that such a Campaign would permit the selling of some part of our share holdings for the benefit of accomplishing our Objects. Ms. Hewitt also indicated that she would assist the charity in selecting a broker for the shares.

[33] During his testimony, Black confirmed that the above paragraph with respect to Hewitt was true, and elaborated on the "Investor Relations" activities that Hewitt had described to him:

> … she indicated that promotion, stock promotion, activities were going to occur. I don't know what those would be, but the resources were going to be deployed to create movement in the shares or to ensure that the value would be redeemable by the holders of the shares.
>
> (Hearing Transcript, October 3, 2011 at page 47, lines 20 to 25)

[34] Black testified that he last saw Hewitt on January 15 or 16, 2009 at the Z2A offices. According to Black, he had requested this meeting with Hewitt to discuss the plans for the RCT shares. During this meeting, Hewitt received a call from Lushington, who indicated that the IGI offices had been "raided by the OSC". As a result, Black's meeting with Hewitt was cut short. Black testified that, despite efforts on his part, he was unable to meet with Hewitt after their January 15 or 16, 2009 meeting. Although Black claimed that he last saw Hewitt in January 2009, he also testified that he dealt with Hewitt later in 2009 regarding the consolidation of RCT shares held by Furry World.

RCT Shares held by Furry World

[35] In late April or early May 2009, after the Material Time, Black contacted Hewitt to request her assistance in consolidating the RCT share certificates held by Furry World. Black testified that Furry World paid Hewitt $3,500 to consolidate the approximately 300 stock certificates held by Furry World into one stock certificate.

[36] Black also testified that Hewitt introduced him to an individual by the name of Anthony Diamond who was to assist in "crystallizing" the value of the RCT shares and introduced him to another man named Domenic who was to assist with the stock certificate consolidation. According to Black, he met with each of these men only once, at the Z2A premises.

[37] During cross-examination by Hewitt's counsel, Black denied that Hewitt provided any additional services with respect to couriering documents, providing office space, providing boardrooms or providing secretarial assistance. Black testified that he attended at her offices approximately six or eight times and never met with a client there.

[38] Black testified that Furry World was ultimately unsuccessful in depositing its RCT share certificates with any broker bank. Black had sought Hewitt's assistance with this. He testified that Hewitt "re-emerged in around the end of April of 2009 and represented that she could assist the charity in crystallizing the value of the shares consistent with their alleged fair market value" (Hearing Transcript, October 3, 2011 at page 53, line 24 to page 54, line 3). Black testified that he eventually realized that the RCT shares were worthless:

> [b]ecause every entity that I went to in order to crystallize them said that they were worthless. There was one entity that wouldn't even electronically deposit them. They weren't worth the transaction to electronically deposit them.
>
> (Hearing Transcript, October 3, 2011 at page 54, lines 10 to 14)

Other Legal Proceedings

[39] IGI initiated civil proceedings against Furry World and other charities before the Ontario Superior Court of Justice for payment of monies IGI claimed it was owed by the charities. IGI's application was dismissed and counter applications by the charities were allowed, resulting in an order that IGI return fees paid to it by the charities and that IGI pay costs. The amount ordered payable to Furry World specifically was $787,615, which represented the total amount paid by Furry World to IGI. At the time of the Merits Hearing, Furry World had not been paid these amounts. Documents related to the civil proceeding indicate that total cash amounts donated to Furry World from November 2008 to March 2009 was $1,056,103.80, the total amount for which IGI invoiced Furry World was $950,493.43 (90% of the amount donated to Furry World) and that the total amount Furry World paid IGI was $787,615.

[40] Black and Furry World were also involved in an action against Hewitt in Small Claims Court for approximately $7,000 relating to a claim for services that were not provided. As of the time of the Merits Hearing, this action was still before the Court.

B. Drew Reid

[41] Mr. Reid is self-employed and has been with his company Mobiliare Argenti Ltd. ("**Mobiliare**") for the past five years. According to Reid, Mobiliare provides consulting and management services with respect to the launching of two telecom projects and hyperbaric oxygen treatment. Reid noted that at one point he was also doing some currency trading.

Reid's Initial work for RCT Global Networks

[42] Reid was introduced to RCT in 2006, when RCT was considering becoming publicly listed. Reid was introduced to Tummonds, who owned RCT at the time, by an individual who was working with the company. Reid testified:

> I got involved in the capacity of trying to help them expand the company and perhaps list the company on the markets in the stock exchange. I didn't have any specific context into that, but I do know of a few people. So I made some phone calls, arranged some meetings so that he could proceed to try and list his company, which eventually happened.
>
> (Hearing Transcript, October 3, 2011 at page 164, lines 7 to 13)

[43] Reid testified that he considered himself an independent contractor and not an employee of RCT.

[44] Reid described RCT's business as "telecommunications infrastructure". He explained that RCT installed cabling, such as telephone lines, in buildings as they were being built. In 2006, RCT had approximately 12 employees and had seven or eight vehicles on the road.

Reid's Involvement with RCT after Tummonds became Ill

[45] At some point in the Fall of 2008, Tummonds became ill. At the time of the Merits Hearing, Reid could not recall the exact timing of when Tummonds' illness began; Reid suggested it was sometime in September 2008 or November 2008. According to Reid, Tummonds "was in the hospital for quite a while, many, many, many months" (Hearing Transcript, October 3, 2011 at page 171, lines 3 to 4). The Panel was presented with a letter addressed "To whom it may concern" and dated December 1, 2008 on RCT letterhead which states:

> This is to advise you that I have had significant health issues and that George Chriss will handle the affairs of RCT Global Networks Inc. in my absence while I recuperate at home. Please share any and all information necessary to help George in the performance of his duties on behalf of myself and the company.
>
> I thank you very much for your cooperation in this matter and hope to resume my duties in the near future.

[46] Reid described George Chriss ("**Chriss**") as a person who understood RCT's business on a technical level. It appears from Reid's testimony that Tummonds had known Chriss before the Fall of 2009, but no explanation was provided as to any prior relationship between Tummonds and Chriss. Reid re-introduced Chriss to Tummonds after Tummonds became ill, at which time Chriss became employed by RCT. Reid testified that Chriss was responsible for the ongoing day-to-day operations of RCT once Tummonds became ill and that Reid was primarily responsible for the public side of the company, along with another individual, Dan Cullen ("**Cullen**"), who Reid described as being involved in the company's financial planning in a very minor sense.

[47] When asked about whether he had any dealings with RCT's expenses while Tummonds was ill, Reid replied, "The only time I dealt with expenses of the company was when I exercised some options. Then I paid expenses for the company" (Hearing Transcript, October 3, 2011 at page 172, lines 9 to 11). During cross-examination, Reid was asked to provide examples of services he provided to RCT. Reid testified that in addition to the work previously described with respect to the listing of the company, he introduced Tummonds to Z2A to further the listing of RCT and would assist with negotiations on behalf of RCT because Chriss was not necessarily good at them.

[48] During Reid's testimony, he was presented with copies of Staff investigation notes from June 2009 relating to their investigation of another matter. In one investigation note, Ms. Toledano recalls a telephone conversation she had with Reid:

> … [Reid] advises me that he is a shareholder of RCT Global, but is not employed by the company in any capacity. Reid states that Tummonds is in and out of the hospital and unable to return my call. I ask Reid if there is another company official that I can speak to in Tummonds' absence. Reid says that Tummonds does not trust anyone else to deal with the OSC's request for information. I ask about the CFO listed on RCT's website. Reid replied that he wasn't sure who the CFO was at this time, but assured me that he could deal with my questions/concerns on Tummonds' behalf. …

RCT's Option Agreements with Mobiliare

[49] The Panel was presented with two option agreements between RCT and Mobiliare (together, the "***Option Agreements***"). The first Option Agreement, for 8,000,000 shares in RCT, was dated March 29, 2007 and notes that RCT "wishes to engage the services of [Mobiliare] in order to assist it in obtaining a listing on the Frankfurt 'Over the Counter' stock exchange" and that RCT "is desirous of retaining [Mobiliare] on a performance basis and is therefore prepared to issue a substantial number of shares to it in the event it is successful".

[50] A second Option Agreement, also for 8,000,000 RCT shares, dated November 3, 2008 was also presented in evidence. This second Option Agreement is substantially the same as the March 29, 2007 Option Agreement, but notes that RCT "wishes to engage the services of [Mobiliare] in order to assist it in locating qualified personnel to provide it with business

and investment opportunities relating to [RCT's] listing on the Frankfurt 'Over the Counter' stock exchange" and that "these activities include locating and retaining parties who are able to provide a market from [RCT's] shares [sic], assist in the proper distribution of [RCT's] shares, provide [RCT] with capital for working capital and capital acquisition purposes".

[51] Pursuant to both Option Agreements, RCT agreed to provide Mobiliare with the option to purchase RCT shares:

> The Corporation [RCT] hereby grants to the Optionee [Mobiliare] the irrevocable option (the "Option") to purchase some or all of the Optioned Shares at a price of seventy-five one hundredths of a cent ($.0075) CDN per share, subject to the terms and provisions of this Agreement.

[52] Reid testified that the options granted to Mobiliare pursuant to the first Option Agreement were in exchange for work Reid had done for RCT with respect to listing it on the Frankfurt Stock Exchange:

> Well, Mobiliare had done a lot of work in terms of getting the company up and listed, etc. And he didn't have a lot of funds at the time. So the arrangement was predicated on the company being listed and to provide my company with options as compensation for having done all the work. There was a lot of work involved to get Global Networks listed. He [Tummonds] was a pretty needy individual.
>
> (Hearing Transcript, October 3, 2011 at page 166, lines 2 to 9)

[53] When asked about the purpose of the second Option Agreement, Reid testified:

> Well, it was to try to further the operations of the company even in lieu of the fact that Tummonds was sick at the time, and George Chriss was managing the technical affairs of the company, was to try and advance the company, bring it under contracts, expand any contracts with Menkes, that sort of thing which of course I would have fallen back on to George Chriss as well.
>
> (Hearing Transcript, October 3, 2011 at page 173, line 19 to page 174, line 1)

Reid testified further:

> Primarily, the discussion was, even as it's worded, was to bring in – to try and expand contracts with the existing contractees, Menkes, Tridel, etc. That was – if needed, hire people to further the public listing, that type of thing. It was recognized that George Chriss didn't necessarily have the management skills to deal with the securing of contracts, etc. So Bob [Tummonds] was hoping that I would be able to do that.
>
> (Hearing Transcript, October 3, 2011 at page 174, lines 10 to 18)

Compensation for Work Done for RCT and Exercise of Options

[54] Reid testified that Mobiliare exercised its options at a price of 0.075 cents per share. However, later in his testimony, when questioned as to whether he paid 0.075 cents per share when exercising his options, Reid answered:

> … yes, in the fashion of paying bills and expenses for the company, and there was many ongoing. So whenever shares were optioned, I paid expenses and bills for the company.
>
> (Hearing Transcript, October 4, 2011 at page 35, lines 10 to 13)

And further:

> So whenever I exercised options, I paid for the – I paid for those options to Global Networks in the form of paying expenses and bills. So I would have paid for these 180 shares already …
>
> (Hearing Transcript, October 4, 2011 at page 35, lines 21 to 25)

[55] When questioned further, Reid stated "As options were exercised, I paid for – I paid for the options, as I would be obligated to do" (Hearing Transcript, October 4, 2012 at page 35, lines 8 to 10). Reid testified that he made payments in respect of exercising options by paying expenses and bills for RCT including payments to Heritage Trust Transfer Agency Inc. ("**Heritage Trust**"), issues with the landlord, legal costs and payroll costs. Despite Staff's request prior to the hearing that Reid provide receipts for items he paid for on RCT's behalf, Reid never provided this documentation and it was not in evidence at the hearing. Reid testified that no accounting document existed that provides a record of amounts he owed to RCT and amounts he paid on behalf of RCT.

[56] It is clear, in any case, that Mobiliare did not make any direct payment to RCT for the exercise of the options at the agreed price of 0.075 cents per share.

[57] In addition to the granting of options, Reid testified that on occasion, Tummonds also paid Reid funds, approximately $10,000 over their entire relationship, and that he was issued 500,000 shares in addition to the shares issued to Mobliare under the option agreements. The Heritage Trust Detailed Transaction Journal for RCT notes that Reid was issued 500,000 shares from treasury on February 12, 2008 and a further 250,000 shares on May 27, 2008 and 300,000 shares November 4, 2008. According to the Detailed Transaction Journal, share issuances to Mobiliare began in December 2008.

[58] During cross-examination, Reid admitted that he never paid directly for any of the shares in RCT that he or Mobiliare received. He testified that 500,000 shares in RCT were given to him in exchange for services rendered with respect to work he had done towards getting the company listed in 2007 or 2008. Reid testified that including the approximately 8.8 million shares issued to Mobiliare when it exercised options, Mobiliare or Reid were issued a total of approximately 9.2 million shares in RCT. Although Reid testified that his shares would not have been worth very much in December 2008, he did admit that the company was listed at $1.50 per share.

[59] I note that the Heritage Trust records indicate that, during the Material Time, Mobiliare was issued over 12.3 million shares in RCT. Many of the shares optioned by Mobiliare were cancelled and issued to participants in the IGI Program as well as to Mobiliare. At the end of the Material Time, Mobiliare held 1,916,561 RCT shares. The Heritage Trust records indicate that Reid was personally issued 1,600,000 RCT shares between February 12, 2008 and May 29, 2009, with 1,300,000 shares apparently cancelled. As of the end of the Material Time, Heritage Trust records indicate that Reid held no shares in RCT.

[60] Reid estimated the total value of the expenses he paid for RCT to be in the range of $50,000 to $60,000. He testified that these payments were made by Mobiliare through the payment of invoices or bills directly on behalf of RCT, payments made to Chriss and payments made to other staff of RCT. He testified that RCT would have records of receipts totalling these payments of $50,000 or $60,000, however no such records were presented in evidence.

[61] Reid's explanation for how the shares Mobiliare optioned were paid for was unsatisfactory. When questioned during cross-examination why he would pay the above expenses for RCT, Reid replied "Well, because it was a good company" and noted that he thought RCT had a lot of potential and would succeed.

[62] As noted above, most of the shares issued to Reid and Mobiliare were eventually cancelled and issued in the names of other individuals or companies.

Reid's Involvement with Christine Hewitt and Z2A

[63] Reid testified that he was introduced to Hewitt in 2005 or later by an entrepreneur by the name of Seamus Keown ("**Keown**"). At that time, according to Reid, Hewitt's company was interested in buying shares in RCT. I note that Z2A was not incorporated until 2007, but no further evidence was provided to clarify this point. Reid testified that he met Hewitt again in 2008, at which time he introduced her to Tummonds "to further the company on the public scale". Later, Reid testified, there was an agreement whereby Z2A was free to provide RCT with assistance in arranging the transfer of shares.

[64] After Tummonds became ill, Reid continued to interact with Hewitt. Reid testified that Hewitt wanted to buy stock in RCT and Reid exercised his options under the Option Agreements to facilitate this. Reid's testimony was that he did not know why Hewitt was interested in buying the RCT shares.

[65] Reid was presented with evidence of a December 2008 Mobiliare Resolution, signed by Reid, that stated that RCT shares issued to Mobiliare be cancelled and split up according to an attached schedule that listed the names of individuals, their addresses and the number of shares to be assigned to them. Several of these lists of investor names were provided in evidence. Reid testified that Hewitt or Morais at Z2A would provide him with these lists and that he would arrange for the RCT shares to be reissued in their names.

[66] Reid explained that he, as Mobiliare, would exercise his options and purchase RCT shares from treasury. On the same day, he would cancel those shares and they would be issued in the names of the individuals provided by Hewitt. This continued from the later part of 2008 through the beginning of 2009. This pattern of share issuances and cancellations is reflected in the Detailed Transaction Journal for RCT provided to Staff by Heritage Trust and entered into evidence at the hearing. Some individuals were issued RCT shares directly from treasury, rather than being issued the cancelled shares previously held by Mobiliare. Reid could not provide an explanation for this during his testimony, but stated that all the individuals named on the lists provided by Z2A were to have received the cancelled shares held by Mobiliare after it exercised its options.

[67] Reid testified that he was given authorization to deal with Heritage Trust on behalf of RCT and identified in evidence a letter dated March 18, 2007 on RCT letterhead. The letter is addressed to Reid care of Mobiliare and is signed by Tummonds on behalf of RCT. It states:

> This is to authorize Drew Reid to deal directly with the Transfer Agent Heritage Trust, on my behalf using my electronic signature for RCT Global Networks Inc, to handle required transactions, issue shares, negotiate with the Transfer Agent as required[.]

[68] According to Reid, Z2A paid Mobiliare five cents per RCT share provided to individuals named on the lists provided by Hewitt. Reid agreed in testimony that approximately 8.8 million shares in RCT were issued to Mobiliare from treasury during the Material Time, which would coincide with the number of options he exercised at the time. This number is supported by the documentary evidence of the Detailed Transaction Journal for RCT provided to Staff by Heritage Trust.

[69] Hewitt provided Staff with a document entitled Payments to Mobiliare Argenti Ltd. In this document, she lists the following payments made to Mobiliare from Z2A:

December 12, 2008	$13,045.50
December 18, 2008	$9,992.50
December 22, 2008	$17,805.00
December 24, 2008	$20,558.25
December 30, 2008	$32,818.15
December 31, 2008	$20,477.50
January 13, 2009	$1,725.00
April 22, 2009	$20,990.00
April 24, 2009	$11,395.00
April 29, 2009	$8,482.50
June 12, 2009	$921.00
Total	$158,213.70

[70] I note that the actual total of the amounts listed above, $158,210.40, is slightly different than the total indicated in the document Hewitt provided to Staff. I also note that, based on the evidence, it is not certain that the April 29, 2009 cheque was in the amount of $8,482.50 (it appears that the cheque was in the amount of $6,482.50). The total amount paid by Z2A to Mobiliare during the Material Time, according to the records provided by Hewitt, is $116,421.90. I note that the amount Mobiliare received is inconsistent with Reid's testimony that the Z2A payments to Mobiliare were payments for RCT shares at a rate of five cents per share (see paragraphs [68] and [74]).

[71] When presented with Hewitt's documents, Reid testified that he recalled being paid closer to $110,000. He provided Staff with a document that he prepared based on Mobiliare's records listing payments to Mobiliare from Z2A totalling $116,421.90. This document includes the payments noted by Hewitt above from December 12, 2008 through January 13, 2009, but does not include the four payments in April and June of 2009.

[72] Reid's explanation for Mobiliare's receipt of approximately $110,000 during the period of December 12, 2008 to January 13, 2009 from Z2A is unclear. Reid stated that Mobiliare received this money from Z2A in December 2008 and January 2009 because he was exercising options, paying expenses for RCT and selling shares to Z2A. When questioned further as to why Z2A was paying this money, he testified that it was because he was exercising his options and selling those shares to Z2A.

[73] Reid testified that he used the bulk of the funds that Mobiliare received from Z2A to maintain the operation of RCT, paying legal costs, transfer agent costs and other costs incurred by the company. Reid also paid himself out of the funds received from Z2A. As noted above, I was presented with no documentary evidence of any payments made by Reid or Mobiliare on behalf of RCT.

[74] Reid further testified that the money paid to Mobiliare by Z2A was payment for the shares issued according to Hewitt's instructions, rather than payment for a service Reid was providing to Z2A. During cross-examination, a copy of an email sent to Reid by Hewitt on September 17, 2009 was put to Reid. In the email, Hewitt writes: "You did all the leg work from dropping off and picking up and cancelling and amending and surely have all the records in your possession to this effect. You were paid by this office to do the work". However, Reid maintained in his testimony that the payments from Z2A to Mobiliare were payments for the shares to be issued to individuals named on the lists provided by Hewitt.

[75] Reid also testified that he would generally attend at Z2A's offices, which were less than one kilometre from his condominium, to pick up the list of individuals to whom share certificates were to be issued. Other times, the list would be e-mailed to Reid. Reid would then provide the lists to Heritage Trust either by e-mail or by physically dropping them off at the Heritage Trust offices, which were approximately one kilometre from the Z2A offices. Once the share certificates were ready at Heritage Trust, Reid would pick them up and drop them off at Z2A's office.

[76] Reid claimed that he did not know where the shares he provided to Z2A were going and that it would have been an assumption on his part to say that those RCT shares were connected to the IGI Program. According to Reid, it was not until the Commission became involved in early 2009 that he realized the shares were going to individuals involved in the IGI Program.

[77] When Reid was providing Hewitt with RCT shares during the Material Time, he was her only contact with anyone associated with RCT (although Reid noted that he was specifically representing Mobiliare as opposed to RCT). Tummonds was not working at RCT at the time as he was still very sick.

Heritage Trust Invoices

[78] Although I was not provided with documentary evidence of payments made by Reid or Mobiliare on behalf of RCT, I do note that some invoices from Heritage Trust to RCT were addressed to Reid. Reid was also presented with evidence of invoices from Heritage Trust to RCT dating from December 31, 2007 to March 31, 2011, which note RCT Global Networks recipient email addresses for "rtummonds" or "dreid". Invoices dated from November 28, 2008 are addressed to Reid and invoices dated December 31, 2007 through October 31, 2008 note the email address for Tummonds. Reid testified that the invoices addressed to him related to stock transfer services provided by Heritage Trust associated with the issuance of shares to Mobiliare, the cancellation of those shares and their reissuance to individuals and that the dates of these invoices coincide with the time that Tummonds became sick. Heritage Trust charged RCT a monthly fee of $375 and charged additional fees for opening of new accounts and issuance and cancellation of share certificates.

Communications between Reid and Hewitt after the Material Time

[79] I was presented with evidence of emails and letters from Reid to Hewitt and to Toledano sent during the July and August 2009 time period. In these emails, Reid refers to RCT shares that he requests Hewitt return so that they may be cancelled by Heritage Trust. I did not find this evidence relevant to the allegations.

Correspondence between Staff and Tummonds

[80] Staff took Reid to an April 24, 2009 letter from the Commission to Tummonds in which Staff requested information from Tummonds regarding RCT and its involvement with the IGI Program. Reid was also presented with a May 6, 2009 letter on RCT letterhead and signed by Tummonds in response to Staff's letter of April 24, 2009 (the "**May 6, 2009 Letter to Staff**"). Reid testified that a lawyer by the name of Colin James ("**James**") would have assisted Tummonds in drafting the May 6, 2009 Letter to Staff and denied the he assisted James in drafting that letter.

[81] However, the Panel and Reid were provided with a copy of Tummonds' handwritten response to a November 30, 2010 letter from Staff (the "**November 30, 2010 Tummonds Response**") in which Tummonds writes that Reid wrote the May 6, 2009 Letter to Staff. Reid explained Tummonds' comment as follows:

> Mr. Tummonds relied on me for lot of things in terms of keeping the company going and trying to expand the company while he was ill. So I'm not surprised that he wrote Drew Reid. In fact, in that response, Colin James would have written the response.
>
> (Hearing Transcript, October 3, 2011 at page 195, lines 2 to 7)

Reid further testified that James may have asked him some questions, but that Reid did not physically draft the May 6, 2009 Letter to Staff. During his examination by Staff, Reid testified as follows with respect to James' relationship with RCT:

> Q. Did you retain Mr. James to prepare this response?
>
> A. Well, Mr. James was acting for Mobiliare all the way through the transactions of shares that I'd sold to Z2A. So he wasn't specifically retained for any particular letter. He was already on retainer.
>
> Q. But that's for Mobiliare. This letter is addressed to Mr. Tummonds.
>
> A. Yes.
>
> Q. And now Mr. Colin James, you say, he's responding to the letter that's addressed to Mr. Tummonds. So how does that come to be?
>
> A. Well, Mr. Tummonds probably contacted me about it, and I would have spoken to Mr. James, and Mr. James would have spoken to Mr. Tummonds, and Mr. Tummonds would have instructed him to write a response.

(Hearing Transcript, October 3, 2011 at page 195, line 18 to page 196, line 8)

[82] During cross-examination, Reid explained that James was Mobiliare's lawyer, but was not RCT's lawyer. When questioned as to why James would be involved in drafting a letter on behalf of RCT if this was the case, Reid replied that it was because Staff's questions pertained to shares that had been optioned by Mobiliare.

[83] The May 6, 2009 Letter to Staff indicates that Tummonds had no knowledge of IGI or any person associated with IGI, but that RCT issued shares or options to parties that may be connected with the group Staff was investigating. The letter also states that:

> RCT has received monies of the past several months from one of the option holders regarding its exercise of stock option, a Bahamian company Mobiliare, … and excepting those funds, the company has received no monies what so ever regarding any stock issuances or transfers.

[84] The May 6, 2009 Letter to Staff makes reference to an address for RCT in Sudbury, Ontario. Tummonds later responded to Staff that, to his knowledge, RCT did not have an office at that Sudbury address. Reid explained that a decision had been made while Tummonds was ill that RCT would try to acquire contracts in the Sudbury area. During cross-examination, Reid testified that the Sudbury address was the residence of one of his contacts who agreed to allow RCT's mail to be directed there. Reid testified that a Sudbury address was used because there was an opportunity in Sudbury with respect to potential construction contracts so it made sense to use an address in that city. Reid testified that, despite evidence to the contrary, Tummonds was made aware of the Sudbury address, but that he was under a lot of stress at that time and was not in the most lucid state. No one from RCT, including Reid, ever went to Sudbury, but that mail addressed to RCT was forwarded to Tummonds' address in Caledon.

[85] In the November 30, 2010 Tummonds Response, Tummonds describes Mobiliare's relationship with RCT as "Not sure what monies were received but the involvement was they were to take the company public and were given stock for payment". Further, Tummonds informed Staff in this document that although he signed the Option Agreements, he was not sure whether the RCT options were exercised, but that no money was paid to RCT. Reid testified that the information from Tummonds was incorrect and that the options were exercised, with payments being made to RCT in the form of Mobiliare's payment of RCT's expenses.

[86] Reid's evidence regarding payment for Mobiliare's exercise of RCT options is inconsistent with information provided in the May 6, 2009 Letter to Staff and the November 30, 2010 Tummonds Response.

[87] Also presented in evidence was a letter dated October 10, 2008 on RCT letterhead to Lushington at IGI. The letter appears to be signed by Tummonds and states:

> Please be advised that RCT Global Networks is under my control and I am the major shareholder, who wishes to make shares available for gifting to your charities forthwith.

[88] Tummonds indicated to Staff in the November 30, 2010 Tummonds Response that: "This was my electronic signature and not to my knowledge. Was in the hospital at this time". Tummonds further informed Staff in the November 30, 2010 Tummonds Response that he never talked with IGI and had no conversations with Lushington. Reid testified that the October 10, 2008 letter to IGI was a result of a conversation with Tummonds and a discussion with Hewitt in 2008 about RCT making some shares available to IGI. Reid testified that he knew nothing about IGI at the time of this letter, but that Z2A would have provided RCT with IGI's address; he had previously told Staff that he facilitated the October 10, 2008 letter with an electronic signature. When questioned further about the October 10, 2008 letter and his previous testimony regarding when he became aware of IGI, Reid testified:

> What I meant was I wasn't – he asked if I was aware of what Innovative Gifting was about or what their mandate was. That I was not aware of. I was aware of the name of Innovative Gifting, et cetera, prior to hearing it from the OSC.
>
> (Hearing Transcript, October 4, 2011 at page 112, line 24 to page 113, line 4)

[89] When referred to the text of the October 10, 2008 letter, which references making RCT shares available for gifting, and asked again about when he became aware of the IGI Program, Reid testified:

> We were aware, as was Tummonds, about Innovative Gifting prior to that, and [the] gifting program. What that actually – actually entailed, et cetera, and the mechanisms of that, no, I wasn't aware of that. That was explained to me more in depth for the first time when I met with the OSC.
>
> (Hearing Transcript, October 4, 2011 at page 113, lines 18 to 23)

Reid further testified:

> Well, RCT – Mr. Tummonds was expressing that he was – he was not – of course we didn't understand what the mechanisms or the specifics were of the gifting program. We understood the term "gifting program." We understood the name Innovative Gifting.
>
> And what he was doing was sending out a letter, which he knew of at the time, that he was interested in participating in that with Z2A. But there was no clear or direct understanding of what that – what the term "gifting program" specifically involved.
>
> (Hearing Transcript, October 4, 2011 at page 114, lines 13 to 24)

[90] Tummonds also commented on a document provided to him by Staff entitled Deed of Gift of Securities dated December 12, 2008, which names RCT as the "Donee" and appears to be signed by Tummonds on behalf of RCT. Tummonds wrote to Staff that it is his electronic signature on the document, but that he did not remember seeing the document. Reid testified that he also did not remember this document and that RCT did not gift any securities.

[91] The May 6, 2009 Letter to Staff, which Reid testified was drafted by James on behalf of Tummonds and which Reid was consulted about, states: "I can assure you that no shares have been issued to anyone as part of said IGI program". Reid testified that, in fact, it was Mobiliare that was exercising options and issuing shares to Z2A, so Tummonds was referring in this letter to the fact that RCT shares were issued to Z2A.

[92] I do not find Reid's testimony to be reliable evidence in several respects, including, as further described above:

- His testimony regarding payment for the RCT shares issued to Mobiliare in connection with the exercise of options was inconsistent. Reid testified that he, or Mobiliare, paid RCT 0.075 cents for these shares, as required by the Option Agreements. However, when questioned further, Reid testified that these payments were made in the form of bill and expense payments made by Reid on behalf of RCT. Reid could not provide any documentation that would support a finding that Reid or Mobiliare made payments on behalf of RCT or that they paid RCT in connection with the share issuances.

  Further, I find Reid's explanation of why he paid expenses on behalf of RCT – "because it was a good company" – to be unsatisfactory.

- Reid testified that Z2A paid Mobiliare five cents per RCT share issued in connection with the IGI Program. However, both the total amount Z2A provided to Mobiliare during the Material Time ($116,421.90) and the amount Reid recalled receiving ($110,000) are inconsistent with this assertion.

- Reid's testimony regarding his involvement in the May 6, 2009 letter is inconsistent. He testified initially that he did not assist James in drafting the letter, and later conceded that James may have asked him some questions. Further Reid's explanation that James was Mobiliare's lawyer but drafted the letter on behalf of RCT because it pertained to shares Mobiliare had optioned is not satisfactory.

- Reid's testified that he did not know why Hewitt was interested in buying the RCT shares and that he did not become aware that they were being issued to participants in the IGI Program until the Commission became involved in 2009. This is inconsistent with Reid's later testimony. Reid was presented with an October 2008 RCT letter to IGI indicating Tummonds wished to make RCT shares available for gifting to charities, on which he previously told Staff he facilitated with Tummonds' electronic signature. Reid then testified that he was aware of the IGI Program, but not its mechanisms, and that there was no clear understanding of what the gifting program involved.

[93] The many inconsistencies in Reid's testimony make me reluctant to rely on it without corroboration. My conclusion that he is not reliable is supported by the April 2011 criminal record that was filed in evidence. From 1994 to 2001, Reid had 22 criminal convictions for offences related to dishonesty, which include convictions for false pretences, fraud, false statement in writing, personification with intent and forgery. I have relied strongly on the documentary evidence, particularly that obtained by Staff from sources other than Reid during its investigation.

C. Lori Toledano

[94] Staff's final witness was Ms. Toledano, a Chartered Accountant and designated specialist in investigative and forensic accounting. She was an Assistant Manager in Staff's Joint Securities Intelligence Unit and was the lead investigator in this matter. As of the date of the Merits Hearing, Toledano was no longer employed with the Commission. Toledano testified regarding Staff's investigation into the IGI Program.

The IGI Program

[95] Toledano was presented with documents obtained in the course of Staff's investigation of the IGI Program. She confirmed that the IGI Corporation Profile Report noted that Lushington was IGI's administrator and sole director. She also confirmed that a number of IGI marketing documents were provided to Staff by Lushington at the time of his interview with Staff.

Z2A and Hewitt

[96] A Corporation Profile Report accessed by Staff during their investigation indicates that Z2A was incorporated on June 25, 2007 and that Hewitt is the sole director of Z2A.

[97] During their search of the IGI offices, Staff came across invoices from Z2A addressed to IGI requesting payment for the following:

> FEES for Liaison / Intermediary services rendered in the following matters:
>
> > RCT Global Networks philanthropist / donee contribution to Canadian registered charities per CRA 2008 donation incentive program.

The invoices also made references to numbered lists. Toledano testified that the lists relating to each invoice were not attached when the documents were seized by Staff, but that Hewitt later informed Staff that lists containing donors' names and the amount of their donation would have been attached.

[98] Toledano identified print-outs of pages of the Z2A website that were accessed and printed by Staff around the date of August 19, 2009, prior to Hewitt's voluntary examination. Z2A's website noted that:

> For the past few years Z2A Corporate Services ("Z2A") has been focused on and is known as the "one-stop shop" for the preparation and filing of corporate and legal documentation for public companies. Essentially, we take care of all the time-consuming paperwork for companies going public.

[99] Toledano testified that Hewitt attended a voluntary interview by Staff in their investigation of another matter on August 19, 2009. Following that interview, Hewitt forwarded to Staff a number of documents that she had undertaken to provide to Staff during the interview. These documents included:

- Five Z2A invoices sent to IGI (see paragraph [96]).
- A list of payments made by Z2A to Mobiliare and, where they were available, copies of the cheques or bank drafts made out to Mobiliare (see paragraph [69]).
- Contact information for two individuals, including Black.
- The October 10, 2008 letter from RCT to Lushington at IGI indicating that Tummonds wished to make shares available for gifting to charities (see paragraph [87]).
- An IGI marketing document written to potential donors and their advisors which purports to set out the income tax provisions relating to the IGI Program's gifting arrangement.
- A copy of a Deed of Gift of Securities from RCT, with what appears to be Tummonds' electronic signature at the bottom (see paragraph [90]).
- A copy of an email from a person by the name of Christina Harper at IGI to Lushington dated December 5, 2008, which provides a background on RCT's business and identifying RCT as a company "which our philanthropists have generously provided to our gifting process to increase funding for our charities who have retained us as professional fundraisers".
- A copy of an RCT share certificate issued to Furry World.
- A list of payments received by Z2A from Solutions 21 (3897915 Canada Inc.) ("**Solutions 21**") on three dates in April 2009 totalling $135,859.50.

[100] Toledano testified that the amounts payable in the invoices from Z2A to IGI represented the 10% of funds donated that Z2A was to be paid for its participation in the IGI Program. Toledano explained that the amount that Z2A received was not

specifically related to a per share transaction, but was a flat fee based on the cash that had been received by IGI from the charity.

[101] Toledano also explained that Solutions 21 was a company identified by Hewitt during Staff's interview with Hewitt. Solutions 21 was an agent working with IGI to recruit donors for the IGI Program and had a number of clients they brought into the IGI Program. Toledano testified that based on her discussion with Hewitt, Toledano understood that a number of the share certificates seized by the Commission during its investigation related to clients of Solutions 21. Toledano's understanding was that Solutions 21 paid Z2A approximately $136,000 to have these share certificates re-issued. Toledano explained that, in this case, rather than receiving the 10% fee from IGI, Z2A was paid money by Solutions 21 on a specific per-share transaction basis. However, I note that Hewitt's services to Solutions 21 were provided after the Material Time, and as such, I do not consider them relevant to the ultimate issue of whether Hewitt's conduct during the Material Time was contrary to Ontario securities law.

[102] Hewitt also provided Staff with the number of total shares issued to charities in the IGI Program. In an email dated September 1, 2009, Hewitt indicates that a total of 5,545,693 RCT shares were issued to four different charities (4,202,813 were issued to Furry World).

[103] Toledano testified that in December 2008, Z2A received $229,453, representing 10% of the total cash amount donated to the charities under the IGI Program. Toledano also identified an agreement dated November 26, 2008 between IGI and Z2A, signed by Lushington and Hewitt, which states:

> This Agreement is to facilitate the understanding that Z2A's relationship between the philanthropist as a liaison is to complete the legal documentation and administer the share certificates to the donor's name. For administrative services you will charge IGI 10% of the cash donated amount payable within 10 days of receiving the share certificates of the donors.

[104] Toledano identified section 139 certificates which confirm that neither Hewitt nor Z2A has been registered under the Act.

Bank Account Documentation

[105] Toledano reviewed bank account information with respect to accounts at RBC and HSBC held by IGI, obtained by Staff pursuant to summonses.

[106] During Toledano's testimony, documents that she prepared in an analysis of the source and use of funds in IGI's account with RBC were introduced into evidence. In her summary, which includes amounts greater than $1,000, Toledano notes account inflows from participating charities and other investments by IGI business partners. Account outflows went to commissions, payments to IGI employees, Lushington, rent and office expenses, and "Liaison Fees" paid to Z2A. The document notes that these "Liaison Fees" to Z2A totalled $229,453.10, which constitutes 16.7% of the total amount of inflows into the account. Toledano testified that this amount is consistent with the invoices provided to IGI by Z2A.

[107] The Source and Use Analysis for IGI's bank account with RBC, which was prepared by Toledano and presented into evidence, is reproduced below.

Innovative Gifting Inc.
Source and Use Analysis
RBC Account # 03172-1089731
October 2, 2008 to July 16, 2010
(amounts > $1,000)

Description		Total ($)	As a % of Total Inflows
Account Inflows:			
Received from Participating Charities		1,323,054.99	96.5%
Investments by IGI Business Partners		40,000.00	2.9%
Other		7,571.24	0.6%
Total Inflows:	**1,370,626.23**	100.0%	
Account Outflows:			
Commissions		892,073.98	65.1%
"Liaison Fees" paid to Z2A		229,453.10	16.7%
Payments to IGI "Employees"		106,150.00	7.7%
Terence Lushington		71,550.00	5.2%

Repayments to IGI Business Partners		30,000.00	2.2%
Rent & Office Expenses		13,034.99	1.0%
Cash		11,400.00	0.8%
Other		6,000.00	0.4%
Total Outflows:	**1,359,662.07**	99.2%	

[108] The Source and Use Analysis was created for a period of time that goes beyond the Material Time. For example, in the Account Inflows, all of the funds in the "Other" category came into the account after the Material Time. In Account Outflows, there are $5,700 included in "Payments to IGI 'Employees'" made after the Material Time and $1,550 included in "Terence Lushington" paid after the Material Time. However, the payments totalling $229,453.10 to Z2A were all made during the Material Time.

RCT and Listing on the Frankfurt Stock Exchange

[109] Toledano testified that Staff came across RCT share certificates during a search in their investigation, which certificates were seized as part of Staff's search.

[110] In their investigation Staff contacted the Deutsche Börse AG regarding RCT's listing on the Frankfurt Stock Exchange. Staff was informed that RCT was included in the Open Market Segment on the floor of the Frankfurt Stock Exchange from June 18, 2008 to December 31, 2009 and that only two prices with volumes were determined within that period, each involving 1,000 shares. The first of the two transactions was on June 20, 2008 for 1,000 shares at €1.15 and the second transaction was on July 18, 2008 for 1,000 shares at €1.13. Staff's contact at the Deutsche Börse AG confirmed that there were only the two trades in RCT on the floor in the Frankfurt Stock Exchange.

Heritage Trust

[111] Heritage Trust provided Staff with copies of RCT share certificates and invoices to RCT for the period of December 31, 2007 to March 31, 2011. During this time, Heritage Trust invoiced RCT for amounts totalling $24,976.15.

[112] A Detailed Transaction Journal for RCT was sent to Staff by Heritage Trust. It notes all issuances and cancellations of shares in RCT as of April 18, 2011. Also included in the documents provided to Staff by Heritage Trust is an excerpt from the Detailed Transaction Journal for RCT which notes two issuances of RCT shares to Hewitt. The first, on January 8, 2009 is an issuance of 5,964 shares; the second, on April 23, 2009 is an issuance of 2,000,000 shares from treasury.

Contact with Reid and Tummonds

[113] Toledano confirmed that she sent a letter to Tummonds on April 24, 2009 requesting information about RCT and its involvement in the IGI Program. On May 6, 2009, Toledano received a response from RCT to her April 24, 2009 letter (the May 6, 2009 Letter to Staff).

[114] Toledano reviewed an investigation note she created in June 2009 which documents when she first became aware of Reid. Reid left her a message on May 29, 2009 indicating that Tummonds had received her emails and had asked Reid to call her. On a later phone call, Reid informed Toledano that Tummonds was very ill and that although Reid was not an employee of RCT, he could speak with Toledano on Tummonds' behalf. Toledano received subsequent email communication from Reid in which he stated that he might be able to assist her with her inquiries.

[115] On September 25, 2009, Tummonds emailed Toledano a copy of a September 18, 2009 press release in which RCT announced that it was no longer operational and had ceased all business activity.

[116] Toledano had originally attempted to schedule an interview with Tummonds, but due to health problems, he was unable to attend. Instead, Tummonds requested by letter sent November 29, 2010 that the Commission provide him with questions in writing, to which he would respond. Tummonds also noted in this letter that:

> Present recollection of facts and past events is limited, especially tired or under stress; and my memory of events at which I understand to be the relevant time, as it relates to your enquiries, I am extremely limited as I was going through a very acute stage of this illness, when it was not being effectively diagnosed or treated. You are undoubtedly aware that I was not in effective control of the company at the time.

On November 30, 2010, Staff provided Tummonds with a letter that detailed a number of questions that they had intended to ask him at his interview. Also enclosed in the letter were several documents that Staff obtained through its investigation to which the questions in the letter refer.

[117] Toledano testified regarding Tummonds' handwritten responses to the questions posed by Staff in their November 30, 2010 letter (the November 30, 2010 Tummonds Response). Tummonds stated that he became aware of IGI some time in the beginning of 2009, but that he was not familiar with what they did. Tummonds noted that he had no memory of telling Hewitt that RCT was going to become involved in the IGI Program.

[118] During cross-examination, Toledano confirmed that Staff made many efforts to contact Tummonds, but never actually met him because he was too ill to attend for his voluntary interview. Toledano noted that in May 2009, Tummonds retained a lawyer, with whom Staff communicated on his behalf. Toledano testified that Tummonds' lawyer confirmed that the May 6, 2009 Letter to Staff was indeed from Tummonds and that Tummonds confirmed in a telephone conversation that he faxed his handwritten notes in the November 30, 2010 Tummonds Response.

[119] Toledano explained that she initially made requests to interview anyone in a management capacity with RCT and was told by Reid that he was the only one Tummonds trusted to deal with the Commission and he was the only person made available to the Commission. She further requested of Tummonds' lawyer that the Commission be referred to someone else from RCT if Tummonds was not available. Tummonds' lawyer referred Staff to Reid.

RCT Shares Issued in December 2008 and January 2009

[120] Toledano prepared a document summarizing the RCT shares issued during December 2008 and January 2009 based on Heritage Trust's records and the donor lists provided by Reid. The document notes the date of the issuance or treasury order, the name in which the shares were issued, the certificate number, the amount of shares and whether they were included on a schedule provided by Reid to the Commission. In total, she noted that 7,989,199 shares were issued in this period.

[121] Toledano also noted that of these share issuances, approximately 97 individuals (not including Mobiliare) were issued RCT shares from treasury during December 2008 and January 2009.

[122] Toledano also prepared a document summarizing the RCT shares issued in connection with Mobiliare's exercise of options. She testified that this document was prepared based on information provided by Reid in the form of lists of donors in whose names shares were to be issued. I note that when compared with the Heritage Trust records, there appears to be some duplication with respect to share issuances from treasury. In total, Toledano calculated that 11,478,180 RCT shares were issued in connection with the exercise of Mobiliare's options. Toledano explained the inconsistency between this number and the number of shares listed in the other documents she prepared as being the result of duplication in the documents provided by Reid and the inclusion of some shares issued outside the December 2008 to January 2009 period. I note that it also includes issuances of treasury shares that were subsequently cancelled.

D. Christine Hewitt

[123] Hewitt testified in chief on the third day of the Merits Hearing. On the same day, Staff began cross-examination. On the fourth day of the hearing, Hewitt's counsel informed the Panel that Hewitt was ill and unable to attend the hearing to continue her testimony. As a result, the hearing was adjourned. On the fifth day of the hearing, the following week, the hearing was once again adjourned as counsel for Hewitt again informed the Panel that Hewitt was unable to attend. On the sixth day of the hearing, Hewitt was again unable to attend citing medical reasons. Hewitt attended to complete her testimony on the seventh day of the hearing, completing her cross-examination after Morais' testimony.

Z2A

[124] Hewitt testified that she started Z2A in 2007, expecting the company would provide general corporate services relating to the incorporation of new companies. Z2A then became involved in "EDGARizing" services for companies filing statements with the U.S. Securities and Exchange Commission ("**SEC**").

Hewitt's Work for IGI

[125] Hewitt testified that she first became aware of IGI when Lushington called her in late November 2008 proposing to meet to discuss a possible business arrangement with respect to corporate services that Z2A could provide. According to Hewitt, Lushington explained to her that IGI was organizing a gifting program for charities and arrangements had been made with a philanthropist he was dealing with at the time. Lushington told Hewitt he was looking for someone to help IGI with corporate services. Specifically, Lushington would send her a list of donors and she would make arrangements to have shares issued in the name of specific donors and deliver them back to his office.

[126] When asked when she spoke to Reid about the IGI Program, Hewitt replied:

> Lushington was already aware of this particular client. And when he talked to me, I said to him, "I already know this client. I mean, this RCT Global Networks." And then, then I talked to Bob Tummonds, just the one

> time. And so Drew was going to do the work for the company. And I said, That's good because you can deal with the transfer agent. You know, I didn't know the transfer agent at all.
>
> (Hearing Transcript, October 5, 2011 at page 93, lines 11 to 18)

[127] Hewitt testified as to her role in the IGI Program. According to Hewitt, she would get the list of donors names from IGI, which she would then pass on to Reid by email. Reid was responsible for obtaining the share certificates from the transfer agent based on the list Hewitt provided. Reid would then give Hewitt the share certificates and Hewitt would check the names and share quantities against the list from IGI. Finally, Hewitt would deliver the share certificates to the IGI office. The lists from IGI would include the person's name, the donation amount and the number of shares to be issued to each person.

[128] Hewitt confirmed that the November 26, 2008 agreement between Z2A and IGI identified in evidence by Toledano was the agreement she made with Lushington (see paragraph [103]). According to Hewitt, at the time she signed the agreement with Lushington, she had no idea how much money she would earn or what the length of the program would be. During cross-examination, Hewitt confirmed that her agreement with IGI was that she would receive 10% of the donations as compensation. She also confirmed that, at the time of the IGI Program, she was aware that IGI was using commissioned sales agents, who also received a percentage of the cash amount provided by the donors. During the IGI Program, Hewitt learned that commission sales agents, or at least Solutions 21, were receiving 50% of the amounts provided by the donors.

[129] Hewitt testified that she began providing IGI with services in the first week of December 2008 and that the last transaction she worked on for IGI was during the first week of January 2009. In that period, Hewitt testified that she received names of more than 100 individual donors who were to be issued share certificates.

[130] Hewitt also testified that, following the Material Time, she continued to arrange for the consolidation of RCT share certificates held by Furry World and the reissuance of RCT shares to IGI donors whose original share certificates were seized by the Commission during its investigation into IGI. This conduct falls outside the timeframe for the allegations, and I do not give it any weight in my determination of the ultimate question of whether the Respondents' conduct during the Material Time was contrary to Ontario securities law.

[131] Hewitt denied having guaranteed to Black that the RCT shares would be valuable and that it would be a good investment and profitable for the charities. She testified that she was never led to believe that part of her job for IGI involved promoting IGI or finding donors for IGI.

[132] During cross-examination, Staff questioned Hewitt about the content of certain documents Staff obtained during their investigation. One document, IGI marketing material to be provided to potential donors and their advisors, describes the IGI Program as follows:

> A non-resident Swiss philanthropist initiates a gifting program by which he would match a Canadian Donor's cash gift to one of seven or so recommended registered Canadian charity [*sic*].

When presented with this document, Hewitt testified that she was not sure whether Tummonds or another donor was a non-resident Swiss philanthropist, but that this was not information that she would question. She noted that she only had the opportunity to speak with Tummonds once about the IGI Program. She had, however, met Tummonds previous to her work with the IGI Program.

RCT

[133] Hewitt testified that she first became aware of RCT in early 2008 when Tummonds was looking for help taking RCT public:

> RCT Global Networks was going around looking for help to take them – for someone to help with the paperwork for them to go public. And they were doing this for quite a while. They were first looking to go on the Pink Sheets – that's the U.S., one of the U.S. platforms – and then later on they changed their minds and they wanted to go on the Frankfurt platform. So when they came to me, they asked me if I could help them with their paperwork.
>
> (Hearing Transcript, October 5, 2011 at page 101, lines 3 to 11)

[134] In cross-examination, Hewitt testified that Tummonds was possibly referred to her by Preston Shea ("Shea"), a lawyer with whom she previously had a personal relationship. Similarly, the owner of the other company that had shares involved in the IGI Program, Latin Media, was a client of Shea's. Hewitt knew Shea prior to November 2008.

[135] Hewitt testified that she initially met with Tummonds, Cullen and Keown. She informed them that in order to go public, they would need a legal opinion for the SEC and a SEC approved auditor. Hewitt referred to Tummonds to a lawyer, who prepared a legal opinion for RCT with respect to listing. RCT paid Z2A $2,000 which Hewitt gave to the lawyer to cover the legal fees. After the opinion was obtained, RCT changed their minds about listing in the U.S. After this, Reid attended at Z2A offices with Tummonds to take back RCT's incorporation binder, so Hewitt knew Reid had some association with RCT.

[136] Hewitt's next contact with Tummonds and RCT was with respect to the IGI Program in November 2008 approximately one week after she initially spoke with Lushington, who mentioned to her that RCT was involved in the IGI Program. After speaking with Lushington, Hewitt telephoned Tummonds and mentioned that she understood he was involved in the IGI Program and that IGI had asked her to contract to do work for it.

[137] Hewitt testified that she understood that the RCT shares were being donated. Her initial understanding was that the RCT shares would come directly to her from RCT. She only became aware that many of the shares provided to donors were shares initially optioned by Mobiliare after the Commission began its investigation. As far as she was concerned at the time, the shares she obtained were directly from RCT.

Drew Reid and Mobiliare

[138] H ewitt testified that Reid had come to her asking if she had any work he could do since he needed work desperately. When Lushington proposed the IGI Program, Hewitt told Reid it was his chance to do some work. She offered him half of whatever IGI paid her; Reid would deal with the transfer agent and deliver the share certificates to Hewitt, who would then deliver them to IGI. However, Hewitt's testimony as to how she and Reid became involved in the IGI Program is inconsistent. During cross-examination, Hewitt testified:

> I got in touch with Bob Tummonds after I met with IGI, and then after that, Mr. Reid came to me and said, here. This is something that we could do definitely, because I could help you with this. Mr. Reid came to me. So we talked about that, and he said, I can definitely help you with this, Christine, because I can do the transfer agent part.
>
> (Hearing Transcript, November 8, 2011 at page 88, line 19 to page 89, line 1)

When it was put to Hewitt that this was inconsistent with her testimony in chief that she presented the opportunity to Reid, Hewitt insisted that it was Reid who approached her.

[139] During her testimony in chief, Hewitt described Reid's role in the IGI Program as follows:

> … he was not a representative of IGI. And he was, he as doing it in – he wasn't even a representative of RCT. He was doing it because he asked me initially that he needed some work and that if I could help him out if any work came my way, if I could help him out because he needed work.
>
> (Hearing Transcript, October 5, 2011 at page 109, lines 10 to 15)

Hewitt's statement is not consistent with the her evidence regarding Reid's role as a contact on behalf of RCT for Heritage Trust, which relationship appears to have pre-dated Hewitt's involvement with the IGI Program.

[140] Hewitt testified in chief that she knew that Reid had some association with RCT, being associated with Tummonds, Cullen and Keown, but that his connection to RCT was never made clear. During cross-examination, Staff read in an excerpt of the transcript of Hewitt's August 2009 voluntary interview:

> "Besides Mr. Tummonds, was there anyone else at RCT that you dealt with?
>
> "A. Yeah.
>
> "Q. Who was that?
>
> "A. Because Mr. Tummonds got sick, I think he – and I have documentation for this as well, he assigned Drew Reid to do whatever is needed on his behalf.
>
> (Hearing Transcript, November 8, 2011 at page 94, lines 11 to 18)

[141] Hewitt further testified that Reid had told her that he could not have a bank account, so he asked her to make all payments through his company Mobiliare by bank draft because Reid told her he could not cash cheques. Hewitt testified to having paid Reid about $116,000, which represented 50% of the money she received from IGI. Hewitt denied that that the

payments made to Reid were payments for shares rather than payments for services provided by Reid. When questioned about the large size of the payments made to Reid and whether she had expected to make as much money as she did from IGI, Hewitt replied:

> No, absolutely not. I had no idea'r about the velocity of this payment of this particular program. And I really, really did not know what work was going to be so much money in such a little time. I really didn't. I did not know that at all. I was not expecting that at all. And just as it went along, that's what happened, but it was not something that was anticipated, nobody even mentioned that to me, earlier even, at all.
>
> (Hearing Transcript, October 5, 2011 at page 115, lines 17 to 25)

[142] In cross-examination, Hewitt was taken to the list she prepared outlining the payments made to Mobiliare between December 12, 2008 and April 29, 2009. Staff took Hewitt to the transcript of her voluntary interview, at which time she told Staff that she had to pay office costs and overhead expenses in relation to the IGI Program, but did not mention payments to Reid. Hewitt testified that she was not sure whether she told Staff about her 50-50 agreement with Reid prior to the hearing, but stated that she was never hiding this information. However, Staff read into the record an excerpt of the transcript of Hewitt's voluntary interview in which she described the work Mobiliare did for Z2A:

> "QUESTION: So how much was Mr. Reid getting paid for this leg work he was doing?
>
> "ANSWER: I gave him for running around, I'm not sure how much he wanted. I paid him something. I don't think it was too much, I'm not sure. I'll check my records and let you know."
>
> (Hearing Transcript, October 5, 2011 at page 196, lines 18 to 23)

[143] Staff also took Hewitt to an earlier excerpt of the transcript of her voluntary examination by Staff during their investigation in which Hewitt states that she did not recognize the name "Mobiliare Argenti Limited" and had never heard of it before. Hewitt testified:

> When I reflect back at this voluntary interview, I think that what I was being asked was, Do you remember these names on the shares that we made out to a list, that was what I understood when she asked me that.
>
> (Hearing Transcript, October 5, 2011 at page 186, lines 5 to 9)

And further:

> That I did not see this company, theses company names, because she was reading out different company names that were made out on the list on the IGI program. That was what I understood at the time.
>
> (Hearing Transcript, October 5, 2011 at page 186, line 24 to page 187, line 3)

[144] At the conclusion of her first day of testimony, I asked for clarification about Z2A's payments to Mobiliare in April 2009 given that Hewitt had previously testified that after January 2009 she did no work for IGI, provided no services to RCT and had not seen Reid. She replied at that time that she was not sure what the payments were for, but that she would check.

[145] When her testimony resumed over a month later, Hewitt testified that these payments were related to re-issuances of shares for Solutions 21. Hewitt explained that Solutions 21 was the "master agent" for IGI and that many of their donors' share certificates were amongst the documents that the Commission seized from IGI's offices in January 2009 pursuant to the execution of a search warrant. Hewitt arranged for the share certificates to be re-issued to the Solutions 21 donors. Hewitt testified that eventually the old share certificates would have to be cancelled, but that the certificates re-issued for Solutions 21 in this time period were new issuances of shares.

[146] According to Hewitt, Solutions 21 contacted her and provided her with a list of names and the number of RCT shares to be issued in each name. The process followed was the same as had earlier been done in the IGI Program, whereby the list would be passed on to Reid who would obtain the share certificates from Heritage Trust and provide them to Hewitt. Hewitt testified that her payment arrangement with Reid for these services was the same as it had been when she was working with IGI. Solutions 21 paid Hewitt approximately $135,000 over a seven-day period from April 22, 2009 to April 29, 2009. During that same period, Hewitt paid Reid approximately $40,000, which was about 30% of the amount she received from Solutions 21. She would make payments to Mobiliare on the same days as she received payments from Solutions 21.

RCT Resolution Authorizing 2,000,000 shares to Hewitt

[147] Hewitt was referred to previous testimony regarding the authorization of a share issuance to her and to an April 10, 2009 RCT Resolution previously introduced into evidence during Reid's testimony. Hewitt claimed that she never had any discussion with RCT or Tummonds about an additional form of compensation from RCT.

[148] Hewitt testified that she first became aware of the authorization of a share issuance to her when a share certificate in her name for 2,000,000 shares was included in the lists that Reid delivered from Heritage Trust in December 2008. According to Hewitt, she immediately called Reid to ask him about it and he responded as follows:

> So he said to me, we just want to thank you for all the work that you've been doing for us and we just want to say thank you. We don't want to leave you out. We want to thank you. So we just thought we'd issue you some stock.
>
> (Hearing Transcript, October 5, 2011 at page 118, lines 13 to 17)

[149] When questioned about the timing of her discovery in December 2008 when the RCT Resolution was dated April 10, 2009, Hewitt replied that the Resolution was made months after the actual share transfer. When it was put to Hewitt that the Heritage Trust Detailed Transaction Journal notes the 2,000,000 share issuance to Hewitt on April 23, 2009, Hewitt maintained that she had seen her name on a list and that 2,000,000 shares had been issued to her in December 2008. However, I note that the Heritage Trust Detailed Transaction Journal for RCT notes two issuances of shares to Hewitt. The first, for 5,964 shares occurred on January 8, 2009 and the second, for 2,000,000 shares, occurred on April 23, 2009.

[150] Hewitt testified that as of April 10, 2009, when the RCT Resolution for the 2,000,000 share issuance was dated, she was not a friend of Tummonds and she and Z2A were no longer doing work for RCT or Tummonds. At the point when the transfer was being made, there was no obvious reason for it being done; Hewitt had no business relationship with RCT or IGI. Hewitt testified that she did not have any ongoing contact with Tummonds or Reid after January 2009. Hewitt's testimony on this point is inconsistent with her evidence that she arranged for the issuance of RCT shares with Reid in the names of individuals supplied by Solutions 21 in April 2009.

[151] Hewitt further testified that she has never done anything with the 2,000,000 RCT shares that were issued in her name. Although Hewitt and Reid provided inconsistent evidence regarding the 2,000,000 share issuance, the circumstances surrounding the share issuance and the details of the issuance are not central to the issues to be determined. I further note that the 2,000,000 share issuance occurred after the Material Time, according to the Heritage Trust records.

Peter Black

[152] Hewitt first met Black some time in mid-December 2008 at the IGI offices, after she began doing work for IGI. Lushington introduced Hewitt to Black and others.

[153] Hewitt testified that in January 2009, she made an appointment to meet with Black at her office to discuss amalgamating his share certificates. Hewitt agreed to assist Black with the consolidation of his share certificates and also provided him with other corporate services. She testified:

> … So he wanted to, first of all, get to know, through my referrals, to get to know my referral group, so I introduced him to my lawyers, which was Yung Lee and Nick Wright, who he continues to use to this day for his projects. And so I introduced him to them. And he brought on another, you know private business item, which was he wanted us to do work for. So he used our boardroom. And we got a marketing group. I referred him to one of my advertising groups that I use. So they came in, used our boardrooms and times and Julie [Morais] made all the appointments for him. And he brought a presentation and asked them to raise $75 million for him.
>
> (Hearing Transcript, October 5, 2011 at page 130, lines 1 to 13)

[154] Hewitt testified that she was present at all the meetings that Black had with potential clients at her office and that there were about four meetings in total. Hewitt testified that she paid for the cost of using the boardrooms and that Black did not reimburse her. In addition to the lawyers, Hewitt also introduced Black to an international businessman and lawyer in Portugal, Anthony Diamond, to help with "doing something with his certificate".

[155] With respect to the share consolidation work she did for Black, Hewitt testified that Reid dealt directly with the transfer agent. Hewitt estimated that this was done in January 2009. However, during cross-examination, Staff took Hewitt to a copy of the RCT share certificate for 4,202,813 shares issued in the name of Furry World and dated June 4, 2009. Hewitt then

confirmed that she charged Furry World $3,234 for her work done with respect to this consolidation of its share certificates into one share certificate.

[156] Hewitt testified that her payment to Reid for the work he did in connection with the share certificate consolidation was not the $921 identified on the list of payments from Z2A to Mobiliare that she had previously provided to Staff. The copy of the cheque Hewitt provided that corresponded with this payment was unsigned and Hewitt testified at the Merits Hearing that the amount Z2A paid to Reid was actually greater than $921 and that the unsigned cheque dated June 12, 2009 was never actually given to Reid.

[157] Staff also referred Hewitt to an April 2009 letter that Black wrote to Tummonds, in which Black stated: "When conducting due diligence on participating in your direct philanthropy, we conducted interviews with a person purporting to be your liaison, namely Christine Hewitt of Z2A". Hewitt denied that Black would have been under the impression that she was the liaison for RCT and stated that the only reason he came to her office for assistance was that he would have seen her arriving at the IGI offices with the share certificates. Hewitt insisted that Black's approach to her had nothing to do with the fact that she represented herself as a liaison for the philanthropist and denied doing so. Hewitt was referred to the invoices Z2A provided to IGI which note "FEES for Liaison / Intermediary services rendered" in the matter relating to "RCT Global Networks philanthropist / donee contribution …" and Hewitt testified:

> The term liaison was a term that IGI used, you know, if you look at their documentation. And whenever I would go in there, he – Terence would say, well, you know, if you're waiting for your shares, I mean, she's our liaison person, but it's a term.
>
> …
>
> I'm not a major shareholder. I was asked to work by this company, a marketing company. They called it liaison. Okay. So what? So I, you know, got the shares, delivered it to IGI, so that was a liaison role. But I had no at all – no saying at all within this company of RCT Global Networks at all.
>
> (Hearing Transcript, November 8, 2011, page 78, line 8 to page 79, line 9)

[158] I find that Hewitt's testimony was at times unreliable and specifically note the following inconsistent or unreliable testimony:

- Hewitt initially testified that she offered Reid the chance to work with her on the IGI Program after he approached her asking if she had any work he could do. Hewitt later testified that Reid came to her and offered to help her with her work in the IGI Program by dealing with the transfer agent.
- Hewitt's accounts of why funds were paid to Mobiliare are also inconsistent. Hewitt initially told Staff in her voluntary interview "I paid him something. I don't think it was too much, I'm not sure" for doing "leg work". Hewitt maintained in her testimony at the Merits Hearing that the payments to Mobiliare were for services provided by Reid, and were not for RCT shares. Hewitt also testified that she offered Reid the chance to so some work and offered half of what IGI paid her.
- On her first day of testimony, Hewitt testified that she did no work for IGI, provided no services to RCT and did not see Reid after January 2009. However, further to my question to her about this in light of the evidence of payments to Mobiliare later in 2009, Hewitt testified that she was in contact with Reid about reissuances of RCT shares to IGI participants whose share certificates had been seized during the Commission's investigation.

E. Julie Morais

Work at Z2A

[159] Morais was called as a witness by Hewitt. Morais testified that she met Hewitt on December 24, 2008, at which time Morais mentioned to Hewitt that she was not working and Hewitt told Morais she was looking for someone to work for her. Morais started working for Hewitt at Z2A on January 5, 2009 as an office manager and continued working there until September 2009.

Furry World and Peter Black

[160] Morais testified that Black was a client of Z2A. She testified that it appears that she met Black in January 2009, but did not recall this meeting; she did recall seeing him at the Z2A offices in March 2009.

[161] According to Morais, Z2A provided Black with administrative services relating to filling out receipts for donors to his charity and work involved in the consolidation of shares that were donated to Furry World. Morais testified that Z2A did an extensive amount of work on his behalf. In addition, Morais also arranged for Black to have the use of boardrooms in the business centre in which Z2A was located. Morais would deal with the business centre on behalf of Black, booking meeting rooms and arranging for refreshments at the meetings.

[162] Morais testified that Z2A was invoiced for the boardroom bookings and refreshments and it was her understanding Black would pay Z2A. However, Black never paid for these services. The only payment received from Black was a payment of approximately $2,500 for services in relation to the consolidation of share certificates. When presented with a copy of an invoice from Z2A and a cheque from Black to Z2A, both in the amount of $3,234, Morais agreed that this was the one invoice she referred to as having been paid by Black.

The IGI Program

[163] Morais testified that Z2A was involved in the IGI Program simply from a corporate services standpoint. She described Z2A as an intermediary, obtaining a list of people's names from IGI, and providing that list to Reid, who would then provide Z2A with share certificates. Reid would invoice Z2A for the services he provided and Z2A made payments to Mobiliare for the service he provided. Morais testified that Reid would have been providing these services in the time period of April or June 2009, which is outside the Material Time.

[164] According to Morais, the only involvement she, Z2A or Hewitt had with any corporate shares was consolidation of the share certificates for Black and obtaining share certificates for donors. Morais further testified that neither she nor Hewitt attended at the office of a transfer agent, but that Reid was responsible for attending the transfer agent's office.

[165] Morais testified that since she only started work at Z2A on January 5, 2009, she was not involved in the preparation of invoices sent to IGI in December 2008. She created the electronic copies of the invoices in the computer system, but was not working for Z2A at the time that IGI was invoiced in December 2008.

[166] During cross-examination, Morais testified that she was not aware that Z2A was providing any services to IGI after January 2009, but that the payments made to Reid were provided in response to invoices he sent to Z2A. The only service she was aware that Reid provided was picking up shares at Heritage Trust and delivering them to Z2A. No invoices from Reid to Z2A were presented in evidence.

IV. ISSUES

[167] The issues to be determined are:

1. During the Material Time, did Hewitt and Z2A trade in securities of RCT without being registered to trade in securities contrary to s. 25(1)(a) of the Act?

2. During the Material Time, did Hewitt, being a director and officer of Z2A, authorize, permit or acquiesce in the commission of the violations of sections 25 and 53 of the Act by Z2A?

V. SUBMISSIONS

A. Staff's Submissions

[168] Staff alleges that Hewitt and Z2A performed acts in furtherance of trades in RCT shares through the IGI Program by arranging for the issuance of RCT shares in the names of "donors" and that, in return, Z2A received a commission equal to 10% of the cash "donated" by the participants. Staff alleges that Hewitt obtained RCT shares by purchasing them from Mobiliare.

[169] Staff submits that in the case of about 96 participants in the IGI Program, the RCT shares they received as a result of the acts of Z2A and Hewitt were treasury shares and that the distribution of these treasury shares was not qualified by a prospectus.

Hewitt's Knowledge of and Role in the IGI Program

[170] Staff submits that Hewitt was very knowledgeable about the IGI Program during the Material Time. She received initial promotional material at the beginning of her relationship with IGI when she met Lushington at the end of November 2008. Staff submits that Hewitt knew that Tummonds, who she alleged was the philanthropist under the IGI Program, was not a "non-resident Swiss philanthropist" as described in IGI promotional materials.

[171] Staff further submits that Hewitt was aware that the charities involved in the IGI Program did not keep most of the money they received from donors, but that, in addition to the 10% of cash received by Z2A, commission sales agents were also to be paid a commission that was, at least in once case, 50% of the cash donated. Staff submits that although it might be reasonable for a "donor" to assume that some amount of the donation might go to administrative costs, it would not be reasonable for a "donor" to assume that more than 20% of a donation would go to administrative costs, and certainly not 90%.

[172] Staff alleges that Hewitt presented herself as a representative or liaison of RCT, as Black testified during the hearing. Staff submits that Hewitt was argumentative and evasive in cross-examination in response to questions relating to why Black was seeking her assistance in January 2009, refusing to acknowledge that Black came to her because he thought she had a relationship with the alleged philanthropist.

Compensation Structure

[173] Staff submits that Z2A's compensation structure is consistent with the key role played by Z2A and Hewitt in the IGI Program. Staff notes that Z2A's compensation was not based on hours worked and expenses incurred, but was based on the success of the IGI Program such that Z2A received $230,453.10 for work performed over an 18-day period.

[174] S taff submits that the compensation structure is consistent with Z2A performing acts in furtherance of trades in RCT shares by supplying the RCT shares that were traded through the IGI Program. Staff notes that Heritage Trust, which provided purely administrative services in relation to the issuance of RCT shares invoiced for less than $5,000 for the services during the Material Time.

Credibility

[175] Staff submits that in cases where the balance of probabilities is the standard of proof, provided the trier of fact has not ignored evidence, finding the evidence of one party credible may well be conclusive of the result because that evidence is inconsistent with that of the other party. In such cases believing one party will mean explicitly or implicitly that the other party was not believed on the important issue in the case. That may be especially true where a plaintiff makes allegations that are altogether denied by the defendant (*F.H. v. McDougall*, [2008] 3 S.C.R. 41 at paras. 85-86 ("***McDougall***")).

[176] Staff submits that Reid's evidence that he sold RCT shares to Hewitt and Z2A is in harmony with the preponderance of probabilities (*Springer v. Aird & Berlis LLP* (2009), 96 O.R. (3d) 325 at para. 14) in this case. Staff further submits that his evidence is corroborated by documents including:

(a) the cheques Reid received from Z2A in amounts too large to be for courier services;

(b) documents that demonstrate Reid was in a position to sell RCT shares to Z2A and direct Heritage Trust to issue RCT shares in donor names, such as the Authorization from RCT, the Option Agreements and handwritten responses from Tummonds to Staff; and

(c) documents that demonstrate that RCT shares were issued in donor names through the cancellation of Mobiliare shares or issuance of treasury shares.

[177] Similarly, Staff submits that Black's testimony that Hewitt represented herself as being a representative of RCT is credible and is corroborated by a letter Black wrote to RCT in April 2009, well before the dispute arose between Black and Hewitt and by a December 2008 document obtained by Staff during its investigation that is witnessed by "Christine Hewitt (for Philanthropist)".

[178] Staff submits that assessments of credibility can be informed by a witness's demeanour. Staff refers to *R. v. Anderson*, [2007] O.J. No. 2622 at para. 19, in which the court noted that the trial judge had relied upon her observations that under cross-examination the accused was "anticipatory and arrogant and at times argumentative. She went on to indicate 'the words themselves fail to adequately reflect the tone and timing and the nature of the immediate, clipped times [*sic*] confrontational responses'".

[179] Staff submits that Hewitt's evidence is not credible, and was at times self-contradictory, at odds with documentary evidence or simply not plausible. Staff alleges that, despite the fact that Hewitt repeatedly stated that she found out in December 2008 that two million RCT shares had been issued in her name, the RCT resolution is dated April 2009 and it is clear from the transfer agent records that she could not have found out about these shares being issued in her name until at least April 2009.

[180] Staff alleges that Hewitt's explanation as to how Reid was able to direct Heritage Trust is not plausible. Staff notes that Hewitt explained that based on her "experience with the paperwork for different companies", she understood that there would need to be a "treasury order to the transfer agent from the signatory of the company" in order for shares of the company to be issued by the transfer agent. Staff submits that Hewitt's explanation that Reid was able to provide instructions to the transfer

agent because "he knows the transfer agent" and because he is a shareholder of RCT is not plausible based on common sense and based on Hewitt's own understanding of what a transfer agent requires before issuing shares of a company.

[181] Staff further submits that Hewitt's explanation of the basis for the payments to Mobiliare was also not plausible. Staff refers to Hewitt's voluntary interview conducted prior to the hearing in which she told Staff that she would forward donor lists to Reid, who then attended at Heritage Trust's offices, obtained shares in the names of the donors and delivered the certificates to Z2A's offices, "So it's just like having a courier person". Given that Reid lives approximately one km away from Z2A's offices and Z2A's offices are approximately one kilometre away from Heritage Trust's offices, Staff submits that it is not plausible that Z2A's payments to Mobiliare of $116,391.90 between December 12, 2008 and January 13, 2008 were for courier services.

[182] Staff refers to Hewitt's unambiguous statements during her voluntary interview by Staff that she had never heard of Mobiliare and note that Hewitt never mentioned that she paid Mobiliare 50% of the money she received from IGI when questioned about costs she had to pay, but stated later in the voluntary interview that "I paid him something. I don't think it was too much, I'm not sure." Staff submits that it is not credible that Hewitt did not recognize the "Mobiliare" name because the questioner mispronounced the name, but rather Hewitt denied knowing about Mobiliare because she did not want to reveal the fact that she had purchased RCT shares from Mobiliare as part of the IGI Program.

[183] Staff notes that Hewitt gave three different versions of events as to how Reid became involved in the IGI Program. During her voluntary interview, she advised Staff that because Tummonds was sick, he assigned Reid to do whatever was necessary on his behalf. During her examination in chief, Hewitt testified that Reid had come to her many times to ask if she had any work for him and that this was his chance to do some work (for which she would pay him half of what she received). During cross-examination, she testified that she got in touch with Tummonds after she met with IGI and after that Reid came to her and offered to help with it. Staff submits that the version of events provided by the Respondents in their written submissions, that after meeting with Lushington, Hewitt became aware that Tummonds had provided written authorization for Reid to act on behalf of RCT with respect to the issuing and disposition of shares, is not supported by Hewitt's evidence at the hearing and that there was no evidence to support the proposition that Reid proposed a separate side deal.

Acts in furtherance of trades of RCT securities (s. 25(1)(a))

[184] Staff submits that Hewitt and Z2A knew that a donation to a charity was required before a donor was eligible to receive RCT shares and that more than half the funds "donated" were not retained by the charities but were paid to IGI so that IGI could pay a 10% commission to Z2A and other commissions to sales agents.

[185] Staff refers to National Policy 12-202 – *Revocation of a Compliance-related Cease Trade Order* and submits that gifts must be made bona fide and where a disposition of securities is part of a plan or scheme to evade requirements of securities legislation, it should not be treated as a gift (s. 3.2). Staff submits that in this case, a donor's "donations" ended up almost entirely in the hands of the entity that designed the scheme, IGI, and in return, the donor received shares which the donor could keep or forward to a charity in order to receive a tax receipt.

[186] Staff refers to the Supreme Court's decision in *Pacific Coast Coin Exchange of Canada v. Ontario (Securities Commission)*, [1978] 2 S.C.R. 112, which states in relation to the Act at para. 43 that "such remedial legislation must be construed broadly, and it must be read in the context of the economic realities to which it is addressed. Substance, not form, is the governing factor". Staff submits that the IGI Program was in substance, if not in form, a trade in RCT securities.

[187] Staff submits that there is sufficient proximity between the Respondents' conduct and trades in RCT to conclude that the Respondents engaged in acts in furtherance of trades. Staff submits that supplying RCT shares to IGI were acts directly connected to the disposition of RCT securities by IGI and there is no evidence that IGI could have procured RCT shares without the involvement of Z2A, who retained Reid and Mobiliare.

[188] Staff submits that although Hewitt and Z2A did not create or devise the IGI Program, they understood it and played a key role in furtherance of the IGI Program by supplying the RCT shares in the name of participants to the IGI Program. Staff notes that Z2A's compensation from IGI was directly related to the sales of the IGI Program to potential donors. Staff submits that Hewitt's instructions to Reid to obtain RCT shares in the names of donors from Heritage Trust and to attend and pick up share certificates at Heritage Trust's offices formed part of the services that Z2A needed done in order to be in position to supply RCT shares to IGI.

[189] Staff submits that the Respondents' attempts to minimize the importance of the role played by Hewitt in the IGI Program by alleging that IGI could have dealt directly with Reid or RCT, but there was no evidence Lushington was familiar with Reid before Hewitt brought him into the IGI Program or that Lushington could have obtained shares from RCT. Staff submit that it is not credible that Hewitt and Z2A received a 10% commission for simply cross-checking names upon receipt of lists and certificates from the transfer agent and providing an "arm's length" element to the transactions.

Illegal distributions

[190] Staff submits that approximately 1.3 million previously unissued shares in RCT were issued to over 90 donors in the IGI Program, which constituted a distribution under the Act. Staff submits that Z2A supplied these RCT shares to IGI and that persons engaged in acts in furtherance of a trade in relation to shares not previously issued have contravened subsection 53(1) of the Act (*Re First Global Ventures S.A.* (2007), 30 O.S.C.B. 10473).

B. Respondents' Submissions

Response to the allegations against the Respondents

[191] The Respondents submit that Hewitt acknowledged she was aware of the basic elements of the IGI Program, including that 90% of the donated funds were kept by IGI to pay for administrative costs, commissions to agents and for her fees, however there is no evidence that she was privy to more information than was available to the general public, other than the fact that the philanthropist was a resident of Ontario. The Respondents submit that it is reasonable to assume that most donors were aware that a portion of each donation was used for administrative costs, a common practice for charities, and there is no evidence the donors were unaware that 90% of their donations was kept by IGI.

[192] The Respondents submit that Hewitt knew Reid prior to being contacted by Lushington in November 2008 and that he had approached Hewitt previously to enquire about possible work. According to the Respondents, after meeting with Lushington, Hewitt became aware that Tummonds had provided written authorization for Reid to act on behalf of RCT with respect to the issuance and disposition of shares and that Reid had been specifically authorized to work with Hewitt in connection with the IGI Program. The Respondents submit that IGI could have dealt only with Reid, but Lushington wanted to work with Hewitt because she knew how to do the paperwork, was reliable and added an "arms length" element to the transactions.

[193] The Respondents contend that Hewitt's participation in the IGI Program was minimal: that she forwarded IGI donor lists to Reid, reviewed the certificates obtained by Reid and delivered the certificates to IGI. The Respondents note that Hewitt merely forwarded information from IGI and delivered the issued share certificates to IGI, and did not exercise any independent judgment or control over the issuing of RCT shares. Hewitt's November 2008 agreement with IGI states that her duties as a liaison were "to process and administer the share certificates to the donor's name. For administrative services, you will charge IGI 10% of the cash donated".

[194] The Respondents submit that there is no reliable evidence to support the allegation that Hewitt played a crucial role in bringing Tummonds and RCT into the IGI Program and that it was Hewitt who suggested to Lushington that Tummonds be the new philanthropist. They submit that indirect evidence on this point from statements in Lushington's settlement agreement with Staff should be given no weight. The Respondents further note that there is no evidence that Hewitt and Tummonds had any significant business or personal relationship, but that Hewitt was provided $1,000 in early 2008 for assistance in obtaining a legal opinion with respect to taking RCT public.

[195] The Respondents deny that Hewitt purchased RCT shares from Reid or that she "hired" Reid. Rather, they submit that Hewitt and Reid worked as colleagues and Hewitt paid Reid a total of $112,000. The Respondents argue that the Authorization from RCT gave Reid the general authority to sell RCT shares, but does not prove that he sold shares to Hewitt. Neither do the Option Agreements or the Heritage Trust records prove that Reid sold shares to Hewitt, according to the Respondents.

[196] Hewitt denies that she owned RCT shares and submits that the initials on the April 25, 2009 Direction and Authorization document authorizing Reid to deal with Hewitt's RCT shares are not hers. Even if she did own RCT shares, the Respondents submit that it is not plausible that she would sign a document related to the transfer of RCT shares to IGI donors when the IGI Program had effectively ceased to exist by April 2009. Similarly, the Respondents submit that the RCT Resolution dated April 10, 2009, wherein RCT "agrees" to issue 2,000,000 RCT shares to Hewitt as "partial compensation for promotional work and re-organizations work of the company" makes no sense. They submit that there is no evidence Hewitt did any work for RCT, apart from a consultation in early 2008 about RCT "going public" and there was no reason whatsoever for RCT to compensate Hewitt in April 2009. The Respondents submit that this is not a genuine document and that it was fabricated in a clumsy and fuzzy-headed attempt to implicate Hewitt in wrong-doing.

[197] In any case, the Respondents submit it is not clear why it would be illegal or improper for Hewitt to purchase RCT shares.

[198] The Respondents note that Hewitt denies telling Black that she was a "representative" of IGI (by which, I must assume the Respondents mean RCT or the philanthropist), that the RCT shares would make his charity rich, that she worked closely with "the philanthropist" or Tummonds, or that she guaranteed the RCT shares had value and were marketable.

Credibility

[199] Hewitt denies that she was argumentative and evasive during cross-examination or that her demeanour was anticipatory, arrogant or argumentative such that serious doubts about her credibility could be raised.

[200] In response to allegations of inconsistencies and implausibilities raised by Staff, the Respondents submit the following. There is no inconsistency in Hewitt's explanation of how Reid became involved with obtaining RCT share certificates for donors in the IGI Program; Hewitt met with Reid after her discussion with Tummonds, Reid was assigned to work with Hewitt as a representative of RCT and he proposed a separate side-deal, wherein he and Hewitt would work together to obtain RCT share certificates for donors and deliver them to IGI.

[201] Similarly, the Respondents submit there is no inconsistency in Hewitt's evidence as to how RCT became involved in the IGI Program. They submit it is not reasonable to conclude that the version of events described in Lushington's settlement agreement is more credible than Hewitt's testimony, noting that Staff did not call Lushington as a witness at the hearing and his statements could not be tested through cross-examination. The Respondents submit that in the course of negotiating a settlement with Staff, it was in Lushington's interest to assign as much responsibility as possible to the remaining respondent and his version of events should be considered unreliable and lacking credibility.

[202] With respect to Hewitt's initial failure to fully disclose her knowledge of Mobiliare and her business relationship with Reid during her voluntary interview with Staff, the Respondents submit that Hewitt did not initially recognize the name "Mobiliare Argenti" because it was mispronounced.

[203] The Respondents submit that the only evidence pertaining to whether Hewitt claimed to be a "representative of IGI" comes from Black's testimony (I note that Black's testimony was that Hewitt claimed to be a representative of the philanthropist). They submit that Hewitt's testimony that she never identified herself as a representative of IGI is consistent with documents that describe her as a "liaison" or "liaison-intermediary", which by definition is not a representative of one party or another.

[204] The Respondents note that Black and Hewitt are involved in Small Claims Court proceedings relating to: (a) Black's allegation that Hewitt owes him money loaned to her, and (b) Hewitt's allegation that Black owes her money for corporate services provided to him and his charity. In light of this ongoing dispute, the Respondents submit that Black should not be seen as an independent or unbiased witness. The Respondents submit that Black's key evidence concerning alleged representations made by Hewitt was not corroborated by any other witness or by any documentation. They submit that it is not plausible that none of the alleged representations were made in writing or referred to in written correspondence.

[205] The Respondents note that Staff's main witness, Reid, has a very lengthy criminal record for offences involving dishonesty, including fraud and forgery and submit that his evidence is inherently unreliable. The Respondents contend that, as the person who actually obtained the share certificates, Reid's role in the IGI Program was greater than Hewitt's. They submit that it is reasonable to infer that Reid agreed to testify in order to avoid being charged with offences under the Act, and, if this is the case, Reid would have a motive for providing damaging evidence against Hewitt, regardless of whether this evidence was true.

VI. THE LAW

A. Standard of Proof

[206] The standard of proof in this case is the civil standard of proof on a balance of probabilities. The Supreme Court of Canada stated in *McDougall*, *supra* at para. 40:

> … I think it is time to say, once and for all in Canada that there is only one civil standard of proof at common law and that is proof on a balance of probabilities. Of course, context is all important and a judge should not be unmindful, where appropriate, of inherence improbabilities or the seriousness of the allegations or consequences. However, these considerations do not change the standard of proof.

[207] The Court continued that "the evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test" (*McDougall*, *supra* at para. 46).

B. Credibility

[208] A significant issue in this case is the credibility of the testimony of some of the witnesses. Staff and counsel for the Respondents both refer to the case of *Springer v. Aird & Berlis LLP* (2009), 96 O.R. (3d) 325 ("***Springer***"), in which the court cites with approval the statement of the British Columbia Court of Appeal at para. 14:

> ... [t]he Judge is not given a divine insight into the hearts and minds of the witnesses appearing before him. Justice does not descend automatically upon the best actor in the witness box. The most satisfactory judicial test of truth lies in its harmony with the preponderance of probabilities disclosed by the facts and circumstances in the conditions of the particular case.

[209] Staff cited the decision in *R. v. Anderso*n, [2007] O.J. No. 2622 for the proposition that a witness's demeanour may inform the trier of fact's assessment of credibility. While I do not dispute the finding in *R. v. Anderson*, I am cognizant of the potential dangers of relying too much on witness demeanour and, in this case, do not rely on Hewitt's or any other witness's demeanour in coming to my conclusions as to the credibility of their evidence. Ultimately, in assessing the credibility of evidence of the witnesses, I have considered whether that evidence is "in harmony with the preponderance of probabilities disclosed by the facts and the circumstances" of this case (*Springer*, *supra* at para. 14).

C. Circumstantial Evidence

[210] Some of the evidence before me at this hearing was circumstantial. With respect to circumstantial evidence, *The Law of Evidence in Canada* makes the following statement:

> In civil cases, the treatment of circumstantial evidence is quite straightforward. It is treated as any other kind of evidence. The weight accorded to it depends on the strength of the inference that can be drawn from it and this is a task for the trier of fact.
>
> (A. Bryant, S. Lederman and M. Fuerst, Sopinka, Lederman & Bryant: *The Law of Evidence in Canada*, 3d ed. (Toronto: LexisNexis Canada Inc., 2009) at 71)

[211] With respect to circumstantial evidence in the context of securities regulation, the Alberta Securities Commission has stated:

> There was no dispute that the evidence before us was largely circumstantial. Kusumoto seemed to suggest that circumstantial evidence alone cannot amount to clear and cogent evidence.
>
> We disagree. … In many cases involving securities laws, circumstantial evidence will be the only sort of evidence available. It is not to be excluded or disregarded by reason of being circumstantial. If it is relevant it will be received and considered. In some cases, relevant circumstantial evidence will be decisive.
>
> (*Re Kusumoto*, 2007 ABASC 40 at paras. 73-74)

[212] I have considered all the evidence in this case and made determinations as to the weight to be accorded based on the full record before me. I have relied on relevant circumstantial evidence where the inferences arise logically and reasonably from the facts established by the evidence and where they are supported by other evidence in this matter.

D. Unregistered Trading and Illegal Distribution

Unregistered trading

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

[214] Subsection 25(1)(a) of the Act stated at the Material Time:

> 25.(1) No person or company shall,
>
> (a) trade in a security or act as an underwriter unless the person or company is registered as a dealer, or is registered as a salesperson or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer.

[215] The importance of registration has been discussed by the Supreme Court of Canada in *Gregory & Co. v. Quebec (Securities Commission)*, [1961] S.C.R. 584 at 4:

> The paramount object of the Act is to ensure that persons who, in the province, carry on the business of trading in securities or acting as investment counsel, shall be honest and of good repute and, in this way, to protect the public, in the province or elsewhere, from being defrauded as a result of certain activities initiated in the province by persons who therein carry on such a business. For the attainment of this object, trading in

> securities is defined in s. 14 [s. 1(1)]; registration is provided in s. 16 [s. 25] as a requisite to trade in securities.

Acts in furtherance of a trade

[216] In this case, Staff specifically alleges that the Respondents engaged in acts in furtherance of trades. Acts in furtherance of a trade are included in the definition of "trade" in subsection 1(1) of the Act. Subsection 1(1) defines "trade" as including:

> (a) any sale or disposition of a security for valuable consideration whether the terms of payment be on margin, instalment or otherwise, …
>
> …
>
> (e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of the foregoing.

[217] There is no bright-line test for determining whether acts by a respondent are acts in furtherance of a trade. The Commission has stated in *Re Costello* (2003), 26 O.S.C.B. 1617 at para 47:

> There is no bright line separating acts, solicitations and conduct indirectly in furtherance of a trade from acts, solicitation and conduct not in furtherance of a trade. Whether a particular act is in furtherance of an actual trade is a question of fact that must be answered in the circumstances of each case. A useful guide is whether the activity in question had a sufficiently proximate connection to an actual trade.

[218] The Commission has found that it should adopt a contextual approach when considering whether a respondent has acted in furtherance of a trade:

> In determining whether a person or company has engaged in acts in furtherance of a trade, the Commission has taken "a contextual approach" that examines "the totality of the conduct and the setting in which the acts have occurred." The primary consideration is, however, the effect of the acts on investors and potential investors. The Commission considered the issue in *Re Momentas Corporation* (2006), 29 O.S.C.B. 7408, at paras. 77-80, noting that "acts directly or indirectly in furtherance of a trade" include (i) providing promotional materials, agreements for signature and share certificates to investors, and (ii) accepting money; a completed sale is not necessary. In our view, depositing an investor cheque in a bank account is an act in furtherance of a trade.
>
> (*Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 1727 at para. 131)

[219] Other conduct that has been considered acts in furtherance of trades includes: issuing and signing share certificates and a "shareholder statement", faxing information about the purchase of shares to investors and instructing solicitors in connection with the issuance and exchange of shares (*Del Bianco v. Alberta (Securities Commission)*, [2004] A.J. No, 1222 (Alta. C.A.) at para. 9); and issuing share certificates in Ontario through an Ontario transfer agent, depositing funds received in payment for the shares in bank accounts opened by the respondents, providing instructions to the transfer agent regarding issuance of the shares from treasury as the directing minds of the issuers and maintaining websites for the corporations which some investors had consulted (*Crowe v. Ontario (Securities Commission)* (2011), 108 O.R. (3d) 410 (Div. Ct.) at para. 35).

Illegal distribution

[220] Subsection 53(1) of the Act states that no person shall trade in a security if the trade would be a distribution of the security unless a preliminary prospectus and a prospectus has been filed. The Act defines a distribution as a trade in securities of the issuer that have not been previously issued (subsection 1(1)).

[221] The Commission has previously found that where respondents have engaged in acts in furtherance of a trade in relation to shares not previously issued, they have contravened subsection 53(1) of the Act (see, for example *Re First Global Ventures, S.A.* (2007), 30 O.S.C.B. 10473 at para. 150).

VII. ANALYSIS OF THE ALLEGATIONS

[222] Staff alleges that the Respondents engaged in acts in furtherance of trades, thereby breaching subsection 25(1)(a) of the Act. Staff also alleges that the Respondents' conduct was contrary to subsection 53(1) of the Act and constituted illegal distributions of securities.

A. Did Hewitt and Z2A breach s. 25(1)(a) of the Act?

[223] The Respondents have a sufficient nexus to Ontario. Z2A and IGI operated out of Ontario and the representatives of each company conducted their business with respect to the IGI Program in Ontario. Z2A is an Ontario corporation with Hewitt as its president and sole registered director. The evidence is clear that neither of the Respondents were registered to trade in securities in Ontario.

Evidence of the Witnesses

[224] There are a number of credibility issues with respect to certain evidence provided by witnesses in this matter, in particular Reid and Hewitt. The testimony of both conflicted at times with documentary evidence, with the evidence of Staff's communications with Tummonds, with each other and at times with evidence they provided earlier in their testimony. I have addressed other concerns with inconsistencies and the credibility of particular parts of their testimony in my review of the evidence earlier in this decision.

[225] Generally, Hewitt's testimony contained numerous contradictions and was oftentimes inconsistent with information she had previously provided to Staff in her voluntary interview. Hewitt also failed to answer specific questions asked of her by Staff. I note that my assessment of the credibility of evidence provided by Hewitt is not based on her demeanour during the hearing, but is a result of my consideration of her testimony in the context of all the evidence presented at the Merits Hearing.

[226] Similarly, I do not ascribe a great deal of weight to the evidence of Tummonds' communications with Staff. Tummonds was not available to testify at the hearing and I do not have the benefit of any transcript of an interview with Staff in evidence. I do accept, based on the testimony of Ms. Toledano, that Tummonds was very ill, as communicated by his lawyer, and that he was not in control of RCT during the Material Time.

[227] Staff relied on statements made by Lushington in the Lushington Settlement. in questioning Hewitt. Lushington was a co-respondent, did not testify at the hearing and was not made available for cross-examination or questioning by the Panel. Accordingly, the Lushington Settlement will not be considered as evidence against the remaining Respondents, Z2A and Hewitt.

[228] As a result of the issues surrounding the credibility of much of the evidence, I have wherever possible relied on the evidence of bank documents, transfer agent documents, and documents that were sufficiently consistent with Hewitt's responses to Staff in her voluntary interview and with witness testimony during the Merits Hearing.

Reid and Mobiliare

[229] There is not sufficient evidence to demonstrate that Mobiliare exercised options "at the direction of Z2A", as alleged in the Statement of Allegations, or that RCT shares were acquired by Mobiliare for valuable consideration.

[230] In the evidence provided by Staff, Tummonds confirmed that the two Option Agreements were entered into with Mobiliare. The Heritage Trust records support the issuance of RCT shares to Mobiliare, though there was no evidence to support the proposition that any valuable consideration (0.0075 cents per share according to the Option Agreements) was provided by Mobiliare to acquire the shares. There was not sufficient evidence that confirms Reid's assertion that Mobiliare paid for the shares, or that Reid paid bills for RCT. However, Tummonds did know Reid and had used him to help launch RCT's public listing and referred the Commission to Reid when he was ill.

[231] There is no credible evidence to indicate that Tummonds was aware of the IGI Program. The evidence that was before me at the Merits Hearing indicates that no cash or consideration was paid to RCT for the initial issuance of shares to Mobiliare or for the issuances of shares to individual "donors" from treasury. Although Reid claimed that he paid bills on behalf of RCT as consideration for the issuances of shares to Mobiliare, I have only his testimony on this point, which was not supported by any documentary evidence of receipts, invoices or RCT records.

[232] I find, based on the evidence, that Reid, through Mobiliare, was compensated by Z2A for supplying RCT shares issued to "donors" in the IGI Program. I accept Reid's evidence that he followed a process of arranging for shares to be issued to Mobiliare, which shares were subsequently cancelled and issued to individuals named in the lists provided to him by Hewitt. It is clear based on the Heritage Trust records that Mobiliare had brief ownership of most of the shares that were subsequently issued to individuals involved in the IGI Program.

[233] Reid's compensation for this work was provided by Z2A and Hewitt. According to Hewitt's testimony, the arrangement was that Reid would be provided with 50% of the funds she received from IGI. Reid testified otherwise. As noted above, in a September 17, 2009 e-mail to Reid, Hewitt writes: "You did all the leg work from dropping off and picking up and cancelling and amending and surely have all the records in your possession to this effect. You were paid by this office to do the work". Hewitt's e-mail indicates that, from her perspective at the time, Reid was working under her direction.

[234] Regardless of the details of their arrangement, Z2A made payments to Mobiliare totalling over $116,000 for the approximately one-month period of December 12, 2008 to January 13, 2009. Reid, through Mobiliare, was compensated by Z2A for work done in securing the shares to be delivered to investors in the IGI Program. I reject the suggestion that Reid was paid this amount of money merely for the administrative task of providing simple delivery or courier services.

Hewitt's Role in the trading of RCT Shares through the IGI Program

[235] I accept Black's evidence with respect to his dealings with IGI and find that he was solicited to participate in the program which involved solicitations for donations or gifts of shares on the understanding that Furry World would retain only 10% of the cash donated. Receipt of the shares from the "philanthropist" was an important economic element of the IGI Program.

[236] It is clear on the evidence that shares in RCT were traded through the IGI Program. "Donors" were issued shares in RCT in exchange for funds donated to charitable organizations, with 90% of these funds going to IGI. Reid had no contractual relationship with IGI, acted under Hewitt's direction and was paid by Hewitt's company. Hewitt had the contractual relationship with IGI, she directed payments to Mobiliare and she provided the RCT shares to IGI for delivery to participants in the IGI Program.

[237] The evidence of the Detailed Transaction Journal for RCT supplied by Heritage Trust is consistent with the donor lists that Hewitt identified as being provided to her by IGI. The information contained in these documents is also consistent with the invoices Z2A provided to IGI, which in turn are consistent with the payments made by IGI to Z2A.

[238] The evidence demonstrates that, as submitted by Staff, Z2A was paid by IGI for work with respect to, in the words of Z2A's invoices to IGI, "Liaison / Intermediary services rendered" with respect to "RCT Global Networks philanthropist / donee contribution", and not for the adminstrative task of providing basic office services of delivery of documents. Hewitt, through Reid, was IGI's connection to RCT, and therefore the RCT shares that were delivered to "donors" through the IGI Program. The supply of RCT share certificates for which Hewitt and Z2A were responsible, was an essential element of the gifting scheme run by IGI.

[239] The Respondents' role in the IGI Program is further evidenced by the November 26, 2008 agreement between Z2A and IGI, which Hewitt acknowledged signing in her examination by Staff. The agreement is signed by Hewitt and Lushington and states:

> This Agreement is to facilitate the understanding that Z2A's relationship between the philanthropists as a liaison is to complete the legal documentation and administer the share certificates to the donor's name. For administrative services you will charge IGI 10% of the cash donated amount payable within 10 days of receiving the share certificates of the donors.

[240] Hewitt testified that the term "liaison" was used by IGI to describe her role in obtaining the RCT shares and delivering them to IGI, but characterized her role as administrative in nature, obtaining RCT shares and delivering them to IGI. However, the evidence indicates Hewitt's involvement in the IGI Program went beyond administrative or delivery work. A December 2008 document on IGI letterhead indicates "Christine Hewitt (for Philanthropist)" as the witness. Further, Hewitt provided Staff with a copy of an IGI document addressed to "potential donors and their advisors" which states that "a non-resident Swiss philanthropist initiates a gifting program". Hewitt was aware that she was delivering shares in Tummonds' company, RCT, to IGI. Having met Tummonds previously, she was also aware that he was not a non-resident Swiss philanthropist.

[241] In addition, although it is outside the Material Time, I note that Hewitt continued to arrange for the issuance of RCT shares after she purportedly ceased her involvement with IGI and the IGI Program was no longer in operation. Hewitt acknowledged that she facilitated share issuances to individuals to replace RCT share certificates that were seized by the Commission during its investigation into IGI. Hewitt testified that she was no longer involved in providing RCT shares to IGI for the IGI Program after she became aware of Staff's investigation in January 2009, yet Hewitt continued to offer the same services in delivering RCT shares to "donors" recruited through Solutions 21. I emphasize that I do not take Hewitt's conduct with respect to Solutions 21 into account in my analysis of the allegations.

[242] During the Material Time, Z2A received $229,453.10 from IGI for the services provided by Z2A and Hewitt. This amount is consistent with Toledano's analysis of payments made to Z2A from IGI's bank account and with the Z2A invoices to IGI that Hewitt provided to Staff. Hewitt did not dispute that Z2A received this amount in remuneration, but supplied Staff with the Z2A invoices. IGI issued cheques in the following amounts to Z2A during the Material Time:

December 15, 2008	$26,120.00
December 19, 2008	20,000.00
December 20, 2008	35,625.00
December 24, 2009	41,124.00

December 29, 2008	65,628.80
December 31, 2008	40,955.30
Total	$229,453.10

[243] The above payments are generally consistent with the invoices Z2A provided to IGI. Between December 12, 2008 and December 30, 2008, Z2A issued five invoices to IGI for "Liaison/Intermediary services rendered" in connection to "RCT Global Networks philanthropist / done contribution to Canadian registered charities per CRA 2008 donation incentive program". The total amount payable in these invoices is $230,453.10, $1,000 more than the actual amount paid to Z2A.

[244] The evidence establishes that Hewitt's compensation, through the above payments made to her company, Z2A, was in the form of a percentage of the funds "donated" through the IGI Program. I do not find it credible that Hewitt would have been compensated at a rate of 10% of all donations, a significant portion of the funds received by IGI, for share delivery alone. Based on the terms of her agreement with IGI, Hewitt was aware that Z2A's compensation was not specifically related to the amount of work she did for IGI or the number of share transactions required, but was a percentage fee based on the amount of money that donors "donated" to the charity.

[245] In addition to the 10% Z2A received, Hewitt was also aware that agents for IGI, or at least Solutions 21, were receiving 50% of the amounts provided by the donors. The Respondents acknowledge that Hewitt was aware that 90% of the funds donated were retained by IGI. I do not agree with the Respondents' implication that it would be reasonable to assume that donors may have been aware that 90% of the donations were retained by IGI for "administrative costs".

Shares to Hewitt

[246] With respect to the issue of the issuance of 2,000,000 shares to Hewitt, I do not believe it is necessary to make a determination as to the facts of this share issuance. The records from Heritage Trust indicate that the shares were issued to Hewitt after the Material Time, despite Hewitt's testimony otherwise.

Conclusion

[247] In sum, the evidence demonstrates that the Respondents' role in the IGI Program was greater than they submit. Hewitt and Z2A were compensated, at a high rate, for their role in providing RCT shares that were issued to donors in the IGI Program. Hewitt, through Reid, made the RCT shares available to be provided to donors. The Respondents' services went well beyond simple office services or delivery. The Respondents facilitated the issuance of shares to individual donors and hence facilitated the entire IGI Program. Their actions in providing this intermediary service between IGI and RCT and physically ensuring that share certificates were provided in accordance with the lists of donors supplied by IGI constituted acts in furtherance of trades in RCT.

[248] Hewitt's actions in connection to the IGI Program were with knowledge of and in furtherance of the objectives of the IGI Program. Hewitt played an integral role in the IGI Program and, with Reid, provided IGI with access to the RCT securities that are at issue in this proceeding. Absent this connection to RCT, or "the philanthropist" as donors and charities were led to believe, the IGI Program would be missing a key element, issuances of shares to donors.

[249] I therefore find that the conduct of Z2A and Hewitt constituted acts in furtherance of trades in RCT and was contrary to the public interest.

B. Is Hewitt deemed to have breached ss. 25(1)(a) and 53(1) of the Act?

Staff's Allegation pursuant to s. 129.2 of the Act

[250] Staff alleges that Hewitt, being a director and officer of Z2A, authorized, permitted or acquiesced in the commission of the violations by Z2A, contrary to section 129.2 of the Act and contrary to the public interest. Section 129.2 of the Act states:

> 129.2 Directors and officers – For the purposes of this Act, if a company or a person other than an individual has not complied with Ontario securities law, a director or officer of the company or person who authorized, permitted or acquiesced in the non-compliance shall be deemed to also have not complied with Ontario securities law, *whether or not any proceeding has been commenced against the company or person under Ontario securities law or any order has been made against the company or person under section 127.* [emphasis added]

[251] I found above that Z2A's conduct during the Material Time constituted trades in RCT securities contrary to subsection 25(1)(a) of the Act. Staff makes no direct allegation of a breach of subsection 53(1) by Z2A, but alleges in the Statement of Allegations at para. 13:

> The Respondents participated in acts, solicitations, conduct or negotiations directly or indirectly in furtherance of the sale or disposition of securities for valuable consideration, in circumstances where there were no exemptions available to the Respondents under the [Act].

Were Z2A's trades in RCT shares distributions of securities?

[252] The Detailed Transaction Journal for RCT provided by Heritage Trust indicates that, in addition to the cancelled Mobiliare shares issued to donors, some participants in the IGI Program were issued shares directly from treasury. During the Material Time, RCT treasury shares were issued to individuals named on the lists provided by IGI to Hewitt.

[253] Although there is some lack of clarity in the presentation of transactions in the Detailed Transaction Journal, I find that the evidence is sufficiently clear for me to conclude that issuances of RCT shares facilitated by Z2A through the IGI Program during the Material Time were issuances from treasury.

[254] "Distribution" is defined in the Act to include "a trade in securities of an issuer that have not been previously issued" (subsection 1(1) of the Act). Z2A's trades in RCT treasury shares were trades in RCT shares that were not previously issued and were therefore distributions. No preliminary prospectus or prospectus was filed and no receipt was issued in connection with these distributions. Z2A's trades involving RCT treasury shares were therefore distributions in contravention of the requirements of subsection 53(1) of the Act.

[255] Since Staff did not frame the allegation of a breach of subsection 53(1) of the Act to include issuances to IGI "donors" from cancellations of shares held by Mobiliare, I do not consider whether these issuances constituted distributions.

Did Hewitt authorize, acquiesce or permit Z2A's non-compliance with Ontario securities law?

[256] Hewitt was the directing mind of Z2A. During the Material Time, Hewitt was the main contact at Z2A with respect to share issuances in the IGI Program for both IGI and Reid. Hewitt was aware of, and in fact participated personally in, Z2A's conduct that was contrary to Ontario securities law.

[257] As an officer and director of Z2A, Hewitt clearly authorized, permitted and acquiesced in Z2A's breaches of Ontario securities law and is therefore deemed to have breached subsections 25(1)(a) and 53(1) of the Act and contrary to the public interest.

VIII. CONCLUSION

[258] I therefore find that Hewitt's and Z2A's conduct constituted acts in furtherance of trades in RCT, contrary to subsection 25(1)(a) of the Act and contrary to the public interest.

[259] Pursuant to section 129.2 of the Act, I further find that, in her capacity as a director and officer of Z2A, Hewitt authorized, permitted and acquiesced in Z2A's contraventions of subsections 25(1)(a) and 53(1) of the Act and acted contrary to the public interest.

[260] I find that the $229,453.10 that Z2A received from IGI for its participation in the IGI Program was obtained as a result of its non-compliance with Ontario securities law. As noted above, Hewitt authorized, permitted and acquiesced in Z2A's contraventions of Ontario securities law as Z2A's sole director.

[261] For the reasons outlined above, I will issue an order directing the parties to appear before the Commission on August 12, 2013 at 10:00 a.m. for the purpose of scheduling a date for a hearing with respect to sanctions and costs.

[262] To protect the personal information of all investors, I also request that Staff provide a redacted version of the record in accordance with the Commission's April 24, 2012 Practice Guideline on *Use and Disclosure of Personal Information in the Ontario Securities Commission's Adjudicative Proceedings*.

Dated at Toronto this 25th day of July, 2013.

"Paulette L. Kennedy"

3.1.2 Takota Asset Management, Inc. – s. 31

IN THE MATTER OF
STAFF'S RECOMMENDATION FOR TERMS AND CONDITIONS ON THE REGISTRATION OF
TAKOTA ASSET MANAGEMENT, INC.

OPPORTUNITY TO BE HEARD BY THE DIRECTOR UNDER
SECTION 31 OF THE SECURITIES ACT (ONTARIO)

Decision

1. For the reasons outlined below, my decision is to impose modified terms and conditions on Takota Asset Management, Inc. (Takota) as provided in paragraph 9.

Overview

2. Takota is registered under the *Securities Act* (Ontario) (Act) in the categories of portfolio manager, investment fund manager and exempt market dealer.

3. Under subsection 12.1(1) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103), "[i]f at any time, the excess working capital of a registered firm, as calculated in accordance with Form 31-103FI Calculation of Excess Working Capital, is less than zero, the registered firm must notify the regulator … as soon as possible." In April 2012 and May 2012, Takota was capital deficient and failed to notify the Ontario Securities Commission (OSC).

4. By letter dated May 1, 2013, Staff of the OSC advised Takota that it was recommending to the Director that terms and conditions be imposed on Takota's registration due to the firm's failure to meet the excess working capital requirements of NI 31-103. The recommend Terms and Conditions are as follows:

"1. The Firm shall deliver on a monthly basis …

a. year-to-date unaudited financial statements including a balance sheet and income statement or statement of financial position and statement of comprehensive income, both prepared in accordance with accounting principles required by NI 52-107; and

b. month end calculation of excess working capital;

no later than three weeks after each month end.

2. The Firm will review its procedures for compliance with Ontario securities law and, no later than May 31, 2012 will deliver … a report setting out:

a. the reasons for its failure to meet the minimum capital requirements as at April 30, 2012 and May 31, 2012 as required under Ontario securities law (the Capital Requirements);

b. a certification from its Chief Compliance Officer to the effect that the Firm has reviewed its system for on-going compliance with Ontario securities law and rectified the problem(s) that led to its failure to satisfy the Capital Requirement; and

c. details of the specific measures that will be taken to ensure that the Capital Requirement will be satisfied at all times in the future."

Process for requesting an opportunity to be heard

5. 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 May 10, 2013, and by letter dated May 13, 2013, Scott Leckie, Principal of Takota, requested an in-person OTBH. Subsection 6(a) of the *Procedures For Opportunities To Be Heard Before Director's Decisions on Registration Matters* states that an OTBH will normally be conducted as an exchange of written submissions, but that either the registrant or Staff may request that it take the form of an in-person appearance before the Director. Generally, an in-person appearance is held in matters where credibility or integrity are at issue. Since neither appears to be at issue in this matter, the Director determined that a departure from the normal process of an exchange of written submissions was not warranted. Written submissions were received during the month of June, 2013. My decision is based on the written submissions of Mark Skuce (Legal

Counsel, Compliance and Registrant Regulation Branch) and Scott Leckie and Dianne Leckie (Compliance Manager) on behalf of Takota.

Submissions

6. Staff submits that a failure to meet the minimum capital required in subsection 12.1(1) of NI 31-103 is a failure to comply with Ontario securities law and may give rise to concerns regarding a registrant's solvency. The working capital requirement is a fundamental feature of the registrant regulation regime as solvency is one of the three pillars of suitability for registration. For these reasons, Staff regularly recommends the imposition of terms and conditions on the registration of registrants that fail to meet the minimum capital requirements. Only in rare and extenuating circumstances would Staff not recommend imposing terms and conditions on a registrant that failed to maintain the appropriate minimum capital.

7. Takota explained that the working capital deficiency occurred within the first two months of operations and was the result of a classification of a debt obligation as a long term liability when in fact it should have been classified as a current liability. The error occurred as a result of relying on the professional advice of a professional accounting firm with whom Mr. Leckie had a relationship with for over 20 years.

8. There were two other accounting errors relating to a shareholder loan and the treatment of a credit card limit. Takota stated that these errors were the result of the initial set up of the accounting system which was advised on and reviewed by the professional accounting firm.

Decision and reasons

9. My decision is to impose modified Terms and Conditions on the registration of Takota (as set out in the letter from Staff dated May 1, 2013). The following modifications are:

- the date of the first Term and Condition is July 31, 2013 instead of May 31, 2013;
- the term of the first Term and Condition is a minimum of three months as opposed to the recommendation of a minimum of six months;
- the date in the second Term and Condition is August 31, 2013 instead of May 29, 2013; and
- items 2(a) and (b) have been sufficiently provided by Takota in its submissions so no additional information is required; however, 2(c) has not been addressed.

10. It is the responsibility of the registrant to ensure compliance with Ontario securities law. The failure to meet the minimum capital requirements occurred as a result of errors created by a professional accounting firm when it established the accounting system for Takota and completed its financial statements. Mr. Leckie contends that if he knew that there was a working capital deficiency, it would have been corrected. Even though the registrant retained a professional accounting firm to establish their accounting system, the obligation to establish appropriate internal controls and systems remains with the registrant. Additionally, there is insufficient information to determine what steps Takota has taken to ensure that further undetected errors are not present in their accounting system. Thus Takota failed to comply with the requirements of section 12.1 of NI 31-103 and, in accordance with decided cases, including *Re Trafalgar Associates Limited* (2013) 36 O.S.C.B. 1462, *Re Pente Investment Management Ltd* (2006) 29 O.S.C.B. 6795, and *Re GMP Investment Management L.P.* (2008) 31 O.S.C.B. 10029, the modified Terms and Conditions (as modified in paragraph 9) will be applied to the registration of Takota.

11. Staff submitted, and I agree, that the explanation provided by Takota does not constitute rare and extenuating circumstances such that the modified Terms and Conditions should not be imposed.

"Debra Foubert"
Director
Compliance and Registrant Regulation Branch
Ontario Securities Commission

July 29, 2013

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
New Moon Minerals Corp.	14 Jun 13	26 Jun 13	26 Jun 13	25 Jul 13
Great Lakes Nickel Limited	04 Dec 02	16 Dec 02	16 Dec 02	30 Jul 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
Majescor Resources Inc.	15 Jul 13	26 Jul 13	26 Jul 13		

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
Majescor Resources Inc.	15 Jul 13	26 Jul 13	26 Jul 13		

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Chapter 5

Rules and Policies

5.1.1 Amendments to NI 81-101 Mutual Fund Prospectus Disclosure

AMENDMENTS TO
NATIONAL INSTRUMENT 81-101 *MUTUAL FUND PROSPECTUS DISCLOSURE*

1. National Instrument 81-101 Mutual Fund Prospectus Disclosure is amended by this Instrument.

2. Section 1.1 is amended by adding the following definitions:

"statutory right of action" means,

(a) in Alberta, paragraph 206(a) of the *Securities Act* (Alberta),

(b) in British Columbia, section 135 of the *Securities Act* (British Columbia),

(c) in Manitoba, section 141.2 of the *Securities Act* (Manitoba),

(d) in New Brunswick, section 155 of the *Securities Act* (New Brunswick),

(e) in Northwest Territories, section 116 of the *Securities Act* (Northwest Territories),

(f) in Nunavut, section 116 of the *Securities Act* (Nunavut),

(g) in Saskatchewan, section 141(2) of *The Securities Act, 1988* (Saskatchewan), and

(h) in Yukon, section 116 of the *Securities Act* (Yukon);

"statutory right of withdrawal" means,

(a) in Alberta, subsection 130(1) of the *Securities Act* (Alberta),

(b) in British Columbia, subsections 83(3) and (5) of the *Securities Act* (British Columbia),

(c) in Manitoba, sections 1.2 and 1.5 of Local Rule 41-502 *Prospectus Delivery Requirement* (Manitoba),

(d) in New Brunswick, subsection 88(2) of the *Securities Act* (New Brunswick),

(e) in Northwest Territories, section 101(2) of the *Securities Act* (Northwest Territories),

(f) in Nunavut, subsection 101(2) of the *Securities Act* (Nunavut),

(g) in Saskatchewan, section 79(3) of *The Securities Act, 1988* (Saskatchewan), and

(h) in Yukon, subsection 101(2) of the *Securities Act* (Yukon)..

3. Section 3.2 is amended by replacing subsection (2) with the following:

(2) If a prospectus is required under securities legislation to be delivered or sent to a person or company, the fund facts document most recently filed under this Instrument for the applicable class or series of securities must be delivered or sent to the person or company at the same time and in the same manner as otherwise required for the prospectus.

(2.1) The requirement under securities legislation to deliver or send a prospectus does not apply if a fund facts document is delivered or sent under subsection (2).

(2.2) In Nova Scotia, a fund facts document is a disclosure document prescribed under subsection 76(1A) of the *Securities Act* (Nova Scotia).

(2.3) In Ontario, a fund facts document is a disclosure document prescribed under subsection 71(1.1) of the *Securities Act* (Ontario)..

4. The following sections are added after section 3.2:

3.2.1 Fund facts document – purchaser's right of withdrawal

(1) A purchaser has a right of withdrawal in respect of a fund facts document that was delivered or sent under subsection 3.2(2), as the purchaser would otherwise have when a prospectus is required to be delivered or sent under securities legislation and, for that purpose, a fund facts document is a prescribed document under the statutory right of withdrawal.

(2) In Nova Scotia, instead of subsection (1), subsection 76(2) of the *Securities Act* (Nova Scotia) applies.

(3) In Ontario, instead of subsection (1), subsection 71(2) of the *Securities Act* (Ontario) applies.

(4) In Québec, instead of subsection (1), section 30 of the *Securities Act* (Québec) applies..

3.2.2 Fund facts document – purchaser's right of action for failure to deliver or send

(1) A purchaser has a right of action if a fund facts document is not delivered or sent as required by subsection 3.2(2), as the purchaser would otherwise have when a prospectus is not delivered or sent as required under securities legislation and, for that purpose, a fund facts document is a prescribed document under the statutory right of action.

(2) In Nova Scotia, instead of subsection (1), subsection 141(1) of the *Securities Act* (Nova Scotia) applies.

(3) In Ontario, instead of subsection (1), section 133 of the *Securities Act* (Ontario) applies.

(4) In Québec, instead of subsection (1), section 214 of the *Securities Act* (Québec) applies..

5. Section 3.5 is amended by replacing "must***" with "***may***".***

6. Subsection 4.1(1) is amended by replacing "in a format***" with "***be in a format***".***

7. Subsection 5.1(3) is repealed.

8. Section 5.2 is replaced with the following:

5.2 Combinations of Fund Facts Documents for Delivery Purposes

(1) A fund facts document delivered or sent under section 3.2 must not be attached to or bound with any other materials or documents, except that it may be attached to or bound with one or more of the following:

1. A general front cover pertaining to the package of attached or bound materials and documents.

2. A trade confirmation which discloses the purchase of securities of the mutual fund.

3. A fund facts document of another mutual fund if that fund facts document is being delivered or sent under section 3.2.

4. A simplified prospectus or a multiple SP of the mutual fund.

5. Any document incorporated by reference into the simplified prospectus or the multiple SP.

6. Account application documents.

7. Registered tax plan applications and documents.

(2) If a trade confirmation referred to in subsection (1) is attached to or bound with a fund facts document, any other disclosure document required to be delivered or sent to satisfy a regulatory requirement for purchases listed in the trade confirmation may be attached to or bound with the fund facts document.

(3) If a fund facts document is attached to or bound with any of the materials or documents referred to in subsection (1), a table of contents specifying all documents must be attached to or bound with the fund facts document, except when the only other documents attached to or bound with the fund facts document are the general front cover or the trade confirmation.

(4) If one or more fund facts documents are attached to or bound with any of the materials or documents referred to in subsection (1), only the general front cover, the table of contents and the trade confirmation may be placed in front of those fund facts documents..

9. Form 81-101F1 Contents of Simplified Prospectus is amended

(a) by adding the following after Item 1.1(6) of Part A:

INSTRUCTION

Complete the bracketed information in subsection (3) above by

(a) inserting the name of each jurisdiction of Canada in which the mutual fund intends to offer securities under the prospectus;

(b) stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada; or

(c) identifying the filing jurisdictions of Canada by exception (i.e. every province of Canada or every province and territory of Canada, except [excluded jurisdictions]).;

(b) by adding the following after Item 1.2(6) of Part A:

INSTRUCTION

Complete the bracketed information in subsection (3) above by

(a) inserting the name of each jurisdiction of Canada in which the mutual fund intends to offer securities under the prospectus;

(b) stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada; or

*(c) identifying the filing jurisdictions of Canada by exception (i.e. every province of Canada or every province and territory of Canada, except [excluded jurisdictions]).**; and***

(c) by replacing the text following the first paragraph of Item 11 of Part A with the following:

Securities legislation in some provinces and territories gives you the right to withdraw from an agreement to buy mutual funds within two business days of receiving the Simplified Prospectus or Fund Facts, or to cancel your purchase within 48 hours of receiving confirmation of your order.

Securities legislation in some provinces and territories also allows you to cancel an agreement to buy mutual fund [units/shares] and get your money back, or to make a claim for damages, if the Simplified Prospectus, Annual Information Form, Fund Facts or financial statements misrepresent any facts about the fund. These rights must usually be exercised within certain time limits.

For more information, refer to the securities legislation of your province or territory or consult a lawyer..

10. Form 81-101F2 Contents of Annual Information Form is amended

(a) by adding the following after Item 1.1(6):

INSTRUCTION

Complete the bracketed information in subsection (3) above by

(a) inserting the name of each jurisdiction of Canada in which the mutual fund intends to offer securities under the prospectus;

(b) stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada; or

*(c) identifying the filing jurisdictions of Canada by exception (i.e. every province of Canada or every province and territory of Canada, except [excluded jurisdictions]).**; and***

(b) by adding the following after Item 1.2(6):

INSTRUCTION

Complete the bracketed information in subsection (3) above by

(a) inserting the name of each jurisdiction of Canada in which the mutual fund intends to offer securities under the prospectus;

(b) stating that the filing has been made in each of the provinces of Canada or each of the provinces and territories of Canada; or

(c) identifying the filing jurisdictions of Canada by exception (i.e. every province of Canada or every province and territory of Canada, except [excluded jurisdictions])..

11. Form 81-101F3 Contents of Fund Facts Document is amended

(a) by replacing subsection (8) of the General Instructions with the following:

*(8) Except as permitted by subsection (8.1), a fund facts document must contain only the information that is specifically mandated or permitted by this Form. In addition, each Item must be presented in the order and under the heading or sub-heading stipulated in this Form.**;***

*(8.1) A fund facts document may contain a brief explanation of a material change or a proposed fundamental change. The disclosure may be included in a textbox before Item 2 of Part I or in the most relevant section of the fund facts document. If necessary, the mutual fund may provide a cross-reference to a more detailed explanation at the end of the fund facts document.**;***

(b) by replacing "**section 5.4**" with "**Part 5**" in subsections (15) and (16) of the General Instructions;

(c) by replacing the last sentence of subsection (16) of the General Instructions with the following:

*Each fund facts document must start on a new page, and may not share a page with another fund facts document.**;***

(d) by replacing paragraph (c) of Item 1 of Part I with the following:

(c) the name of the mutual fund to which the fund facts document pertains;**;**

(c.1) if the mutual fund has more than one class or series of securities, the name of the class or series described in the fund facts document;***;***

(e) by deleting "**and**" in paragraph (d) of Item 1 of Part I;

(f) by replacing paragraph (e) of Item 1 of Part I with the following:

(e) a brief introduction to the document using wording substantially similar to the following:

This document contains key information you should know about [insert name of the mutual fund]. You can find more details in the fund's simplified prospectus. Ask your representative for a copy, contact [insert name of the manager of the mutual fund] at [insert if applicable the toll-free number and email address of the manager of the mutual fund] or visit [insert the website of the mutual fund, the mutual fund's family or the manager of the mutual fund] [as applicable]; and

(f) state in bold type using wording substantially similar to the following:

Before you invest in any fund, consider how the fund would work with your other investments and your tolerance for risk.***;***

(g) by replacing the table in Item 2 of Part I with the following:

Fund code: (see instruction 0.1)	**Fund manager:** (see instruction 3.1)
Date [class/series] started: (see instruction 1)	**Portfolio manager:** (see instruction 4)
Total value of the fund on [date]: (see instruction 2)	**Distributions:** (see instruction 5)
Management expense ratio (MER): (see instruction 3)	**Minimum investment:** (see instruction 6)

(h) by adding, immediately before subsection (1), the following to the Instructions under Item 2 of Part I:

*(0.1) At the option of the mutual fund, include all recognized and publicly available identification codes for the class or series of the mutual fund.****;***

(i) by replacing "*30 days****" with "****60 days****" in subsection (2) of the Instructions under Item 2 of Part I;***

(j) by adding, immediately after subsection (3), the following to the Instructions under Item 2 of Part I:

*(3.1) Specify the name of the manager of the mutual fund.****;***

(k) by replacing subsection (4) of the Instructions under Item 2 of Part I with the following:

*(4) Name the mutual fund's portfolio manager. The mutual fund may also name the specific individual(s) responsible for portfolio selection and if applicable, the name of the sub-advisor(s).****;***

(l) by replacing Item 3(4) of Part I with the following:

(4) Include under the sub-heading "Top 10 investments [date]", a table disclosing the following:

(a) the top 10 positions held by the mutual fund, each expressed as a percentage of the net asset value of the mutual fund;

(b) the percentage of net asset value of the mutual fund represented by the top 10 positions; and

(c) the total number of positions held by the mutual fund.***;***

(m) by replacing "*30 days****" with "****60 days****" in subsection (4) of the Instructions to Item 3 of Part I;***

(n) by replacing "*30 days****" with "****60 days****" in subsection (9) of the Instructions to Item 3 of Part I;***

(o) by replacing Items 4 and 5 of Part I with the following:

Item 4: Risks

(1) Under the heading "How risky is it?", state the following:

The value of the fund can go down as well as up. You could lose money.

One way to gauge risk is to look at how much a fund's returns change over time. This is called "volatility".

In general, funds with higher volatility will have returns that change more over time. They typically have a greater chance of losing money and may have a greater chance of higher returns. Funds with lower volatility tend to have returns that change less over time. They typically have lower returns and may have a lower chance of losing money.

(2) Under the sub-heading “Risk rating”,

(a) using the investment risk classification methodology adopted by the manager of the mutual fund, identify the mutual fund’s investment risk level on the following risk scale:

Low	Low to medium	Medium	Medium to high	High

(b) unless the mutual fund is a newly established mutual fund, include an introduction to the risk scale which states the following:

[Insert name of manager of the mutual fund] has rated the volatility of this fund as [insert investment risk level identified in paragraph (a) in bold type].

This rating is based on how much the fund’s returns have changed from year to year. It doesn’t tell you how volatile the fund will be in the future. The rating can change over time. A fund with a low risk rating can still lose money.

(c) for a newly established mutual fund, include an introduction to the risk scale which states the following:

[Insert name of manager of the mutual fund] has rated the volatility of this fund as [insert investment risk level identified in paragraph (a) in bold type].

Because this is a new fund, the risk rating is only an estimate by [insert name of manager of the mutual fund]. Generally, the rating is based on how much the fund’s returns have changed from year to year. It doesn’t tell you how volatile the fund will be in the future. The rating can change over time. A fund with a low risk rating can still lose money.

(d) following the risk scale, state using wording substantially similar to the following:

For more information about the risk rating and specific risks that can affect the fund’s returns, see the [insert cross-reference to the appropriate section of the mutual fund’s simplified prospectus] section of the fund’s simplified prospectus.

(3) Under the sub-heading “No guarantees”, state using wording substantially similar to the following:

Like most mutual funds, this fund doesn’t have any guarantees. You may not get back the amount of money you invest.

INSTRUCTIONS:

(1) Based upon the investment risk classification methodology adopted by the manager of the mutual fund, identify where the mutual fund fits on the continuum of investment risk levels by showing the full investment risk scale set out in Item 4(2)(a) and highlighting the applicable category on the scale. Consideration should be given to ensure that the highlighted investment risk rating is easily identifiable.

Item 5: Past Performance

(1) Under the heading “How has the fund performed?”, include an introduction using wording substantially similar to the following:

This section tells you how [name of class/series of securities described in the fund facts document] [units/shares] of the fund have performed over the past [insert number of calendar years shown in the bar chart required under paragraph (2)(a)] years. Returns are after expenses have been deducted. These expenses reduce the fund’s returns.

(2) Under the sub-heading “Year-by-year returns”,

(a) provide a bar chart that shows the annual total return of the mutual fund, in chronological order with the most recent year on the right of the bar chart, for the lesser of

(i) each of the 10 most recently completed calendar years, and

(ii) each of the completed calendar years in which the mutual fund has been in existence and which the mutual fund was a reporting issuer; and

(b) include an introduction to the bar chart using wording substantially similar to the following:

This chart shows how [name of class/series of securities described in the fund facts document] [units/shares] of the fund performed in each of the past [insert number of calendar years shown in the bar chart required under paragraph (a)]. The fund dropped in value in [for the particular years shown in the bar chart required under paragraph (a), insert the number of years in which the value of the mutual fund dropped] of the [insert number of calendar years shown in the bar chart required in paragraph (a)] years. The range of returns and change from year to year can help you assess how risky the fund has been in the past. It does not tell you how the fund will perform in the future.

(3) Under the sub-heading "Best and worst 3-month returns",

(a) provide information for the period covered in the bar chart required under paragraph (2)(a) in the form of the following table:

	Return	**3 months ending**	**If you invested $1,000 at the beginning of the period**
Best return	(see instruction 8)	(see instruction 10)	Your investment would [rise/drop] to (see instruction 12).
Worst return	(see instruction 9)	(see instruction 11)	Your investment would [rise/drop] to (see instruction 13).

(b) include an introduction to the table using wording substantially similar to the following:

This table shows the best and worst returns for the [name of class/series of securities described in the fund facts document] [units/shares] of the fund in a 3-month period over the past [insert number of calendar years shown in the bar chart required under paragraph (2)(a)]. The best and worst 3-month returns could be higher or lower in the future. Consider how much of a loss you could afford to take in a short period of time.

(4) Under the sub-heading "Average return", show the following:

(a) the final value of a hypothetical $1000 investment in the mutual fund as at the end of the period that ends within 60 days before the date of the fund facts document and consists of the lesser of

(i) 10 years, or

(ii) the time since inception of the mutual fund;

(b) the annual compounded rate of return that equates the hypothetical $1000 investment to the final value.

INSTRUCTIONS

(1) In responding to the requirements of this Item, a mutual fund must comply with the relevant sections of Part 15 of National Instrument 81-102 Mutual Funds as if those sections applied to a fund facts document.

(2) Use a linear scale for each axis of the bar chart required by this Item.

(3) The x-axis and y-axis for the bar chart required by this Item must intersect at zero.

(4) A mutual fund that distributes different classes or series of securities that are referable to the same portfolio of assets must show performance data related only to the specific class or series of securities being described in the fund facts document.

(5) If the information required to be disclosed under this Item is not reasonably available, include the required sub-headings and provide a brief statement explaining why the required information is not available. Information relating to year-by-year returns in the bar chart will generally not be available for a mutual fund that has been distributing securities under a simplified prospectus for less than one calendar year. Information under "Best and worst 3-month returns" and "Average return" will generally not be available for a mutual fund that has been distributing securities under a simplified prospectus for less than 12 consecutive months.

(6) The dollar amounts shown under this Item may be rounded up to the nearest dollar.

(7) The percentage amounts shown under this Item may be rounded to one decimal place.

(8) Show the best rolling 3-month return as at the end of the period that ends within 60 days before the date of the fund facts document.

(9) Show the worst rolling 3-month return as at the end of the period that ends within 60 days before the date of the fund facts document.

(10) Insert the end date for the best 3-month return period.

(11) Insert the end date for the worst 3-month return period.

(12) Insert the final value that would equate with a hypothetical $1000 investment for the best 3-month return period shown in the table.

*(13) Insert the final value that would equate with a hypothetical $1000 investment for the worst 3-month return period shown in the table.**;***

(p) by deleting Item 6 of Part I;

(q) by deleting Item 7(2) of Part I;

(r) by replacing Item 1.1 of Part II with the following:

1.1 Introduction

Under the heading "How much does it cost?", state the following:

The following tables show the fees and expenses you could pay to buy, own and sell [name of the class/series of securities described in the fund facts document] [units/shares] of the fund. The fees and expenses – including any commissions – can vary among [classes/series] of a fund and among funds. Higher commissions can influence representatives to recommend one investment over another. Ask about other funds and investments that may be suitable for you at a lower cost.***;***

(s) by replacing Item 1.3(2) of Part II with the following:

(2) Unless the mutual fund has not yet filed a management report of fund performance, provide information about the expenses of the mutual fund in the form of the following table:

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee (including the trailing commission) and operating expenses. (see instruction 1)	(see instruction 2)
Trading expense ratio (TER) These are the fund's trading costs.	(see instruction 3)
Fund expenses	(see instruction 4)

(t) by replacing Item 1.3(4) of Part II with the following:

(4) For a mutual fund that has not yet filed a management report of fund performance, state the following:

The fund's expenses are made up of the management fee, operating expenses and trading costs. The [class'/series'] annual management fee is [see instruction 7]% of the [class'/series'] value. Because this [class/series] is new, operating expenses and trading costs are not yet available.***;***

(u) in Item 1.3(5) in Part II by replacing "where***" with "***in which***";***

(v) by replacing Items 1.3(6) and (7) of Part II with the following:

(6) Under the sub-heading "More about the trailing commission", state whether the manager of the mutual fund or another member of the mutual fund's organization pays trailing commissions. If trailing commissions are paid, include a description using wording substantially similar to the following:

The trailing commission is an ongoing commission. It is paid for as long as you own the fund. It is for the services and advice that your representative and their firm provide to you.

[Insert name of fund manager] pays the trailing commission to your representative's firm. It is paid from the fund's management fee and is based on the value of your investment. The rate depends on the sales charge option you choose.***;***

(7) If applicable, disclose the range of the rates of the trailing commission for each sales charge option disclosed under Item 1.2.***;***

(w) by adding the following to the Instructions under Item 1.3 of Part II:

*(2.1) If applicable, include a reference to any fixed administration fees in the management expense ratio description required in the table under Item 1.3(2).**;***

(x) by adding the following to the Instructions under Item 1.3 of Part II:

*(7.1) For a mutual fund that is required to include the disclosure under subsection (4), in the description of the items that make up fund fees, include a reference to any fixed administrative fees, if applicable. Also disclose the amount of the fixed administration fee in the same manner as required for the management fee. The percentage disclosed for the fixed administration fee must correspond to the percentage shown in the fee table in the simplified prospectus.**;***

(y) by replacing subsection (8) of the Instructions under Item 1.3 of Part II with the following:

*(8) In disclosing the range of rates of trailing commissions for each sales charge option, show both the percentage amount and the equivalent dollar amount for each $1000 investment.**;***

(z) by replacing Item 1.4(1) of Part II with the following:

(1) Under the sub-heading "Other fees", provide an introduction using wording substantially similar to the following:
You may have to pay other fees when you buy, hold, sell or switch [units/shares] of the fund.***;***

(aa) by adding "buy, hold,***" before "***sell or switch***" to Item 1.4(2) of Part II;***

(bb) by replacing subsections (1) and (2) to the Instructions under Item 1.4 of Part II with the following:

*(1) Under this Item, it is necessary to include only those fees that apply to the particular class or series of securities of the mutual fund. Examples include management fees and administration fees payable directly by investors, short-term trading fees, switch fees and change fees. This also includes any requirement for an investor to participate in a fee-based arrangement with their dealer in order to be eligible to purchase the particular class or series of securities of the mutual fund. If there are no other fees associated with buying, holding, selling or switching units or shares of the mutual fund, replace the table with a statement to that effect.**;***

*(2) Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee. If the amount of the fee varies so that specific disclosure of the amount of the fee cannot be disclosed include, where possible, the highest possible rate or range for that fee.**;***

(cc) by replacing Item 2 in Part II with the following:

Item 2: Statement of Rights

Under the heading "What if I change my mind?", state using wording substantially similar to the following:

Under securities law in some provinces and territories, you have the right to:

- withdraw from an agreement to buy mutual funds within two business days after you receive a simplified prospectus or Fund Facts document, or
- cancel your purchase within 48 hours after you receive confirmation of the purchase.

In some provinces and territories, you also have the right to cancel a purchase, or in some jurisdictions, claim damages, if the simplified prospectus, annual information form, Fund Facts document or financial statements contain a misrepresentation. You must act within the time limit set by the securities law in your province or territory.

For more information, see the securities law of your province or territory or ask a lawyer.***;***

(dd) by replacing Item 3(1) of Part II with the following:

(1) Under the heading "For more information", state using wording substantially similar to the following:

Contact [insert name of the manager of the mutual fund] or your representative for a copy of the fund's simplified prospectus and other disclosure documents. These documents and the Fund Facts make up the fund's legal documents.***; and***

(ee) by adding the following after Item 3(2) of Part II:

(3) State using wording substantially similar to the following:

To learn more about investing in mutual funds, see the brochure **Understanding mutual funds**, which is available on the website of the Canadian Securities Administrators at www.securities-administrators.ca.***.***

12. Expiration of exemptions and waivers

Any exemption from or waiver of a provision of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* in relation to the prospectus delivery requirements for mutual funds, or an approval in relation to those requirements, expires on the date that this Instrument comes into force.

13. Transition

(1) A mutual fund must, on or before May 13, 2014, file a completed Form 81-101F3 Contents of Fund Facts Document for each class or series of securities of the mutual fund that, on that date, are the subject of disclosure under a simplified prospectus.

(2) The date of a fund facts document filed under subsection (1) must be the date on which it was filed.

14. Effective date

(1) Subject to subsection (2), this Instrument comes into force on September 1, 2013.

(2) The provisions of this Instrument listed in column 1 of the following table come into force on the date set out in column 2 of the table:

Column 1 **Provision of this Instrument**	**Column 2** **Date**
11	January 13, 2014
3	June 13, 2014

5.1.2 Changes to Companion Policy 81-101CP to NI 81-101 Mutual Funds Prospectus Disclosure

CHANGES TO
COMPANION POLICY 81-101CP
TO NATIONAL INSTRUMENT 81-101 *MUTUAL FUNDS PROSPECTUS DISCLOSURE*

1. ***The changes to Companion Policy 81-101CP To National Instrument 81-101 Mutual Fund Prospectus Disclosure are set out in this Annex.***

2. ***Subsection 2.1.1(4) is replaced by the following:***

The Instrument requires delivery of the fund facts document, which satisfies the prospectus delivery requirements under applicable securities legislation. The CSA also encourages the use and distribution of the fund facts document as a key part of the sales process in helping to inform investors about mutual funds they are considering for investment.*.*

3. ***Section 2.1.1 is changed by adding the following paragraph:***

(5) The CSA generally consider volatility to be a suitable basis for determining the investment risk rating of a mutual fund. For this reason, Form 81-101F3 prescribes specific disclosure in the fund facts document explaining how volatility can be used as a measure to gauge the risk of an investment. If the disclosure is not compatible with the specific investment risk classification methodology that is used by the manager of the mutual fund, the CSA will consider applications for relief from Item 4 of Form 81-101F3. In making the application, the manager must demonstrate the suitability of using an alternative measure in determining the investment risk rating of its mutual fund. The application must also provide sample disclosure in place of the prescribed disclosure that would assist investors in understanding the investment risk rating of the mutual fund.*.*

4. ***Subsection 2.2(1) is replaced by the following:***

(1) A simplified prospectus is the prospectus for the purposes of securities legislation. While the Instrument requires delivery of a fund facts document to an investor in connection with a purchase, an investor may also request delivery a copy of the simplified prospectus, or any other documents incorporated by reference into the simplified prospectus.*.*

5. ***Section 2.7 is changed by adding the following paragraph:***

(2.1) General Instruction (8.1) of Form 81-101F3 permits a mutual fund to disclose a material change and proposed fundamental change, such as a proposed merger, in an amended and restated fund facts document. We would permit flexibility in selecting the appropriate section of the amended and restated fund facts document to describe the material change or proposed fundamental change. However, we also expect that the variable sections of the fund facts document, such as the Top 10 investments and investment mix, to be updated within 60 days before the date of the fund facts document. In addition, if a mutual fund completes a calendar year or files a management report of fund performance prior to the filing of the amended and restated fund facts document, we expect the fund facts document to reflect the updated information.*.*

6. ***Subsection 4.1.3(3) is changed by replacing the reference to "***section 2.3.2***" with "***section 2.3.1***".***

7. ***Subsection 7.1(1) is replaced by the following:***

7.1 Delivery of the Fund Facts Document, Simplified Prospectus and Annual Information Form – (1) The Instrument contemplates delivery to all investors of a fund facts document in accordance with the requirements in securities legislation. It does not require the delivery of the simplified prospectus, or any other documents incorporated by reference into the simplified prospectus, unless requested. Mutual funds or dealers may also provide investors with any of the other disclosure documents incorporated by reference into the simplified prospectus.*.*

8. ***Section 7.4 is replaced by the following:***

7.4 Delivery of Non-Educational Material – The Instrument and related forms contain no restrictions on the delivery of non-educational material such as promotional brochures with either of the simplified prospectus and the annual information form. This type of material may, therefore, be delivered with, but cannot be included within, wrapped around, or attached or bound to, the simplified prospectus and the annual information form. The Instrument does not permit the binding of educational and non-educational material with the Fund Facts Document. The intention of the Instrument is not to unreasonably encumber the Fund Facts with additional documents.*.*

9. The Sample Fund Facts Document in Appendix A – Sample Fund Facts Document is replaced by the following:

[Editor's note: The *Sample Fund Facts Document* follows on unnumbered pages.]

XYZ Mutual Funds

FUND FACTS

XYZ Canadian Equity Fund – Series B

June 30, 20XX

This document contains key information you should know about XYZ Canadian Equity Fund. You can find more details in the fund's simplified prospectus. Ask your representative for a copy, contact XYZ Mutual Funds at 1-800-555-5556 or investing@xyzfunds.com, or visit www.xyzfunds.com.

Before you invest in any fund, consider how the fund would work with your other investments and your tolerance for risk.

Quick facts

Fund code:	XYZ123	**Fund manager:**	XYZ Mutual Funds
Date series started:	March 31, 2000	**Portfolio manager:**	Capital Asset Management Ltd.
Total value of fund on June 1, 20XX:	$1 billion	**Distributions:**	Annually, on December 15
Management expense ratio (MER):	2.25%	**Minimum investment:**	$500 initial, $50 additional

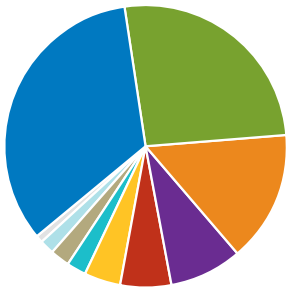
What does the fund invest in?

The fund invests in a broad range of stocks of Canadian companies. They can be of any size and from any industry.
The charts below give you a snapshot of the fund's investments on June 1, 20XX. The fund's investments will change.

Top 10 investments (June 1, 20XX)

1.	Royal Bank of Canada	7.5%
2.	Toronto-Dominion Bank	7.1%
3.	Canadian Natural Resources	5.8%
4.	The Bank of Nova Scotia	4.1%
5.	Cenovus Energy Inc.	3.7%
6.	Suncor Energy Inc.	3.2%
7.	Enbridge Inc.	3.1%
8.	Canadian Imperial Bank of Commerce	2.9%
9.	Manulife Financial Corporation	2.7%
10.	Canadian National Railway Company	1.9%
Total percentage of top 10 investments		**42.0%**
Total number of investments		**93**

Investment mix (June 1, 20XX)



Industry	
Financial services	34.0%
Energy	26.6%
Industrial goods	16.5%
Business services	6.4%
Telecommunication	5.9%
Hardware	3.7%
Healthcare services	2.3%
Consumer services	2.1%
Media	1.9%
Consumer goods	0.6%

How risky is it?

The value of the fund can go down as well as up. You could lose money.

One way to gauge risk is to look at how much a fund's returns change over time. This is called "volatility".

In general, funds with higher volatility will have returns that change more over time. They typically have a greater chance of losing money and may have a greater chance of higher returns. Funds with lower volatility tend to have returns that change less over time. They typically have lower returns and may have a lower chance of losing money.

Risk rating

XYZ Mutual Funds has rated the volatility of this fund as **medium**.

This rating is based on how much the fund's returns have changed from year to year. It doesn't tell you how volatile the fund will be in the future. The rating can change over time. A fund with a low risk rating can still lose money.

Low	Low to medium	**Medium**	Medium to high	High

For more information about the risk rating and specific risks that can affect the fund's returns, see the Risk section of the fund's simplified prospectus.

No guarantees

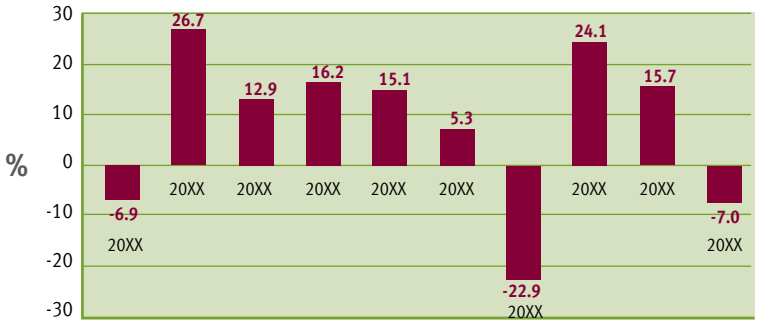
Like most mutual funds, this fund doesn't have any guarantees. You may not get back the amount of money you invest.

How has the fund performed?

This section tells you how Series B units of the fund have performed over the past 10 years. Returns are after expenses have been deducted. These expenses reduce the fund's returns.

Year-by-year returns

This chart shows how Series B units of the fund performed in each of the past 10 years. The fund dropped in value in 3 of the 10 years. The range of returns and change from year to year can help you assess how risky the fund has been in the past. It does not tell you how the fund will perform in the future.



Best and worst 3-month returns

This table shows the best and worst returns for Series B units of the fund in a 3-month period over the past 10 years. The best and worst 3-month returns could be higher or lower in the future. Consider how much of a loss you could afford to take in a short period of time.

	Return	3 months ending	If you invested $1,000 at the beginning of the period
Best return	32.6%	April 30, 2003	Your investment would rise to $1,326.
Worst return	-24.7%	November 30, 2008	Your investment would drop to $753.

Average return

The annual compounded return of Series B units of the fund was 6.8% over the past 10 years. If you had invested $1,000 in the fund 10 years ago, your investment would now be worth $1,930.

Who is this fund for?

Investors who:

- are looking for a long-term investment
- want to invest in a broad range of stocks of Canadian companies
- can handle the ups and downs of the stock market.

! Don't buy this fund if you need a steady source of income from your investment.

A word about tax

In general, you'll have to pay income tax on any money you make on a fund. How much you pay depends on the tax laws where you live and whether or not you hold the fund in a registered plan, such as a Registered Retirement Savings Plan or a Tax-Free Savings Account.

Keep in mind that if you hold your fund in a non-registered account, fund distributions are included in your taxable income, whether you get them in cash or have them reinvested.

How much does it cost?

The following tables show the fees and expenses you could pay to buy, own and sell Series B units of the fund. The fees and expenses — including any commissions — can vary among series of a fund and among funds. Higher commissions can influence representatives to recommend one investment over another. Ask about other funds and investments that may be suitable for you at a lower cost.

1. Sales charges

You have to choose a sales charge option when you buy the fund. Ask about the pros and cons of each option.

Sales charge option	What you pay		How it works
	in per cent (%)	in dollars ($)	
Initial sales charge	0% to 4% of the amount you buy	$0 to $40 on every $1,000 you buy	• You and your representative decide on the rate. • The initial sales charge is deducted from the amount you buy. It goes to your representative's firm as a commission.
Deferred sales charge	**If you sell within:** 1 year of buying 6.0% 2 years of buying 5.0% 3 years of buying 4.0% 4 years of buying 3.0% 5 years of buying 2.0% 6 years of buying 1.0% After 6 years nothing	$0 to $60 on every $1,000 you sell	• The deferred sales charge is a set rate. It is deducted from the amount you sell. • When you buy the fund, XYZ Mutual Funds pays your representative's firm a commission of 4.9%. Any deferred sales charge you pay goes to XYZ Mutual Funds. • You can sell up to 10% of your units each year without paying a deferred sales charge. • You can switch to Series B units of other XYZ Mutual Funds at any time without paying a deferred sales charge. The deferred sales charge schedule will be based on the date you bought the first fund.

2. Fund expenses

You don't pay these expenses directly. They affect you because they reduce the fund's returns.
As of March 31, 20XX, the fund's expenses were 2.30% of its value. This equals $23 for every $1,000 invested.

	Annual rate (as a % of the fund's value)
Management expense ratio (MER) This is the total of the fund's management fee (which includes the trailing commission) and operating expenses. XYZ Mutual Funds waived some of the fund's expenses. If it had not done so, the MER would have been higher.	2.25%
Trading expense ratio (TER) These are the fund's trading costs.	0.05%
Fund expenses	**2.30%**

More about the trailing commission

The trailing commission is an ongoing commission. It is paid for as long as you own the fund. It is for the services and advice that your representative and their firm provide to you.

XYZ Mutual Funds pays the trailing commission to your representative's firm. It is paid from the fund's management fee and is based on the value of your investment. The rate depends on the sales charge option you choose.

Sales charge option	Amount of trailing commission	
	in per cent (%)	in dollars ($)
Initial sales charge	0% to 1% of the value of your investment each year	$0 to $10 each year on every $1,000 invested
Deferred sales charge	0% to 0.50% of the value of your investment each year	$0 to $5 each year on every $1,000 invested

How much does it cost? cont'd

3. Other fees

You may have to pay other fees when you buy, hold, sell or switch units of the fund.

Fee	What you pay
Short-term trading fee	1% of the value of units you sell or switch within 90 days of buying them. This fee goes to the fund.
Switch fee	Your representative's firm may charge you up to 2% of the value of units you switch to another XYZ Mutual Fund.
Change fee	Your representative's firm may charge you up to 2% of the value of units you switch to another series of the fund.

What if I change my mind?

Under securities law in some provinces and territories, you have the right to:

- withdraw from an agreement to buy mutual fund units within two business days after you receive a simplified prospectus or Fund Facts document, or
- cancel your purchase within 48 hours after you receive confirmation of the purchase.

In some provinces and territories, you also have the right to cancel a purchase, or in some jurisdictions, claim damages, if the simplified prospectus, annual information form, Fund Facts document or financial statements contain a misrepresentation. You must act within the time limit set by the securities law in your province or territory.

For more information, see the securities law of your province or territory or ask a lawyer.

For more information

Contact XYZ Mutual Funds or your representative for a copy of the fund's simplified prospectus and other disclosure documents. These documents and the Fund Facts make up the fund's legal documents.

XYZ Mutual Funds
123 Asset Allocation St.
Toronto, ON M1A 2B3

Phone: (416) 555-5555
Toll-free: 1-800-555-5556
Email: investing@xyzfunds.com
www.xyzfunds.com

To learn more about investing in mutual funds, see the brochure **Understanding mutual funds**, which is available on the website of the Canadian Securities Administrators at **www.securities-administrators.ca.**

10. These changes become effective on September 1, 2013 .

5.1.3 Amendments to NI 81-102 Mutual Funds

AMENDMENTS TO
NATIONAL INSTRUMENT 81-102 *MUTUAL FUNDS*

1. National Instrument 81-102 Mutual Funds is amended by this Instrument.

2. Subparagraph 5.6(1)(f)(ii) is replaced with the following:

(ii) the most recently filed fund facts document for the mutual fund into which the mutual fund will be reorganized, and***.***

3. This Instrument comes into force on September 1, 2013.

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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
07/16/2013	5	Active & Innovative Inc. - Notes	187,500.00	187,500.00
07/08/2013 to 07/16/2013	35	Adventus Capital Partners Ltd. - Limited Partnership Units	425,877.15	32,785.00
07/08/2013 to 07/16/2013	35	Adventus Realty Limited Partnership - Limited Partnership Units	327.85	32,785.00
07/08/2013 to 07/16/2013	35	Adventus Realty Trust - Trust Units	8,088,470.00	622,190.00
07/11/2013	5	Alabama Graphite Corp. - Common Shares	68,690.00	528,385.00
07/18/2013	5	Aldrin Resource Corp. - Common Shares	625,000.00	12,500,000.00
07/18/2013	61	Aldrin Resource Corp. - Units	957,880.00	11,973,500.00
07/12/2013	1	Allegheny Technologies Incorporated - Notes	2,078,212.94	1.00
07/11/2013	50	Amaya Gaming Group Inc. - Common Shares	40,000,000.00	6,400,000.00
07/17/2013	1	American Equity Investment Life - Notes	1,042,500.00	1.00
05/15/2013	1	Apollo Global Management LLC - Common Shares	8,264,750.00	N/A
06/28/2013	1	Apollo Investment Fund (I) VIII, L.P. - Limited Partnership Interest	1,051,200.00	N/A
06/28/2013	3	Apollo Overseas Partners (Delaware 892) VIII, L.P. - Limited Partnership Interest	1,147,700,160.00	N/A
06/28/2013	3	Apollo Overseas Partners (Delaware 892) VIII, L.P. - Limited Partnership Interest	1,147,700,160.00	N/A
06/28/2013	1	Apollo Overseas Partners (Delaware) VIII, L.P. - Limited Partnership Interest	14,716,800.00	N/A
07/17/2013	1	Ascent Capital Group, Inc. - Notes	4,884,112.50	1.00
07/08/2013	21	Beatrix Ventures Inc. - Units	500,000.00	33,333,332.00
04/19/2013 to 05/13/2013	162	Bennett Jones Services Trust - Trust Units	3,836,496.00	N/A
05/15/2013	2	Berkshire Hathaway Finance Corporation - Notes	5,591,904.81	N/A
06/27/2013	19	BluMetric Environmental Inc. (Amended) - Debentures	1,430,000.00	1,430.00
06/20/2013	1	bpost SA/NV - Common Shares	99,506.25	5,000.00
05/01/2013	11	Capital Direct I Income Trust - Trust Units	735,356.85	73,535.69
06/28/2013	3	CCMP Capital Investors III L.P. - Limited Partnership Interest	473,040,000.00	N/A

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
07/10/2013	5	CellAegis Devices Inc. - Preferred Shares	390,183.20	17,560.00
07/08/2013	20	Colorado Resources Ltd. - Flow-Through Shares	4,000,000.00	5,000,000.00
07/09/2013 to 07/15/2013	5	Comstock Metals Ltd. - Flow-Through Shares	429,749.97	2,502,941.00
07/19/2013 to 07/22/2013	4	DealNet Capital Corp. - Debentures	193,000.00	193.00
07/01/2011 to 06/30/2012	47	Dynamic Contrarian Fund - Units	6,365,709.80	N/A
07/19/2013	12	Elcora Resources Corp. - Common Shares	245,500.00	4,910,000.00
07/10/2013	25	Equity Solar Inc. - Preferred Shares	313,347.00	237,716.00
07/17/2013	1	Falcon Oil & Gas Ltd. - Common Shares	19,600,000.00	98,000,000.00
09/01/2010	3	Flatiron Market Neutral LP - Limited Partnership Units	34,650,000.00	26,370.58
07/10/2013 to 07/12/2013	5	Gatineau Centre Development Limited Partnership - Notes	106,756.00	106,756.00
07/17/2013	6	Harte Gold Corp. - Non-Flow Through Units	660,000.00	6,625,000.00
07/05/2013	13	Highland Therapeutics Inc. - Common Shares	4,024,398.40	470,140.00
07/05/2013	1	IBC Advanced Alloys Corp. - Common Shares	33,600.00	280,000.00
07/11/2013	18	InPlay Oil Corp. - Common Shares	1,125,000.00	1,125,000.00
05/15/2013	3	Investeco Sustainable Food Fund L.P. - Limited Partnership Units	452,520.00	N/A
07/09/2013	37	Kaminak Gold Corporation - Flow-Through Shares	5,165,860.60	5,437,748.00
05/27/2013	8	Lorem Hydro Trust - Trust Units	2,076,600.00	6,489,375.00
07/18/2013	1	Lorus Therapeutics Inc. - Units	25,000.00	25.00
07/09/2013	75	Lowell Copper Ltd. (Formerly Waterloo Resources Ltd.) - Units	11,374,749.54	21,064,351.00
07/16/2013	1	LYB International Finance B.V. - Notes	1,867,521.01	1.00
06/01/2012 to 05/31/2013	45	Magenta II Mortgage Investment Corporation - Preferred Shares	7,420,623.73	7,420,623.73
06/01/2012 to 05/31/2013	71	Magenta III Mortgage Investment Corporation - Preferred Shares	3,116,228.16	311,622.82
06/01/2012 to 05/31/2013	57	Magenta Mortgage Investment Corporation - Common Shares	19,345,070.42	1,934,508.04
07/10/2013	5	MedX Health Corp. - Units	362,078.16	3,620,780.00
06/11/2013	42	Metropolitan Life Global Funding I - Notes	300,000,000.00	N/A
06/24/2013	1	Metropolitan Life Global Funding I - Notes	1,895,760.00	N/A
07/11/2013	7	Mobidia Technology Inc. - Preferred Shares	147,959.00	105,685.00

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
07/18/2013	1	Mundoro Capital Inc. - Common Shares	434,000.00	1,550,000.00
06/20/2013	11	Noble Mineral Exploration Inc. (Amended) - Common Shares	88,331.44	1,741,628.00
05/15/2013	2	Nordea Bank AB (PUBL) - Notes	25,422,174.41	N/A
07/23/2013	1	Northquest Ltd. - Common Shares	0.00	883,392.00
05/14/2013	1	PennyMac Financial Services Inc. - Common Shares	365,334.00	12,777,777.00
05/13/2013	16	Polar Capital Partners I LP - Limited Partnership Units	2,693,320.59	2,693,320.59
07/11/2013	1	Pond Biofuels Inc. - Common Shares	750,000.00	194,805.00
07/18/2013	5	Post holdings, Inc. - Notes	4,223,865.22	5.00
04/09/2012 to 12/16/2012	187	Provisus Balanced Corporate Class - Units	4,553,373.67	412,918.53
04/26/2012 to 02/14/2013	6	Provisus Global Equity Corporate Class - Units	539,504.80	N/A
05/17/2012 to 12/14/2012	9	Provisus North American Equity Corporate Class - Units	247,800.00	21,591.65
11/29/2012 to 01/03/2013	5	Provisus Total Equity Corporate Class - Units	1,053,700.00	91,071.29
07/23/2012	1	Provisus U.S. Equity Corporate Class - Units	204,516.80	16,726.21
06/25/2013	18	Redstone Capital Corporation - Bonds	536,900.00	N/A
05/10/2013	6	Redstone Investment Corporation - Notes	147,000.00	N/A
06/20/2013	12	Redstone Investment Corporation - Notes	1,275,000.00	N/A
06/21/2013	17	Sarona Frontier Markets Fund 2 LP - Limited Partnership Units	25,566,433.20	24,760,000.00
05/14/2013 to 05/21/2013	86	SecureCare Investments Inc. - Bonds	2,355,060.84	N/A
06/21/2013 to 06/28/2013	38	SecureCare Investments Inc. - Bonds	1,640,000.00	N/A
06/20/2013 to 06/26/2013	17	Shoal Point Energy Ltd. (Amended) - Common Shares	1,408,533.36	23,475,556.00
07/16/2013	3	Spot Coffee (Canada) Ltd. - Debentures	1,400,000.00	1,400.00
04/25/2013	2	The Goldman Sachs Group Inc. - Common Shares	3,058,200.00	120,000.00
07/18/2013	48	Toyota Credit Canada Inc. - Notes	500,000,000.00	48.00
07/05/2013	6	TransGaming Inc. - Notes	3,500,000.00	6.00
05/16/2013	1	UBS International Infrastructure Fund II (B) L.P. - Limited Partnership Interest	81,304,000.00	N/A
04/17/2013	23	UMC Financial Management Inc. - Mortgage	4,400,000.00	N/A
06/25/2013	7	UMC Financial Management Inc. - Mortgage	989,500.00	N/A

Transaction Date	No of Purchasers	Issuer/Security	Total Purchase Price ($)	No of Securities Distributed
07/10/2013	8	Viper Gold Ltd. - Investment Trust Interests	55,000.00	5,500,000.00
07/12/2013	5	VPII Escrow Corp. - Notes	26,426,856.00	5.00
05/31/2012 to 05/31/2013	55	Westboro Mortgage Investment Corp. - Preferred Shares	15,442,752.30	N/A

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Renaissance Covered Call Income Fund
Renaissance Floating Rate Income Fund
Renaissance Global Bond Fund
Renaissance High-Yield Bond Fund
Renaissance Optimal Conservative Income Portfolio
Renaissance Optimal Growth & Income Portfolio
Renaissance Real Return Bond Fund
Renaissance U.S. Dollar Corporate Bond Fund
Renaissance U.S. Dollar Diversified Income Fund
Renaissance U.S. Equity Income Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated July 23, 2013
NP 11-202 Receipt dated July 25, 2013
Offering Price and Description:
Premium Class, Class F-Premium Units, Class A, F, O, T4, T6, T8, Select, Select-T4, Select-T6, Select-T8, Elite, Elite-T4, Elite-T6 and Elite-T8 Units
Underwriter(s) or Distributor(s):
CIBC Asset Management Inc.
Promoter(s):
CIBC Asset Management Inc.
Project #2087108

Issuer Name:
Canadian Energy Services & Technology Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated July 24, 2013
NP 11-202 Receipt dated July 24, 2013
Offering Price and Description:
$35,026,000.00 -2,110,000 Common Shares
Price: $16.60 per Common Share
Underwriter(s) or Distributor(s):
STIFEL NICOLAUS CANADA INC.
CLARUS SECURITIES INC.
SCOTIA CAPITAL INC.
RBC DOMINION SECURITIES INC.
ALTACORP CAPITAL INC.
CORMARK SECURITIES INC.
FIRSTENERGY CAPITAL CORP.
HSBC SECURITIES (CANADA) INC.
Promoter(s):
-
Project #2087110

Issuer Name:
Colossus Minerals Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated July 23, 2013
NP 11-202 Receipt dated July 23, 2013
Offering Price and Description:
$ * - * Common Shares
Price: $ * per Common Share
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
DUNDEE SECURITIES LTD.
CANACCORD GENUITY CORP.
CLARUS SECURITIES INC.
TD SECURITIES INC.
Promoter(s):
-
Project #2086710

Issuer Name:
Colossus Minerals Inc.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Short Form Prospectus dated July 24, 2013
NP 11-202 Receipt dated July 24, 2013
Offering Price and Description:
$33,000,000.00 - 44,000,000 Units
Price: $0.75 per Unit
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
DUNDEE SECURITIES LTD.
CANACCORD GENUITY CORP.
CLARUS SECURITIES INC.
TD SECURITIES INC.
Promoter(s):
-
Project #2086710

Issuer Name:
Davis + Henderson Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated July 23, 2013
NP 11-202 Receipt dated July 24, 2013
Offering Price and Description:
$400,180,000.00 - 18,700,000 Subscription Receipts, each representing the right to receive one Common Share and $200,000,000 - 6.00% Extendible Convertible Unsecured Subordinated Debentures
Price: $21.40 per Subscription Receipt; Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
RBC Dominion Securities Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
Credit Suisse Securities (Canada), Inc.
Raymond James Ltd.
GMP Securities L.P.
Industrial Alliance Securities Inc.
Promoter(s):
-
Project #2087107

Issuer Name:
Element 79 Capital Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary CPC Prospectus dated July 24, 2013
NP 11-202 Receipt dated July 25, 2013
Offering Price and Description:
MINIMUM OFFERING: $300,000.00 - 2,000,000 Common Shares
MAXIMUM OFFERING: $450,000.00 - 3,000,000 Common Shares
PRICE: $0.15 per Common Share
Underwriter(s) or Distributor(s):
Jones Gable & Company Limited
Promoter(s):
Edward Ierfino
Project #2087266

Issuer Name:
Horizons S&P/TSX Capped Energy Index ETF
Horizons S&P/TSX Capped Financials Index ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated July 19, 2013
NP 11-202 Receipt dated July 23, 2013
Offering Price and Description:
Class A Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Horizons ETFs Management (Canada) Inc.
Project #2086781

Issuer Name:
Niko Resources Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Base Shelf Prospectus dated July 22, 2013
NP 11-202 Receipt dated July 23, 2013
Offering Price and Description:
$250,000,000.00
Notes
Common Shares
Preferred Shares
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2086569

Issuer Name:
Senior Secured Floating Rate Loan Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated July 23, 2013
NP 11-202 Receipt dated July 24, 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):
CIBC World Markets Inc.
National Bank Financial Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
GMP Securities L.P.
Scotia Capital Inc.
Raymond James Ltd.
Canaccord Genuity Corp.
Macquarie Private Wealth Inc.
Desjarndins Securities Inc.
Dundee Securities Ltd.
Manulife Securities Incorporated
Promoter(s):
Propel Capital Corporation
Project #2086993

Issuer Name:
Woodfine Professional Centres Limited Partnership
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated July 24, 2013
NP 11-202 Receipt dated July 25, 2013
Offering Price and Description:
Minimum Offering: $15,000,000.00 -150,000 Units
Maximum Offering: $50,000,000.00 - 500,000 Units
Price: $100 per Unit
Minimum Purchase: $5,000 (50 Units)
Underwriter(s) or Distributor(s):
KINGSDALE CAPITAL MARKETS INC.
Promoter(s):
WOODFINE CAPITAL PROJECTS INC.
Project #2087541

Issuer Name:
Barclays Bank PLC
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated July 19, 2013
NP 11-202 Receipt dated July 24, 2013
Offering Price and Description:
U.S.$21,000,000,000.00
Global Medium-Term Notes, Series A
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2064528

Issuer Name:
Citigroup Finance Canada Inc.
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated July 18, 2013
NP 11-202 Receipt dated July 23, 2013
Offering Price and Description:
$6,000,000,000.00
Medium Term Notes
(unsecured)
Underwriter(s) or Distributor(s):
TD SECURITIES INC.
RBC DOMINION SECURITIES INC.
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
MERRILL LYNCH CANADA INC.
NATIONAL BANK FINANCIAL INC.
CITIGROUP GLOBAL MARKETS CANADA INC.
EDWARD JONES
Promoter(s):
-
Project #2083285

Issuer Name:
Empire Company Limited
Principal Regulator - Nova Scotia
Type and Date:
Final Short Form Prospectus dated July 24, 2013
NP 11-202 Receipt dated July 24, 2013
Offering Price and Description:
$1,603,600,000.00:
21,100,000 Subscription Receipts each representing the right
to receive one Non-Voting Class A Share
Price: $76.00 per Subscription Receipt
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
TD SECURITIES INC.
DESJARDINS SECURITIES INC.
BARCLAYS CAPITAL CANADA INC.
Promoter(s):
-
Project #2081352

Issuer Name:
Limited Duration Investment Grade Preferred Securities Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated July 23, 2013
NP 11-202 Receipt dated July 24, 2013
Offering Price and Description:
Maximum U.S. $50,000,000 (2,000,000 Class U Units and/or Class V Units)
U.S. $25.00 per Class U Unit or Class V Unit
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.
Mackie Research Capital Corporation
Manulife Securities Incorporated
Rothenberg Capital Management Inc.
Promoter(s):
Purpose Investments Inc.
Project #2080150

Issuer Name:
Savoy Ventures Inc.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated July 24, 2013
NP 11-202 Receipt dated July 24, 2013
Offering Price and Description:
$600,000.00
4,000,000 Common Shares at a price of $0.15 per Common Share
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Promoter(s):
Greg Amor
Project #2020313

Issuer Name:
Scotia Global Climate Change Fund (Series A, Series F and Series I units)
Scotia Income Advantage Fund (Series A units)
Scotia Vision Conservative 2010 Portfolio (Series A units)
Scotia Vision Aggressive 2010 Portfolio (Series A units)
Scotia Vision Conservative 2015 Portfolio (Series A units)
Scotia Vision Aggressive 2015 Portfolio (Series A units)
Scotia Vision Conservative 2020 Portfolio (Series A units)
Scotia Vision Aggressive 2020 Portfolio (Series A units)
Scotia Vision Conservative 2030 Portfolio (Series A units)
Scotia Vision Aggressive 2030 Portfolio (Series A units)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated July 11, 2013 to the Simplified Prospectuses and Annual Information Form dated November 20, 2012
NP 11-202 Receipt dated July 25, 2013
Offering Price and Description:
Series A, Series F and Series I units
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
Scotia Asset Management L.P.
Project #1971949,1971984,1972004

Issuer Name:
Vanguard FTSE Canada Index ETF
Vanguard FTSE Canada All Cap Index ETF
Vanguard FTSE Canadian High Dividend Yield Index ETF
Vanguard FTSE Canadian Capped REIT Index ETF
Vanguard Canadian Aggregate Bond Index ETF
Vanguard Canadian Short-Term Bond Index ETF
Vanguard Canadian Short-Term Corporate Bond Index ETF
Vanguard S&P 500 Index ETF
Vanguard S&P 500 Index ETF (CAD-hedged)
Vanguard U.S. Total Market Index ETF
Vanguard U.S. Total Market Index ETF (CAD-hedged)
Vanguard U.S. Dividend Appreciation Index ETF
Vanguard U.S. Dividend Appreciation Index ETF (CAD-hedged)
Vanguard FTSE Developed ex North America Index ETF
Vanguard FTSE Developed ex North America Index ETF (CAD-hedged)
Vanguard FTSE Emerging Markets Index ETF
Vanguard U.S. Aggregate Bond Index ETF (CAD-hedged)
Vanguard Global ex-U.S. Aggregate Bond Index ETF (CAD-hedged)
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated July 24, 2013
NP 11-202 Receipt dated July 25, 2013
Offering Price and Description:
Exchange traded funds
Underwriter(s) or Distributor(s):
-
Promoter(s):
Vanguard Investments Canada Inc.
Project #2076304

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Voluntary Surrender of Registration	Contact Capital Advisory Corp.	Exempt Market Dealer	July 10, 2013
New Registration	Laurier Capital Funding Inc.	Exempt Market Dealer	July 22, 2013
New Registration	Middlefield Limited	Investment Fund Manager	July 23, 2013
New Registration	Alternative Capital Group Inc.	Exempt Market Dealer	July 24, 2013
Consent to Suspension (Pending Surrender)	Colborne Private Wealth Ltd.	Exempt Market Dealer	July 29, 2013

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Chapter 13

SROs, Marketplaces and Clearing Agencies

1.3.3 Clearing Agencies

13.3.1 Notice of Commission Approval – CDS Clearing and Depository Services Inc. (CDS) – Material Amendments to CDS Rules – Termination of FINet

CDS CLEARING AND DEPOSITORY SERVICES INC.

MATERIAL AMENDMENTS TO CDS RULES

TERMINATION OF FINET

NOTICE OF COMMISSION APPROVAL

In accordance with the Rule Protocol between the Ontario Securities Commission (Commission) and CDS Clearing and Depository Services Inc. (CDS), the Commission approved on July 19, 2013 amendments filed by CDS to its rules relating to Termination of FINet.

A copy and description of the rule amendments were published for comment on May 16, 2013 at (2013) 36 OSCB 5205. No comments were received.

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Chapter 25

Other Information

25.1 Consents

25.1.1 Rand Malartic Mines Limited

Headnote

National Policy 46-201 Escrow for Initial Public Offerings – Amendment of release terms in escrow agreements made prior to the policy – Request for the consent of the Commission to the release of all remaining shares held in escrow pursuant to an agreement dated March 31, 1997 – No longer any policy reason for these shareholders to hold their shares in escrow – Consent granted.

Applicable Legislative Provisions

National Policy 46-201 Escrow for Initial Public Offerings, s. 8.1.

July 16, 2013

Stikeman Keeley Spiegel Pasternack LLP
200 Front Street West Suite 2300
Toronto, Ontario
M5V 3K2

Attention: H. Robert H. Stikeman

Dear Mr. Stikeman:

Re: Rand Malartic Mines Limited (the "Applicant") – Escrow Shares

Further to your correspondence of December 4, 2012, we understand that the Applicant has requested the consent of the Director of the Ontario Securities Release to the release of the following shares from the escrow agreement dated March 31, 1937 (the "Escrow Agreement"):

> 800,000 common shares in the capital of the Applicant (the "Escrowed Shares")

This is to advise that, based on the representations contained in the request for consent correspondence, the Director consents to the release of the Escrowed Shares and the termination of the Escrow Agreement.

This letter does not constitute an exemption from the *Securities Act* (Ontario) and regulations thereunder which may require a shareholder to comply with certain terms and conditions prior to or after any sale of its shares.

If you have any questions or require anything further in connection with this matter, please contact Diana Escobar Bold, Legal Counsel, Corporate Finance Branch, at (416) 583-8229 or dbold@osc.gov.on.ca.

Yours truly,

"Sonny Randhawa"
Manager, Corporate Finance Branch
Ontario Securities Commission

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