The Ontario Securities Commission

OSC Bulletin

June 19, 2014

Volume 37, Issue 25

(2014), 37 OSCB

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

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Published under the authority of the Commission by:
Carswell, a Thomson Reuters business
One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4

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ISSN 0226-9325
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Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 OSC Staff Notice 33-743 – Guidance on sales practices, expense allocation and other relevant areas developed from the results of the targeted review of large investment fund managers

OSC STAFF NOTICE 33-743
GUIDANCE ON SALES PRACTICES, EXPENSE ALLOCATION AND OTHER RELEVANT AREAS DEVELOPED FROM THE RESULTS OF THE TARGETED REVIEW OF LARGE INVESTMENT FUND MANAGERS

June 19, 2014

Purpose of this Notice

Staff of the Compliance and Registrant Regulation Branch (**Staff** or **we**) of the Ontario Securities Commission (**OSC**) recently conducted a targeted review or sweep of a sample of large investment fund managers (**IFM**s), based on assets under management. The reviews focused on the IFMs' compliance with Ontario securities law in key operational areas. This Notice provides a summary of our findings and related guidance.

We strongly encourage IFMs to use this Notice to improve their understanding of, and compliance with, applicable regulatory requirements. We also suggest that IFMs use this Notice as a self-assessment tool to strengthen their compliance with Ontario securities law and as appropriate, to make changes to enhance their systems of compliance, internal controls and supervision.

Background

In May 2013, we commenced targeted, on-site reviews of a sample of large IFMs to assess their compliance with securities law. The IFMs collectively had over $500 billion in assets under management at the time and manage a wide range of investment funds, including traditional mutual funds, pooled funds, exchange traded funds and closed end funds. As part of these reviews, we focused on key operational areas of the IFMs, such as:

- minimum working capital requirements and custody
- securityholder reporting/transfer agency
- trust accounting
- fund accounting
- oversight of service providers
- conflicts of interest
- sales practices
- overall compliance structure

In cases where the IFMs were dually registered or had an affiliated portfolio manager, we also performed testing of the portfolio management and trading activities in conjunction with the targeted review of large advisers being done at the same time.

Purposes of the sweep

The purposes of the sweep were to:

- use our oversight role to focus on IFMs who manage a significant portion of investment funds as a breakdown in their compliance structure or key operations could put investors and the capital markets at risk

- assess compliance of large IFMs with regulatory requirements and the adequacy of controls related to the key operations of their investment funds
- identify areas where additional guidance is needed

Major findings

Aside from the issuance of deficiency reports, the sweep did not result in further regulatory action on any of the IFMs reviewed. However, we identified areas where deficiencies were more prevalent and additional guidance is needed. These areas are discussed in dedicated parts below and include:

I. sales practices

II. allocation of expenses to investment funds

III. mutual fund borrowings

IV. prohibited cross trades

V. outsourcing and oversight of service providers

The guidance in large part is meant to assist IFMs in meeting their duty to act honestly, in good faith and in the best interests of their funds as required by section 116 of the *Securities Act* (Ontario). Many of the concepts related to some of the above topics, such as primary purpose and cost reasonableness, require judgment and can be interpreted differently within the existing legislation. We have tried to establish parameters around these concepts which best correlate with an IFM's standard of care.

We coordinated our review with staff in the Investment Funds branch to ensure consistent approaches in interpreting and applying the legislation.

We would also like to remind IFMs to review OSC Staff Notice 33-742 *2013 Annual Summary Report for Dealers, Advisers and Investment Fund Managers* and OSC Staff Notice 81-723 *Summary Report for Investment Fund Issuers 2013* which contain information and guidance in other areas relevant to IFMs.

PART I – Sales practices

Background

The purpose of Part 5 of National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) is to regulate the sales practices of industry participants in connection with the distribution of publicly offered securities of mutual funds to safeguard the interests of investors. As a result, NI 81-105 establishes a minimum standard of conduct to ensure that any compensation or benefits provided to participating dealers and their respective representatives are not in any way "excessive" or "extravagant" so as to improperly influence the selection of mutual funds for distribution by a representative to its clients.

In addition to the information contained in this Notice, IFMs should also refer to the guidance contained in OSC Staff Notice 11-760 *Report on Mutual Fund Sales Practices Under Part 5 of National Instrument 81-105* (**Staff Notice 11-760**) which was based on the findings of a 2006 targeted review of sales practices and which continues to be relevant.

Scope and key findings

For the purposes of this sweep, we focused on the following areas of Part 5 of NI 81-105:

i) Section 5.1 – Cooperative marketing practices

Section 5.1 permits IFMs to pay a portion of the costs of a sales communication, investor conference or investor seminar (collectively, **cooperative marketing practices**) that participating dealers organize and present to investors.

The major findings in this area, shown along with their incidence rate, were:

- cooperative marketing practices did not meet the primary purpose of promoting or providing educational information concerning a mutual fund, a mutual fund family or mutual funds generally in order to be eligible for support (25%)

- inadequate disclosure on cooperative marketing materials to indicate that the IFM paid for a portion of the costs of the cooperative marketing practice (25%)

- inconsistent application of the IFM's methodology to calculate primary purpose across all cooperative marketing practice requests (13%)

ii) Section 5.2 – Mutual fund sponsored conferences

Section 5.2 outlines the conditions under which IFMs may provide a non-monetary benefit to a sales representative of a participating dealer to attend a conference or seminar organized and presented by the IFM.

The major findings in this area, shown along with their incidence rate, were:

- IFMs paid for expenses of the sales representatives, such as travel and accommodation, not permitted under section 5.2 (50%)

- the non-monetary benefits relating to the mutual fund sponsored conference, such as meals and entertainment, were excessive having regard to the purpose of the conference (25%)

iii) Section 5.5 – Participating dealer sponsored events

Section 5.5 permits IFMs to pay a portion of the costs of conferences and seminars organized and presented by dealers (that are not investor conferences or seminars referred to in section 5.1), within certain parameters.

The major findings in this area, shown along with their incidence rate, were:

- IFMs provided support for dealer organized conferences which included amounts related to meals and entertainment that were excessive having regard to the purpose of the conference (25%)

- IFMs provided support for dealer organized conferences in excess of the 10% reimbursement limit of direct costs incurred by the dealer relating to the conference (25%)

iv) Policies and procedures related to sales practices

We also noted the following weaknesses with respect to IFMs' policies and procedures in this area:

- IFMs did not have adequate policies and procedures regarding sales practices (38%)

- IFMs did not adhere to their documented policies and procedures relating to sales practices (25%)

Guidance

Based on the above-noted findings, assessing primary purpose and the reasonability of costs associated with mutual fund sales practices are areas where IFMs can benefit from further guidance to encourage a more consistent application among industry participants to these otherwise subjective areas of Part 5 of NI 81-105.

Please refer to Appendix A which provides a decision tree to assist in evaluating primary purpose and the reasonability of costs. These are also discussed separately in the sections below.

Assessing primary purpose

IFMs had challenges meeting the primary purpose test which is essential for deciding whether to accept or reject a cooperative marketing request, organize a mutual fund sponsored conference or provide monetary support for a dealer sponsored conference. Primary purpose also determines whether an IFM can pay for the cost of a sales representative to attend an industry association sponsored event or a third party sponsored educational event.

The main challenges for assessing primary purpose relate to the following:

- *Content:* The primary purpose test is based on specific topical content and is more restrictive in section 5.1 of NI 81-105 as compared to sections 5.2 to 5.5, which permit the primary purpose to include educational information on the broader topics of financial planning or investing in securities

- *Time:* NI 81-105 does not provide a prescribed percentage or bright line test to determine what amount of time must be allocated to appropriate content to meet primary purpose

Content and time are codependent in determining primary purpose as the content has to be evaluated not only on whether it is based on the provision of educational information, but also on the amount of time spent overall on appropriate content. Each is discussed in more detail below.

i) Content

The primary purpose of the sales practices in sections 5.1 to 5.5 must be the provision of educational information as set out in the table below (collectively, **permitted topics**):

Section of NI 81-105	Permitted topics
5.1 – Cooperative marketing practices	To promote or provide educational information concerning a mutual fund, a mutual fund family or mutual funds generally
5.2 – IFM sponsored conferences	To provide educational information about financial planning, investing in securities, mutual fund industry matters, a mutual fund, a mutual fund family or mutual funds generally
5.5 – Dealer sponsored events	
5.3 – Third party sponsored events	To provide educational information about financial planning, investing in securities, mutual fund industry matters, or mutual funds generally
5.4 – Industry association sponsored events	

Since 2008, the OSC has granted relief, subject to several conditions, to IFMs who have made formal applications to expand the permitted topics set out in section 5.1 of NI 81-105. Initially, the relief permitted IFMs to sponsor the costs of cooperative marketing practices whose primary purpose is to provide educational information concerning tax and estate planning. More recently however, the OSC granted relief that further expanded the permitted topics to include the broader topic of financial planning.

To ensure compliance with the permitted topics and if applicable, any relief granted by the OSC, IFMs should review materials related to cooperative marketing practices, or other conferences and seminars for which their support is being sought under Part 5. This would include the final version of a sales communication and for conferences or seminars, the final agenda or program description and presentation materials. This will assist IFMs in ensuring that the content of the sales practice is consistent, in whole or in part, with the permitted topics.

The content of most sales communications under section 5.1 can likely be assessed for primary purpose from a quick visual review of the document breakdown. For seminars or conferences which also include non-permitted topics and recreational activities, an IFM should evaluate the amount of time spent on non-permitted topics and activities in relation to the event as a whole to determine whether the primary purpose test can still be met. This will be discussed in section ii) below.

Examples of non-permitted topics include, but are not limited to:

- business practice management sessions (selling mutual funds effectively, building/increasing book of business)
- motivational speakers
- award ceremonies
- sessions on general business operations
- time spent on recreational activities, such as golf, fishing or attending sporting events

ii) Time

We expect the time spent on permitted topics to be proportionate or exceed the amount of time spent on non-permitted topics and recreational activities. We encourage the use of a detailed and mathematical approach which objectively assesses the time

spent on permitted topics in relation to the event as a whole because it can be applied consistently and is a verifiable method to determine whether the primary purpose test is met.

Although we recommend IFMs follow a mathematical approach, we acknowledge there are some areas in the time assessment where judgment is required, for example:

- Breakfasts, lunches and breaks during the conference may be excluded from the time assessment. However, if these are unusually long (i.e. a 3 hour lunch) or are incorporated as part of a wider non-permitted topic or recreational activity, these likely should be included as a non-permitted topic in the time assessment.

- The evaluation of time to determine primary purpose should focus on activities taking place during regular business hours. However, the totality of the event, including activities taking place after business hours, must still be considered when assessing the reasonableness of costs which is discussed in the next section.

Regardless of these guidelines, IFMs must still be mindful that if the dinner events or other forms of entertainment appear excessive in relation to the duration of the educational portion of the conference or seminar (for example, an entire day of golf during a two day event), or if the costs associated with these are excessive and unreasonable, this would not be consistent with meeting the primary purpose test.

For investor conferences or seminars under section 5.1 organized by a dealer for which an IFM is providing support, IFMs must confirm that the event is truly for educational purposes based on the amount of time spent on permitted topics. It may be difficult for IFMs to determine whether or not an investor seminar or conference crosses the line into a client appreciation event, which is not eligible for support, without obtaining adequate documentation from the dealer. IFMs must ensure that they receive sufficient information in order to evaluate whether the primary purpose test is met based on the amount of time spent on permitted topics.

Events which consist of only a short presentation related to mutual funds followed by a lengthy entertainment program would likely fall under the client appreciation category. Similarly, for IFM sponsored events under section 5.2, the overall objective of the event may be viewed as business promotion if the educational content is overshadowed by excessive recreational activities and free time.

Q&A

***Q*:** A representative has requested cooperative marketing support for an investor conference. The details of the agenda submitted to the IFM include the following:

- 1 hour presentation by a portfolio manager on mutual funds

- Following the presentation, a sporting activity estimated to last a couple of hours where the portfolio manager will be available to speak with the dealing representatives on an informal basis.

Would this investor conference meet the primary purpose of providing educational information about mutual funds?

A: No. The duration of the recreational activity exceeds the one hour presentation provided by the portfolio manager. The portfolio manager's mere presence at the sporting event is not sufficient to conclude that the purpose of the entire event is for the provision of educational information. As a result, the time spent on non-permitted topics and activities exceeds the time spent on permitted topics. This event would be considered a client appreciation event which is not eligible for support under section 5.1 of NI 81-105.

Staff Notice 11-760 provides in-depth guidance on issues related to sales practices. The following guidance is meant to complement that notice based on the issues we identified during this sweep for evaluating whether an event contemplated in Part 5 of NI 81-105 meets the primary purpose test:

Suggested practices

We expect:

- IFMs to develop guidelines and internal percentage thresholds that are **consistent** and **verifiable** when evaluating the content of a sales communication, seminar, conference or other event to assess if it meets the primary purpose of providing educational information on the permitted topics prescribed in sections 5.1 to 5.5 of NI 81-105, as applicable

- IFMs to request sufficient and appropriate documentation to confirm that any sales communication, conference or seminar is sufficiently focused on permitted topics based on the allotted time and their internal guidelines and percentage thresholds. This should include:
    - a copy of the final version of the sales communication or the final agenda for the investor conference or seminar (section 5.1)
    - the agendas or program descriptions for events sponsored by third parties, industry associations or participating dealers (sections 5.3 to 5.5, respectively)
- For cooperative marketing practices, IFMs must ensure their full legal name appears in the sales communication or conference/seminar agenda and that clear language indicates that the IFM has paid for a portion of the cooperative marketing practice
- Documentation related to determining primary purpose must be maintained, with sufficient evidence of review and approval prior to the support being granted
- IFMs, at a minimum, to develop written policies and procedures which include
    - the definition of primary purpose for each type of sales practice
    - guidelines and internal thresholds that have been established
    - procedures to review the costs, time and content of an event or sales communication prior to granting approval to determine if the primary purpose test is met, including the types of documentation that must be obtained for the review, the individuals that will provide approval and the type of evidence that should be maintained

(refer also to Appendix A of Staff Notice 11-760 for a more detailed listing of policies and procedures)

Reasonability of costs

The main issues identified during the sweep in this area related to:

- inadequate processes to ensure that the non-monetary benefits provided to investors or sales representatives attending a seminar or conference, whether organized by the IFM or a participating dealer, were not extravagant and were consistent with the spirit of NI 81-105
- the payment of prohibited expenses, such as travel and accommodation, of representatives attending an IFM sponsored event

Each of these issues will be discussed in sections i) and ii) which follow below.

The financial limitations of Part 5 of NI 81-105 are set out in the table below and serve as a starting point in assessing what costs are permitted and reasonable:

Section of NI 81-105	Financial limitation
5.1 – Cooperative marketing practices	All IFMs, in aggregate, cannot pay more than 50% of the total direct costs incurred by the dealer (for sales communication, investor conference/seminar)
5.2 – IFM sponsored conferences	IFMs cannot pay any travel, accommodation or personal incidental expenses for the attendee, and the costs must be reasonable having regard to the purpose of the conference
5.3 – Third party sponsored events	IFMs can pay the registration fees for attendees

Section of NI 81-105	Financial limitation
5.4 – Industry association sponsored events	The IFMs in a mutual fund family in aggregate cannot pay more than 10% of the total direct costs incurred by the prescribed industry associations or their affiliates
5.5 – Dealer sponsored events	The IFMs in a mutual fund family in aggregate cannot pay more than 10% of the total direct costs incurred by the dealer and All IFMs, in aggregate, cannot pay more than 66% of the total direct costs incurred by the dealer

Direct costs (as defined in section 1.1 of NI 81-105) may include:

- ***reasonable*** food and beverage costs
- ***reasonable*** entertainment costs
- conference room rental fees
- conference or seminar materials
- audio visual equipment costs
- printing costs
- advertising costs of the seminar or conference
- speaker fees and expenses
- event planning fees

but do not include costs such as:

- salary and overhead of the dealer
- travel, accommodation or personal incidental expenses of the dealer's sales representatives
- prizes or gifts, unless they are of nominal value

i) Reasonability of costs

Assessing the reasonableness of costs requires judgment. NI 81-105 does not provide a range or measure for firms to assess the reasonability of costs "having regard to the purpose of the conference or seminar." During our reviews, we looked at the totality of the costs associated with conferences or seminars and noted that the majority of the costs related to meals and entertainment and in particular, to costs that occurred after regular business hours. While this practice is not contrary to NI 81-105, staff was concerned that some IFMs lacked guidelines in terms of what an acceptable expenditure amount would be in these areas, particularly since this is where the majority of the money is being spent. Further, we found the costs of these meals and entertainment to be extravagant in some cases. For example, the cost per day for dinner and entertainment that we calculated in our sample of conferences and seminars ranged from less than $100 to well over $700 per person. While the latter seems completely extravagant and the former seems reasonable, we acknowledge that finding a balance is challenging.

IFMs must develop internal guidelines to assess and review whether the costs of meals and entertainment provided at conferences or seminars sponsored by them are reasonable having regard to the purpose of these events. Similarly, IFMs must also develop guidelines to use when reviewing the costs incurred by a participating dealer to organize an event under section 5.5 in which their monetary support is provided.

In developing these guidelines, IFMs need to look at these expenditures objectively and consider whether:

- the expenditures are necessary to achieve the objective of the conference or seminar,

- an outsider or an independent party such as the Independent Review Committee (**IRC**) of the funds would consider these costs excessive based on the venue selected or the type of entertainment being offered,
- there are alternatives that would be more reasonable and achieve the same purpose and outcome,
- investors would perceive the meals and entertainment or other non-monetary benefits being offered as excessive and not in line with the educational purpose of the event.

With respect to specific expenditures, the following should be considered by IFMs in establishing their internal guidelines on reasonability:

Food and beverages

- Develop an acceptable upper limit or range for
  - the cost per meal per attending representative
  - the daily average meal cost per representative
  - the total food and beverage cost over the duration of the conference or seminar, as a percentage of the total event costs
- Criteria for the selection of venue that are consistent with cost reasonability
- The reasonableness of ancillary costs, such as decorations and table linens, associated with providing the meal above and beyond the cost of the food and beverages (**Note:** ancillary costs such as decorations and flowers must be included when assessing the cost of food and beverages)

Entertainment and promotional activities

- Develop an acceptable upper limit or range for
  - the cost of the activity or entertainment per attending representative
  - the cost of an activity in total for all representatives participating over the duration of the conference or seminar
  - the total cost for all entertainment and activities over the duration of the conference or seminar, as a percentage of the total event costs
- Criteria to assess alternatives for entertainment and activities to ensure costs are reasonable and in line with the educational purpose of the event, taking into account factors such as the perception of excessiveness, the location of the activities and the ease of access to these events. For example, hiring a local performer rather than a well-known celebrity or providing tickets to a regular season sporting event rather than a play-off game would be valid alternatives that can be evaluated based on established criteria.

Gifts

- Dollar limit on the value of a gift per representative and the amount that may be spent on a representative on an annual basis
- Is the limit consistent with the gift being of nominal value and promotional in nature?
- Is the gift required for the effective and efficient execution of the conference or seminar?

Q&A

***Q*:** As a door prize at our IFM sponsored conference, we would like to offer prepaid Visa gift cards of a nominal value. Would this be contrary to NI 81-105?

A: Although the value is nominal, these prepaid cards are not promotional in nature and are in substance, a cash gift to the recipient which is inconsistent with the requirement that the items be non-monetary in nature. Other gifts that are equivalent to a cash gift should also not be offered to sales representatives, such as other types of gift certificates and casino chips.

If these prizes are offered as part of an investor conference or seminar of a participating dealer, IFMs must scrutinize the expenses submitted by the participating dealer to ensure such costs are not included as part of the direct costs of the seminar or conference for which support is being sought.

We would also like to highlight the guidance found in subsection 7.3(1) of Companion Policy 81-105CP *Mutual Fund Sales Practices* (**81-105CP**) in relation to the provision of entertainment and gifts to representatives during IFM sponsored conferences which states:

> *The term "reasonable" costs would not include gifts or entertainment provided to attendees other than as permitted by section 5.6 of the Instrument.*

IFMs can provide gifts and entertainment to representatives attending IFM sponsored conferences provided that the value of the gifts and entertainment are in compliance with section 5.6 of NI 81-105. As a result, the provision of gifts and entertainment must not be so extensive so as to cause a reasonable person to question whether the provision of the gifts and entertainment would improperly influence the advice provided by the representative to its clients.

A number of IFM firms set a limit per representative that can be spent on gifts and entertainment on an annual basis under section 5.6 of NI 81-105.

Q&A

***Q*:** As an IFM, we have an annual limit of $1,500 per representative to be spent on promotional items and business promotion activities. We would like to take a group of representatives to a play-off sporting event. Based on the cost, the entire limit per representative would be spent on this one time sporting event for the cost of the ticket and a limousine ride to the arena. Would this be contrary to NI 81-105?

A: Yes, the spending of the entire limit on a representative at one time would be considered excessive and therefore unreasonable under section 5.6 of NI 81-105. You should establish dollar limits per year, and per event, that may be spent on promotional items and business promotion activities for dealing representatives. Furthermore, the provision of a limousine ride to the event is considered to be a travel expense that is strictly prohibited under paragraph (b) of section 5.6 of NI 81-105.

The following guidance is suggested for assessing the reasonability of direct costs:

Suggested practices

We expect:

- IFMs to develop internal policies and procedures to determine the reasonability of the cost of food, beverages, gifts, entertainment and promotional activities provided to representatives during mutual fund sponsored conferences, or to be paid to dealers for conferences or seminars which they sponsor and for which support is being sought. The policies and procedures should include, at a minimum:
    - Internal parameters on what is considered a reasonable amount for each type of non-monetary benefit
    - Factors to consider when determining reasonability, such as the location of the event, whether it's a specialty event or a routine event or time of year the event is held and how these factors should be addressed
    - The type of documentation required to assess reasonability, including detailed invoices, receipts and budgets
    - The individual(s) responsible for assessing reasonability and providing documented approval of expenses
    - The involvement of the IRC in evaluating sales practices for reasonability
- IFMs to maintain evidence of their reasonability assessment and the review and approval of the non-monetary benefit, including how the choice to provide one non-monetary benefit over another was determined

- Prior to providing monetary support, IFMs to exercise reasonable diligence to confirm that costs indicated on invoices or receipts received from participating dealers represent direct costs that are reasonable under the circumstances

ii) Prohibited expenses

Section 5.2 of NI 81-105 explicitly prohibits an IFM to pay any travel, accommodation or personal incidental expenses for sales representatives attending its sponsored conferences. Furthermore, an IFM cannot indirectly pay for prohibited expenses by subsidizing a portion of these costs and/or applying savings in a permissible area to cover a prohibited expense. For example, an IFM cannot pay for bus transportation from the airport to the hotel and then charge the attending representatives a reduced rate on that transportation. Similarly, an IFM cannot pay the hotel for room upgrades for each attending representative and then recover the cost through a discount offered on hotel catering services.

Further guidance on prohibited expenses is provided in subsection 7.1(1) of 81-105CP and these expenses are also outlined below. We noted that some IFMs were paying prohibited expenses on behalf of attending sales representatives.

Travel

The following expenses are **not** acceptable for the IFM to pay:

- Airfare or the payment of any other form of transportation
- Transportation to and from the airport to the hotel
- The payment of a car rental fee, parking expenses, gas, or mileage in relation to a car used by a representative during the conference
- Transportation from the location of the conference and/or the representative's hotel (if not the same location as the conference) to dinners during the conference

Q&A

***Q*:** As an IFM, our conference will include a dinner where there will be alcoholic drinks available with dinner. Can we cover the travel expenses of the sales representatives of participating dealers incurred to travel from dinner back to the hotel and remain in compliance with NI 81-105?

A: Yes. Although the payment of costs associated with travel to dinner is **not** permissible, the payment of travel from dinner back to the hotel is allowed in light of the risk associated with the consumption of alcohol. While it would be prudent for a concerned IFM to mitigate these risks by serving limited or no alcohol, or advising those dealing representatives that they must pay out of pocket for alcohol, we acknowledge that IFMs may be exposed to a potential liability as a result of sponsoring an event where alcohol is permitted and no mode of transportation is offered to ensure safe arrival back at their hotel or home. As a result, we consider this travel cost to be permissible, as long as the cost is reasonable. For example, providing a multi-passenger vehicle or taxi chits to attendees would be considered reasonable while the use of a luxury limousine would be excessive.

Accommodation

The accommodation costs of a representative attending an IFM sponsored conference are not an expense that can be paid for by an IFM. This includes hotel expenses of the attending representative and any guests of the attending representative during the conference. In addition, an IFM cannot pay for an upgrade for the accommodation of the representatives. Any upgrade must be paid for by the representative directly or the representative's participating dealer.

Personal incidental expenses

The payment of personal incidental expenses incurred by a representative during the course of a conference is not allowed to be covered by the IFM. Examples of personal incidental expenses include:

- Car rental
- Parking fees, including valet parking

- Costs related to room service charges or other hotel services
- Costs incurred by a guest accompanying an attending representative related to any of the above

Suggested practices

For events that are sponsored by a dealer under section 5.1 or section 5.5, the IFM should, prior to providing monetary support:

- Obtain invoices with sufficient detail of the costs for which reimbursement has been requested and assess if the actual expenses represent direct costs as defined in section 1.1 of NI 81-105, rather than prohibited costs listed in subsection 7.1(1) of the 81-105CP
- A dealer requesting financial support for a sales practice under NI 81-105 must provide an IFM with enough information to enable the IFM to determine eligibility and compliance with NI 81-105

For all types of events contemplated under Part 5, we expect the IFM to

- Develop internal guidelines as part of the IFM's policies and procedures manual that outline permissible costs and develop a list of expenses that cannot be covered for sales representatives under any circumstance

PART II – Allocation of expenses to investment funds

Our review of fund expenses during the sweep did not indicate any significant issues in this area. However, some IFMs expressed that additional guidance in this area would be helpful to assist them in enhancing their fund expense allocation methodology. IFMs have a duty to act honestly, in good faith, and in the best interest of the investment funds. IFMs should be able to demonstrate that the allocation of expenses is not inconsistent with their duty of care and that they are not putting their own interests ahead of those of the fund and its securityholders. The amount of the expenses charged to the funds has a direct impact on the management expense ratio (**MER**). IFMs monitor the funds' MERs closely to ensure the funds remain competitive.

There is an inherent conflict of interest in fund expense allocation. IFMs must bring conflicts of interest matters to the IRC. Materials provided to the IRC should contain sufficient details for the IRC to review and assess the matters thoroughly prior to making any recommendation. With respect to the fund expense allocation policy, an IFM should provide the IRC with a detailed list that itemizes all types of expenses to be allocated to its investment funds. In the discussion with the IRC, IFMs should also highlight expense items that are considered contentious in relation to their necessity for the daily operation of the funds, that are payable to a related party service provider or are unique to their business operations. Ultimately, any expenses allocated to the funds should relate to the daily operation of the funds and be reasonable and justifiable.

Allocation models

Accumulating the appropriate expenses and allocating them to the investment funds using a sound methodology is a time consuming and challenging task depending on the expense model that is chosen by the IFMs. Some expense models are relatively easy to apply, for example, the fixed rate administration fee[1] or the operating expense subject to a cap[2] model. Other models require the IFMs to exercise judgment to determine:

- the appropriate types of expenses that may be eligible for allocation
- the appropriate method to equitably allocate these expenses to the investment funds, ensuring that the amount of expenses allocated to each fund is in proportion to the services provided to the fund

1 The IFM is responsible for most of the expenses of the fund in return for an annual administration fee calculated by applying a fixed percentage to the fund's assets under management. The rate is disclosed in the fund's offering documents.

2 The IFM applies a fixed basis point rate, a cap, to cover the fund's actual operating expenses instead of accumulating and allocating the expenses to the fund. It is called a cap because the rate is typically lower than what the IFM would have charged if actual operating expenses were allocated. IFMs should review and assess the cap periodically to ensure the cap rate is not higher than the actual expenses. The cap is done at the discretion of the IFM, who has no obligation to cap the operating expenses of the funds.

Types of expenses

i) Expenses of an IFM

Expenses related to the operations and conduct of an IFM should be borne by the IFM and should not be allocated to the funds. An IFM directs the business, operations or affairs of an investment fund. Its major roles and responsibilities include:

- maintaining proper registration for the firm, the ultimate designated person (**UDP**) and the chief compliance officer (**CCO**)
- developing a system of compliance and controls, along with on-going monitoring and supervision, that covers all relevant areas of the IFM's business operations whether the functions are done in-house or by third-party service providers
- ensuring compliance with securities law and meeting all regulatory obligations
- establishing the firm's infrastructure and hiring qualified personnel
- entering into agreements with portfolio managers, custodians or third-party service providers
- establishing a distribution network for the investment funds by entering into distribution agreements with registered dealers and providing them with adequate and appropriate information
- promoting the investment funds

Expenses incurred by the IFM to fulfill its roles and responsibilities and to ensure the proper conduct of the firm and the investment funds with regulatory obligations should be paid for by the IFM. Further, the IFM earns a management fee paid by the investment funds to carry out its roles and responsibilities. The purpose of the management fee is to cover expenses related to the IFM's business activities.

Please refer to Appendix B of this Notice for a decision tree that assists in determining whether an expense item should be paid for by the IFM or allocated to its investment fund(s).

Q&A

Q: As an IFM, I will need to make system changes to produce the information required under CRM2 Amendments by July 15, 2016. How should I treat the costs incurred to make these system changes?

A: Providing the necessary information to registered dealers who distribute your investment funds is an obligation of the IFM. You should account for the costs associated with the system changes as part of your operating expenses and you should not allocate these expenses to the funds.

Q&A

***Q*:** Our firm is currently going through the process of hiring an employee for our fund accounting group. We have engaged a search firm to assist us in this process. Can we charge the hiring expenses associated with this employee to the funds that we manage?

***A*:** No. IFMs have a responsibility to establish the infrastructure for the daily operation of their funds to ensure compliance with securities law, including the hiring of staff. As a result, any expenses incurred for the hiring of this employee, such as the use of a recruiting firm, should be borne by the IFM and not the funds. Until this employee has commenced work at the IFM, there is no involvement with the daily operation of the funds.

However, a fund can be allocated salary and benefit costs that are part of a reasonable compensation package for employees whose jobs are directly related to the daily operation of the fund.

Q&A

Q: How do we treat the costs associated with our compliance department? While the compliance personnel ensure our IFM business is compliant with the requirements under securities laws, including NI 31-103, they also spend time on product-related compliance, such as dealing with certain requirements in NI 81-102. It would seem appropriate that some of these compliance costs be allocated to the investment funds.

A: The wide range of expenses incurred in managing investment funds, as well as the lack of specific disclosure regarding expense allocation provisions in the funds' offering documents, often result in varying interpretations by IFMs on which types of expenses should be allocated to the funds. IFMs should consider all expense allocation decisions in conjunction with their duty to act in the best interests of their funds and any excessive or unreasonable allocations to their funds may constitute a breach of this duty.

With that principle in mind, costs associated with ensuring compliance with securities law and meeting regulatory obligations, such as the salaries of dedicated compliance staff and any overhead allocated to that department, should ***generally*** be considered an expense of the IFM. We acknowledge that the compliance structures at IFMs vary greatly in size and nature, may include multiple layers and that there may be overlap across other departments in performing compliance-related duties. Accordingly, IFMs should consider their contractual agreements with the funds, the advice of the IRC and its disclosure in the offering documents if considering the allocation of certain compliance costs to their funds.

Compliance costs related to NI 31-103 clearly belong with the IFM. NI 31-103 deals primarily with firm conduct and a firm's regulatory roles and responsibilities and these are obligations that can only be met by the IFM. NI 31-103 requires each registrant to establish a system of compliance and controls, along with on-going monitoring and supervision, over all relevant areas of its business operations. This would include its fund operations and the related compliance costs of complying with product-specific legislation. The investment funds are already paying a management fee to the IFM that arguably covers these compliance and oversight expenses.

Using NI 81-102 as an example, many of the compliance-related costs are already linked to the management fee being paid by the fund. The revenue of an IFM is dependent on the proper operation of its mutual funds in compliance with applicable product regulation. Failure to do so would result in the inability to offer the product to the public. Mutual fund sales communications that are effective and compliant with legislation assist in growing the funds' assets under management which in turn, impact management fee revenues. Also, the product-related investment restrictions in NI 81-102 are managed by the portfolio manager (**PM**) who is being compensated out of the management fee to ensure that the funds are managed in accordance with their stated investment objectives and regulatory restrictions. A PM firm would not invoice an advisory client an additional amount for ensuring compliance with its PM mandate and the same logic would apply to an IFM in relation to its investment fund product. In addition, where the IFM and PM are not the same entity, the IFM has an obligation to oversee the PM as part of its oversight of service providers and should bear this cost.

ii) Expenses of an investment fund

Only expenses that are related to the daily operations of the investment funds should be allocated to the investment funds. Expenses that investment funds incur on a daily basis can be grouped into three main categories as follows:

Direct expenses

We consider direct expenses to be expenses that can be directly linked to the investment funds. Examples of direct expenses may include expenses related to prospectus or other continuous disclosure filings, audit, legal, securityholder reporting, trading and brokerage, IRC and custodial fees. In most cases, these expenses are supported by invoices that provide a breakdown of the expenses on a fund-by-fund basis.

Fees paid to service providers for outsourced functions

IFMs may outsource certain functions to third-party or related service providers, such as the net asset value calculation or securityholder record keeping. These functions pertain to the daily operations of the investment funds and may be paid for by the investment funds. Unlike direct expenses, invoices submitted by third-party service providers may not include a breakdown of the fees associated with each fund. Accordingly, the IFM will need to allocate these costs to the funds using an appropriate cost driver – see discussion on *Allocation of fund expenses*.

Expenses incurred for functions performed in-house

IFMs that choose to administer the key business activities of their investment funds internally must develop a method to determine how to allocate the correct amount of these expenses to their funds. Some IFMs establish departments or cost

centres for each function to clearly identify the expenses that are associated with the employees who are fully or partially dedicated to providing services to the funds. Similarly, the portion of expenses such as rent, office supplies, photocopier fees and telephone and internet charges that can be allocated to that department must be determined.

IFMs must critically assess and determine which expense items from the department should be included in the pool of expenses for allocation to the various funds. The expenses allocated must be directly related to the operations of the fund.

IFMs are responsible for ensuring that they obtain the best commercially available prices for the services used by their funds. If the provision of certain fund functions in-house is more cost favorable to a fund than outsourcing these functions, the difference in cost cannot be charged to the fund and retained by the IFM in addition to the management fees charged. This type of practice is contrary to an IFM's duty and responsibilities.

Q&A

***Q*:** Our firm currently performs the fund accounting, trust accounting and securityholder recordkeeping internally. As a result, we have saved our funds a total of $100,000 which would have been the additional cost to the funds to hire a third party service provider to provide these services. What amount should we charge the funds for these services? The internal cost or the cost that we would have paid the service provider and then retain the difference as another fee paid to us as the IFM of our funds?

***A*:** As the IFM of the funds, you have a responsibility to act in the best interest of the funds and secure the best commercially viable arrangements for the funds you manage. You determined that the best arrangement for your funds was to provide these services in-house and chose to do so. Therefore, the cost charged to the funds should be the cost of providing these services internally. It would be contrary to your duty as an IFM to charge your funds the third party rate and keep the difference as an extra fee for your services.

Furthermore, allocating and charging the funds for the costs associated with providing these services in-house is a conflict of interest matter that needs to be referred to the IRC.

Q&A

***Q*:** We organized a party for an employee in the fund accounting department. Would it be appropriate to include this cost as part of the fund accounting department expenses that are allocated to the funds?

A: No, these expenses are to be paid for by the IFM, not the funds. As a guideline, expenses that do not in any way impact the operation of the funds, such as the social event described above, costs related to landscaping, design or general maintenance of the office and gifts to staff need to be paid for by the IFM and not be allocated to the funds.

Q&A

***Q*:** Our firm is both the IFM and the PM of our investment funds. We subscribe to a number of research materials to assist us in our research and analysis which is part of the investment decision making process. Can we charge the subscription fees to the investment funds?

***A*:** No. A PM manages the investment portfolios of the funds in return for an advisory fee as specified in the advisory agreement. Expenses incurred for the PM's research and analysis, or other costs associated with managing the funds' investment portfolios, are paid for by the PM because they are part of the costs of operating the PM's business. The answer may be less obvious when the firm has more than one role, i.e. being the IFM and PM. An IFM should consider whether it would pay for the subscription fees if the PM was a separate, unrelated entity. Since the PM is already compensated through its advisory fee which in turn, is paid out of the management fee collected from the funds, the IFM would not pay for the subscription fees.

Q&A

***Q*:** Our firm is solely registered as an IFM and manages investment funds on a daily basis. The key operating activities for the funds, including fund accounting, trust accounting and securityholder recordkeeping, are performed in house. Can we charge the entire amount of the office rent expense and telephone and internet charges to the investment funds that we manage?

***A*:** No, it would not be appropriate to charge 100% of the rent, telephone and internet charges or other common expenses to the funds that the firm manages. In addition to managing the funds on a daily basis, the IFM also conducts other duties that are not necessarily related to running the funds on a daily basis. For example, staff from the wholesale and compliance teams of the IFM also occupy office space and use the shared services such as the telephone and internet on a daily basis. As a result, the IFM should be charging a portion of the rent and telephone and internet charges to the funds and the IFM, respectively, based on a reasonable allocation methodology that appropriately reflects the usage of these shared costs.

Q&A

***Q*:** We have a number of employees who divide their time between the IFM business and the investment funds as follows:

1) UDP – reviews financial statements and management reports of fund performance of the investment funds; meets with the CCO regarding compliance updates and compliance issues; sits on the Board of Directors of the IFM.

2) Controller – responsible for entries and the review of the general ledger and the preparation of the financial statements of both the investment funds and the IFM.

3) Financial analyst – responsible for calculating management fees and MERs of the funds; aids the controller in compiling the financial statements of the funds and the IFM.

Can we charge the entire salaries and bonuses for these individuals to our funds?

A: No. If you would like to charge a portion of these salaries to the funds, you need to make an assessment of how much time is spent by these individuals on performing tasks related to the funds as compared to time spent on IFM matters, and allocate the salaries accordingly.

Time that is spent on the business of the IFM and ensuring its investment funds comply with applicable legislation is more appropriately allocated to the IFM. In the examples noted above, this would include the UDP's time spent on compliance matters and sitting on the Board. Similarly, the amount of time spent by the controller and the financial analyst on the financial statements and general ledger of the IFM can be charged to the IFM.

Where the duties of these employees are related to calculating management fees and MERs of the funds and preparing the funds' continuous disclosure documents, these costs may appropriately be charged to the funds.

Allocation of fund expenses

Once it is determined which expenses are attributable to the daily operation of the funds, an IFM must establish a process to determine the allocation of these expenses to the various funds. The allocation is straightforward when invoices provide a breakdown of the expenses on a fund-by-fund basis. Expenses that relate to multiple funds that cannot be directly linked to a particular fund based on an invoice should be accumulated and allocated to funds using relevant and appropriate factors. We have noted that IFMs use one or more factors to determine the expense allocation, including but not limited to:

- assets under management
- the number of securityholders
- the fund's mandate
- the number of classes/series in a fund

The decision on how to allocate an expense to a fund should be linked to how the expense is being charged (i.e. the cost driver), which in most cases will have a direct relationship with the time and effort spent on each fund by the external party providing the service or by the in-house department. IFMs should inquire of the service provider how the fees are being determined when negotiating the agreement with them. For in-house departments, IFMs generally keep track of the number of hours or the percentage of time spent on the funds per department, or use one of the above factors as a proxy to divide the time spent among the various funds. The allocation of the departmental expenses to each fund is then based mainly on the level of usage by the fund of that department's services.

Q&A

***Q*:** Our firm is considering streamlining our fund expense allocation methodology to use only one factor to allocate all types of expenses to our funds instead of our current approach of using different factors. Is this change appropriate?

A: No. While it may be easier to allocate expenses to the funds using only one allocation factor, it is unlikely that this is an appropriate method to allocate fund expenses. There are many types of fund expenses that can be allocated to the funds and they usually do not correlate with one common factor. For example, securityholder reporting expenses tie closely with the number of securityholders, whereas the costs of calculating the net asset values (**NAV**) of the funds would have no direct relationship with the number of securityholders. As such, it is not appropriate to allocate both securityholder reporting expenses and expenses relating to the NAV calculation by using the number of securityholders as a common factor. Ultimately, your firm must determine the appropriate allocation factor(s) based on your knowledge of the cost driver of each expense item.

Disclosure in offering documents

Disclosure made in the funds' offering documents on fees and expenses should be clear and contain an appropriate level of detail to allow securityholders to fully understand the types of fees and expenses that are charged to the investment funds. IFMs should avoid using general or collective terms such as "administration costs" or "operating costs" to describe a group of expenses. The disclosure could be enhanced by providing a further breakdown to indicate what these expenses are, resulting in better and more meaningful disclosure.

For further guidance on disclosure, please refer to OSC Staff Notice 81-724 *Report on Staff's Continuous Disclosure Review of the Fees and Expenses Disclosure by Investment Funds* issued by the Investment Funds branch.

Documentation and periodic assessment

IFMs must maintain adequate documentation to demonstrate their rationale and the analysis performed in the development of their fund expense allocation policy. The documentation needs to support the methodology chosen, and demonstrate that the expenses allocated to the funds are reasonable, fair, and in the best interests of the funds. The policy should be reviewed at least on an annual basis or more frequently whenever there are changes in the IFMs' business activities or operations.

Suggested practices

We expect IFMs to establish and enforce written policies and procedures that include, at a minimum, the following:

- procedures to develop internal criteria and processes to identify and assess which expense items are related to the daily operations of the funds
- procedures to independently review expenses charged to the funds for appropriateness and accuracy, keeping in mind the internal criteria
- procedures to ensure that adequate controls are in place to review and approve invoices before they are processed for payment
- procedures to ensure that only those expenses disclosed in the offering documents are charged to the funds
- procedures to ensure that policies on fund expenses are up-to-date and where established, approved by the funds' IRC

IFMs should also develop and document procedures used to budget and accrue for expenses in the funds, for example:

- procedures to prepare and approve the funds' budgets at the beginning of each fiscal year to ensure that only reasonable and appropriate expenses will be charged to the funds
- procedures to monitor accrued amounts versus actual amounts on a periodic basis and guidelines on when an adjustment to the accruals should be made

When allocating expenses to the funds, we expect IFMs to:

- document the method used and maintain documentation on the rationale and analysis performed to support the chosen method
- determine the appropriate factors to be used for the allocation and how they are applied for each type of expense
- confirm the allocation method is fair and reasonable to all funds

PART III – Mutual fund borrowings

Sub-paragraph 2.6(a)(i) of National Instrument 81-102 *Mutual Funds* (**NI 81-102**) states that a mutual fund shall not borrow cash or provide a security interest over any of its portfolio assets unless the transaction is a temporary measure to meet redemption requests, or to permit the mutual fund to settle portfolio transactions, and the outstanding amount of *all borrowings* of the mutual fund does not exceed five percent of its NAV at the time of the borrowing.

We noted two issues in this area:

i) Interpretation of the term "all borrowings"

During our reviews, we noted that some IFMs were calculating "all borrowings" in a mutual fund as the total of all its borrowings netted against its available cash balances for all the bank accounts of the mutual fund, rather than the sum of all borrowings of the mutual fund.

Under NI 81-102, mutual funds are not allowed to borrow except under the very limited circumstances outlined in the instrument. Consequently a strict and plain meaning interpretation to the borrowing provision should be applied. Accordingly, in the absence of any reference to "net borrowings" in NI 81-102, it is inappropriate to use excess cash in the bank accounts of the mutual fund to offset the total amount of a mutual fund's borrowing in account(s) where there is a balance owing. Until borrowed monies are actually repaid, those amounts are still outstanding and must factor into the "outstanding amount of all borrowings" as described in NI 81-102. Accordingly, the absolute sum of all borrowings of the mutual fund must be used when monitoring compliance with the borrowing provision.

ii) Mutual funds borrowed in excess of 5% of their NAV

We identified IFMs with overdraft positions in their mutual funds' bank accounts in excess of the prescribed 5% of NAV limit in NI 81-102. This was also noted in some IFMs that were incorrectly netting the borrowings in the accounts of a mutual fund against cash balances in other bank accounts of the mutual fund which in effect, reduced the amount of the borrowings that should have been used to monitor the 5% limit.

Q&A

***Q*:** One of our funds had a series of net redemptions this month which rendered the fund's bank account in an overdraft position for the entire month. Each overdraft was temporary in nature and it was corrected either in the following day or the day after. A new overdraft occurred due to redemption requests received in the following day. Are we in compliance with sub-paragraph 2.6(a)(i) of NI 81-102?

A: No. Sub-paragraph 2.6(a)(i) of NI 81-102 states that a mutual fund shall not borrow cash unless the transaction is a temporary measure to meet redemption requests. It is not a temporary measure when the fund was in a continuous overdraft position over a prolonged period of time. The IFM, together with the PM of the fund, should review and re-evaluate the cash position of the fund to ensure that it is adequate to meet redemption requests going forward.

Suggested practices

- IFMs need to establish an appropriate cash management process, including:
    - procedures over the settlement of securityholder trades to ensure that these are communicated to portfolio managers in a timely manner
    - procedures to sell investments in the fund's portfolio in the most favorable manner and minimize the likelihood of the fund going into an overdraft position

- IFMs must regularly monitor their mutual funds to ensure there is no overdraft position and to make certain that overdrafts, if they occur, are temporary and quickly resolved
- Overdraft positions should be reported to senior management, including the CCO, along with a description of the cause of the overdraft, impact of the overdraft (e.g. interest expense) and corrective actions to be taken to prevent an overdraft from recurring

PART IV – Prohibited cross trades

As part of our IFM reviews, we do not typically review trading activities relating to the funds' investment portfolios. However, during this sweep, if the IFM or one of its affiliates was also a registered adviser, we reviewed certain trading activities.

During our reviews, we noted that prohibited trades occurred between the investment funds advised by the firm ("inter-fund trades") or between investment funds and other managed accounts of the firm, collectively referred to as cross trades.

Clause 13.5(2)(b)(iii) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) prohibits an adviser from knowingly causing any investment portfolio it manages, including an investment fund, to purchase or sell a security from or to the investment portfolio of another investment fund for which a responsible person acts as an adviser.

Section 6.1 of National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**) permits inter-fund trades that would otherwise be prohibited under NI 31-103 if certain conditions are met, including the approval or standing instruction by the funds' IRC. In the cases noted during our reviews, the inter-fund trades were not permissible under either NI 81-107 or NI 31-103.

Suggested practices

We expect IFMs to

- be aware of conflict of interest matters and refer them to the IRC where the funds are reporting issuers
- perform oversight of the funds' trading activities, whether performed in-house or outsourced
- confirm all inter-fund trades are permitted under NI 81-107 and have met all the conditions in section 6.1
- seek regulatory exemptive relief to permit the execution of cross trades between investment funds that are otherwise prohibited

IFMs should also refer to section 13.5 of the Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**31-103CP**), under the heading "Restrictions on trades with certain investment portfolios", for guidance on prohibited inter-fund trades.

PART V – Outsourcing and oversight of service providers

During our reviews, some IFMs expressed that additional guidance in the area of outsourcing would be helpful to assist them in enhancing their oversight procedures. Many IFMs outsource certain aspects of their IFM operations (such as fund accounting, trust accounting and transfer agency) to service providers.

During the reviews, we noted that the service provider typically used by an IFM is either a third party service provider or a related legal entity within the IFM's overall corporate group. It is our expectation that at least the same level of oversight should be performed on a related service provider by the IFM as that performed on a third party service provider. The IFM should also compare the fees charged by a related service provider to those charged by a third party to ensure the selection of a service provider is in the best interests of the funds, with referral of the matter to the IRC for consideration.

In addition, some firms which operate globally centralize certain functions of their IFM operations in order to achieve cost effectiveness and efficiency. Although we do not have issues with this business practice, we do expect that the Canadian compliance department of the IFM oversees the centralized function, as it would any service provider, and confirms that there is a robust process in place to obtain assurance that all requirements under Canadian securities laws are being adhered to.

Section 11.1 of NI 31-103 requires IFMs to establish a system of controls and supervision to ensure compliance with securities legislation and to manage their business risks in accordance with prudent business practices. Part 11 of 31-103CP, under the

heading *General business practices – outsourcing*, states that registrants that outsource aspects of their business operations to third-party service providers are responsible and accountable for all functions that have been outsourced. An IFM is required to oversee its service providers in order to meet its obligation of being responsible and accountable for the work performed by the service providers.

Please refer to the suggested practices that were included in OSC Staff Notice 33-742 *2013 Annual summary Report for Dealers, Advisers and Investment Fund Managers* to provide IFMs with additional guidance regarding the monitoring of service providers.

Conclusion

This sweep enabled staff to focus on IFMs who are responsible for directing the business, operations and affairs of a significant segment of the industry's investment funds. This was an important step in evaluating the compliance systems of registrants who have a major impact on the capital markets. In addition, the results of the sweep highlighted areas where further guidance is needed. We hope that the guidance in this Notice, as well as other guidance referred to in this Notice, are helpful to registrants in meeting their regulatory obligations. Registrants should use this Notice as a self-assessment tool to assess their practices in the highlighted areas and to determine if changes are required.

Questions

If you have any questions regarding the content of this Notice, please refer them to any of the following:

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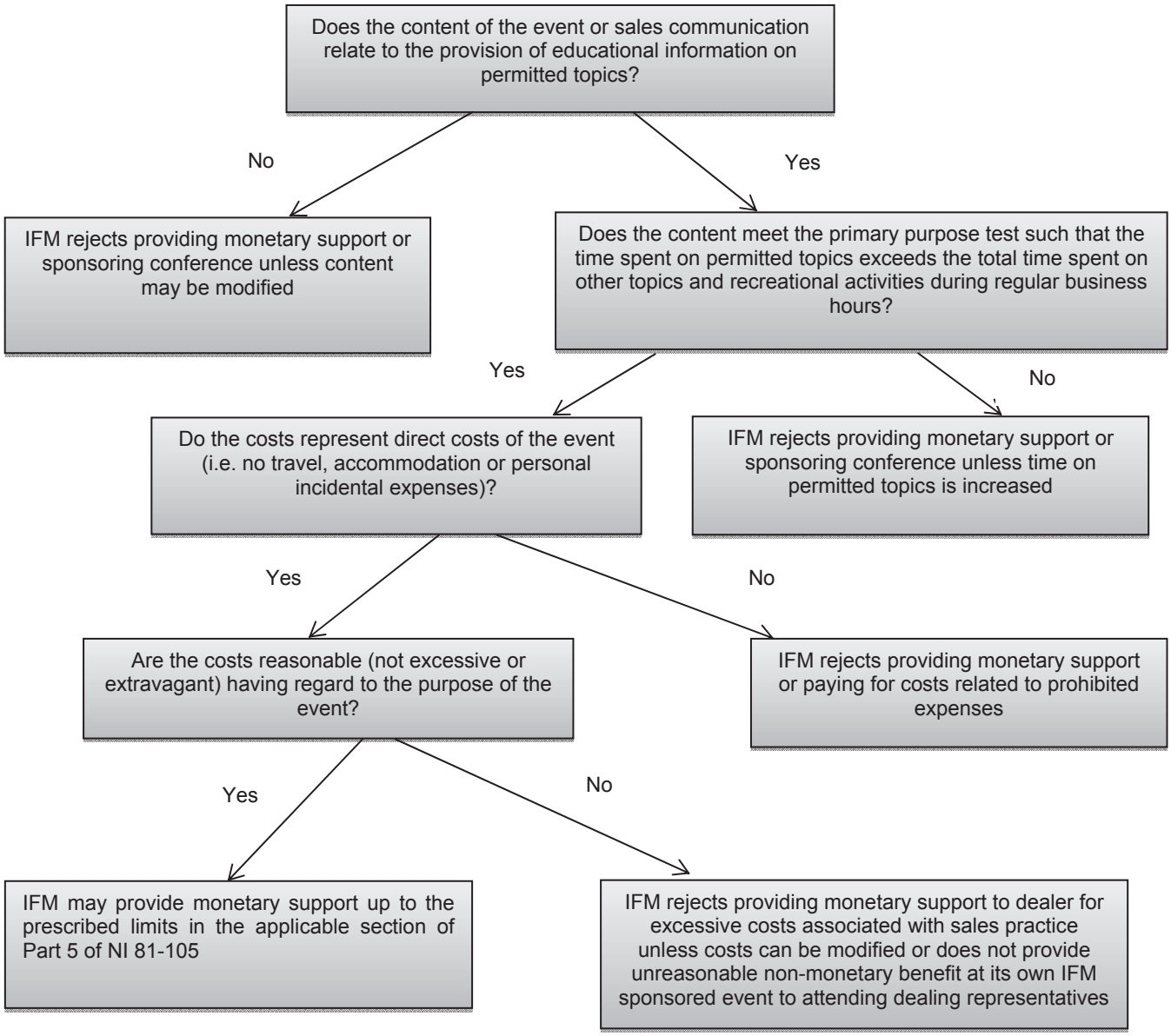
APPENDIX A

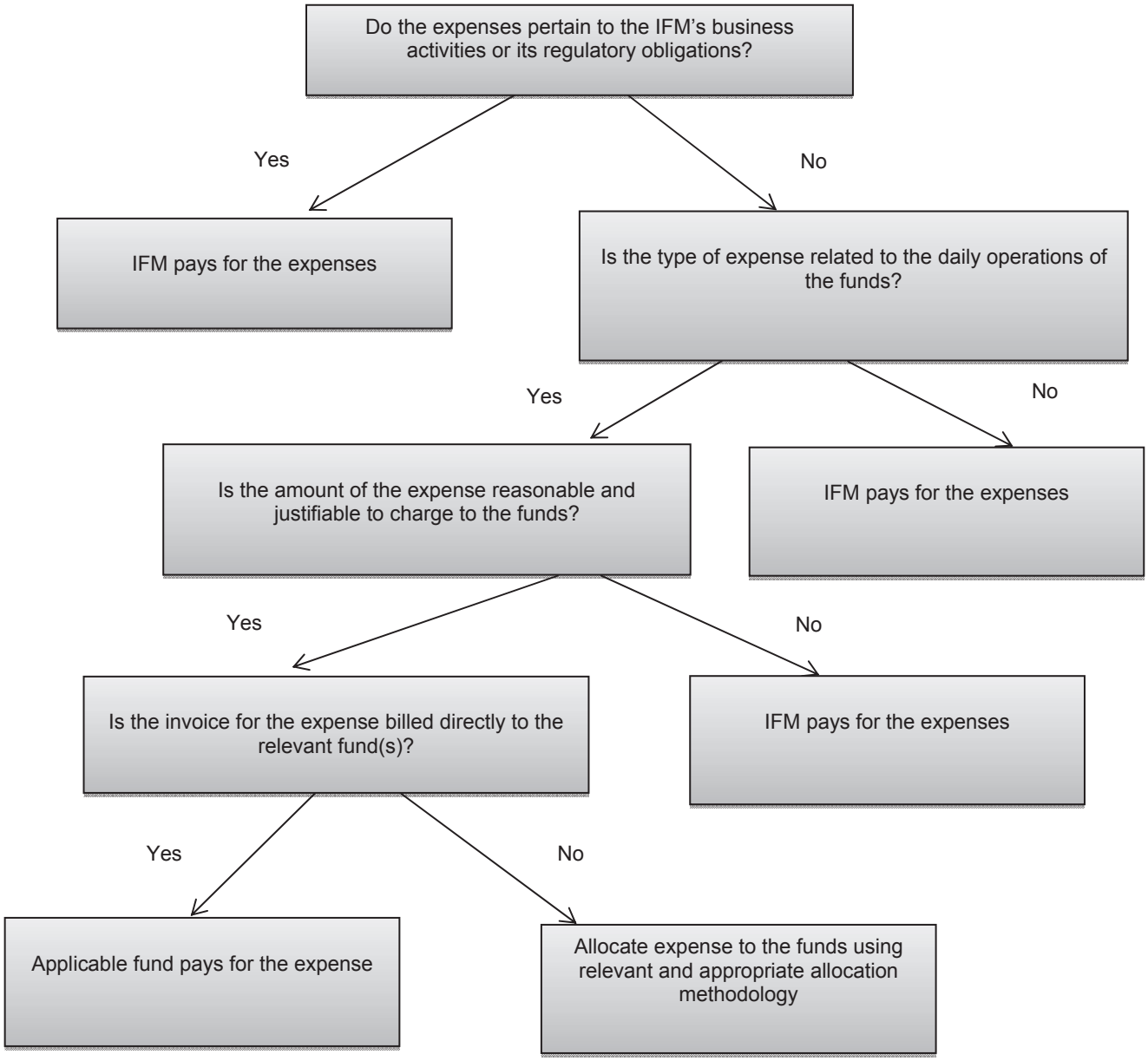
Decision Tree – Part 5[3] of NI 81-105



[3] The decision tree applies to parts 5.1 (cooperative marketing practices), 5.2 (IFM sponsored conferences) and 5.5 (dealer sponsored conferences) of NI 81-105 as these areas were the scope of our review.

APPENDIX B

Decision Tree – Expense allocation



1.4 Notices from the Office of the Secretary

1.4.1 Paul Azeff et al.

FOR IMMEDIATE RELEASE
June 11, 2014

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 the dates for the hearing on the merits previously scheduled for September 15 to 17, 2014 and October 6, 8 and 9, 2014 are vacated and additional dates for the hearing on the merits are added on November 10 to 14, 2014.

The hearing on the merits shall commence on September 18, 2014 at 10:00 a.m.

A copy of the Order dated June 3, 2014 is available at www.osc.gov.on.ca.

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1.4.2 Gold-Quest International and Sandra Gale

FOR IMMEDIATE RELEASE
June 11, 2014

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

AND

IN THE MATTER OF
GOLD-QUEST INTERNATIONAL and SANDRA GALE

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

(1) the hearing is adjourned and shall continue on September 10, 2014 at 11:00 a.m. for a sanctions hearing in the event that an Agreed Statement of Facts is executed by both parties; and

(2) in the event that an Agreed Statement of Facts is not reached, the parties shall appear at a confidential pre-hearing conference on August 13, 2014 at 1:00 p.m., or such other date as are agreed to by the parties and determined by the Office of the Secretary.

A copy of the Order dated June 4, 2014 is available at www.osc.gov.on.ca.

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1.4.3 Pro-Financial Asset Management Inc.

FOR IMMEDIATE RELEASE
June 12, 2014

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

AND

IN THE MATTER OF
PRO-FINANCIAL ASSET MANAGEMENT INC.

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

1. A confidential pre-hearing conference in respect of the section 8 hearings and reviews of the Director Decisions will proceed on June 26, 2014 at 2:00 p.m.

2. The hearing is adjourned to July 9, 2014 at 10:00 a.m.

3. The Temporary Order is extended to July 11, 2014.

A copy of the Order dated June 11, 2014 is available at www.osc.gov.on.ca.

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1.4.4 Issam El-Bouji et al.

FOR IMMEDIATE RELEASE
June 13, 2014

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

AND

IN THE MATTER OF
ISSAM EL-BOUJI, GLOBAL RESP CORPORATION,
GLOBAL GROWTH ASSETS INC.,
GLOBAL EDUCATIONAL TRUST FOUNDATION
AND MARGARET SINGH

TORONTO – The Commission issued an Order in the above named matter which provides that the time for complying with sections 1(d)(i), 1(e)(i) and 1(f) of the Order dated April 16, 2014 is extended to August 14, 2014.

A copy of the Order dated June 12, 2014 is available at www.osc.gov.on.ca.

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1-877-785-1555 (Toll Free)

1.4.5 Knowledge First Financial Inc.

FOR IMMEDIATE RELEASE
June 13, 2014

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

AND

IN THE MATTER OF
KNOWLEDGE FIRST FINANCIAL INC.

TORONTO – The Commission issued an Order in the above named matter which provides that the Variation Motion is dismissed.

A copy of the Order dated June 13, 2014 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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ACTING SECRETARY

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1.4.6 Conrad M. Black et al.

FOR IMMEDIATE RELEASE
June 16, 2014

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

AND

IN THE MATTER OF
CONRAD M. BLACK, JOHN A. BOULTBEE
AND PETER Y. ATKINSON

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

The Commission also issued an Order which provides that (1) the following dates are vacated: June 16, 2014 and July 22 and 23, 2014; and (2) a confidential pre-hearing conference shall take place on July 30, 2014 at 10:00 a.m., or on such other date as may be ordered by the Commission.

A copy of the Reasons and Decision on a Motion and the Order dated June 13, 2014 are available at www.osc.gov.on.ca.

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Santonia Energy Inc.

Headnote

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

Applicable Legislative Provisions

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

Citation: Re Santonia Energy Inc., 2014 ABASC 225

June 6, 2014

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,
QUÉBEC, NEW BRUNSWICK, NOVA SCOTIA,
PRINCE EDWARD ISLAND,
NEWFOUNDLAND AND LABRADOR
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
SANTONIA ENERGY INC.
(the Filer)

DECISION

Background

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

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

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

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

Interpretation

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

Representations

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

1. The Filer was incorporated under the *Business Corporations Act* (Alberta).

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

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

4. Pursuant to a statutory plan of arrangement on April 24, 2014, all of the outstanding common shares of the Filer were acquired by Tourmaline Oil Corp.

5. Prior to the transaction noted above, the common shares of the Filer were listed for trading on the Toronto Stock Exchange (the **TSX**) under the symbol "STE".

6. The common shares of the Filer were delisted from the TSX effective at the close of business on April 29, 2014.

7. No securities of the Filer, 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.

8. The Filer has no current intention to seek public financing by way of offering its securities in Canada.

9. On April 30, 2014, the Filer submitted to the British Columbia Securities Commission a written notice, pursuant to BC Instrument 11-502 *Voluntary Surrender of Reporting Issuer Status*, stating that the Filer was a closely held reporting issuer. The Filer ceased to be a reporting issuer in British Columbia as of May 10, 2014.

10. The Filer is applying for the Order that it is not a reporting issuer in each of the Jurisdictions in which it is currently a reporting issuer.

11. The Filer is not currently in default of any of its obligations under the Legislation as a reporting issuer, except its obligations to file: (i) its interim financial statements and management's discussion and analysis for the three months ended March 31, 2014, as required under National Instrument 51-102 *Continuous Disclosure Obligations*, which were due to be filed by May 15, 2014; and (ii) the related certification of such interim financial statements as required under National Instrument 52-109 *Certification of Disclosure in Filers' Annual and Interim Filings* which were due to be filed by May 15, 2014.

12. The Filer is not eligible to use the simplified procedure under the CSA Staff Notice 12-307 *Applications for a Decision that an Issuer is not a Reporting Issuer* since the Filer is in default of certain of its obligations under the Legislation as a reporting issuer, as noted above.

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

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

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision. The decision of the Decision Makers under the Legislation is that the Exemptive Relief Sought is granted and orders that the Filer is deemed to have ceased to be a reporting issuer and that the Filer's status as a reporting issuer is revoked.

"Denise Weeres"
Manager, Legal
Corporate Finance

2.1.2 New Moon Minerals Corp.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – application for an order that the issuer cease to be a reporting issuer – securities of the issuer are beneficially owned by more than 50 persons and are not traded through any exchange or market – issuer became a reporting issuer by filing a prospectus, but the offering under the prospectus did not close – the issuer does not intend to do a public offering of its securities – the issuer's securityholders are aware of the issuer's intention to cease to be a reporting issuer.

Applicable Legislative Provisions

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

May 28, 2014

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, ONTARIO,
SASKATCHEWAN AND MANITOBA
(THE JURISDICTIONS)

AND

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

AND

IN THE MATTER OF
NEW MOON MINERALS CORP.
(THE FILER)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) that the Filer be deemed to cease to be reporting issuer in the Jurisdictions (the Exemptive Relief Sought).

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

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

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

Interpretation

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

Representations

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

1. the Filer is a corporation that was incorporated on January 22, 2010 under the *Canada Business Corporations Act* (the CBCA);

2. the head office of the Filer is located in Delta, British Columbia, Canada.

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

4. the Filer applied to list its common shares on the TSX Venture Exchange (the TSX Venture) and attempted to complete an initial public offering (the First Offering) pursuant to a final long form prospectus dated August 31, 2011 (the First Prospectus), an amended and restated prospectus dated December 7, 2011 (the Amended First Prospectus) and again (the Second Offering) pursuant to a final long form prospectus dated June 28, 2012 (the Second Prospectus collectively with the First Prospectus and the Amended First Prospectus, the Prospectuses) in the Jurisdictions for which the Decision Maker issued receipts dated September 1, 2011, December 8, 2011 and June 29, 2012 respectively;

5. the Filer became a reporting issuer on September 1, 2011 when it obtained a receipt for the First Prospectus filed in the Jurisdictions;

6. market conditions did not permit the Filer to complete the First Offering or the Second Offering by way of the Prospectuses;

7. no securities of the Filer have been, or will be, distributed under the Prospectuses, and the Filer has no current intention to seek financing by way of public offering;

8. no securities of the Filer, 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;

9. the Filer does not have a TSX Venture listing;

10. the Filer is not in default of securities legislation in any jurisdiction of Canada;

11. the Filer is authorized to issue an unlimited number of common shares, of which there are currently 35,379,351 common shares issued; the Filer also has 16,560,051 common share purchase warrants outstanding and 1,300,000 fully vested stock options of the Filer outstanding;

12. the outstanding securities of the Filer are beneficially owned by 172 security holders, including 58 shareholders in British Columbia, 12 in Alberta, 28 in Saskatchewan, 59 in Manitoba, 12 in Ontario, one in Newfoundland and two whose addresses are unknown;

13. 22 of the Filer's current security holders were not security holders prior to the filing of the Prospectuses (the Post-Prospectus Security Holders); the Filer has contacted 21 of the Post-Prospectus Security Holders (the Contacted Security Holders); the Contacted Security Holders have all signed consents to the Filer cease to be reporting; the Filer has made its best efforts to contact the one other Post-Prospectus Security Holder but has been unable to contact such Post-Prospectus Security Holder;

14. the Filer issued a news release on March 20, 2014 announcing that it had filed an application in the Jurisdictions for a decision that it is not a reporting issuer;

15. no trading of the Filer's securities has occurred since it filed the First Prospectus, other than:

    (a) on September 12, 2011, the issuance of 50,000 shares pursuant to a property option agreement dated September 14, 2010;

    (b) on September 12, 2011, the issuance of 500,000 shares pursuant to a property purchase and sale agreement dated September 15, 2010;

    (c) on February 24, 2012, the issuance (under a private placement) of 1,215,000 units at a price of $0.10 per unit, each unit consisting of one common share and one warrant;

    (d) on March 1, 2012, the issuance of 200,000 shares pursuant to a property option agreement dated February 11, 2011;

    (e) on March 1, the issuance of 540,000 shares pursuant to a property option agreement dated February 9, 2010;

    (f) on March 13, 2012, the issuance (under a private placement) of 500,000 units at a price of $0.10 per unit, each unit

consisting of one common share and one warrant;

(g) on April 2, 2012, the issuance (under a private placement) of 350,000 units at a price of $0.10 per unit, each unit consisting of one common share and one warrant;

(h) on May 9, 2012, the issuance of 200,000 shares in respect of legal services pursuant to a credit agreement dated May 1, 2012 and loan bonus;

(i) on May 22, 2012, the transfer of 150,000 shares;

(j) on August 16, 2012, the transfer of 2,000 shares;

(k) on September 14, 2012, the issuance of 75,000 shares pursuant to a property option agreement dated September 14, 2010;

(l) on September 15, 2012, the issuance of 500,000 shares pursuant to a property purchase and sale agreement dated September 15, 2010;

(m) on January 22, 2013, the issuance (under a private placement) of 4,160,000 units at a price of $0.025 per unit, each unit consisting of one common share and one warrant;

(n) on April 30, 2013, the issuance (under a private placement) of 5,260,000 units at a price of $0.025 per unit, each unit consisting of one common share and one warrant;

(o) on April 30, 2013, the issuance (in settlement of debt) of 2,475,051 units at a price of $0.025 per unit, each unit consisting of one common share and one warrant;

(p) on April 7, 2014, the issuance (under a private placement) of 1,000,000 units at a price of $0.025 per unit, each unit consisting of one common share and one warrant;

16. except as provided for in paragraph 15 above, to the knowledge of the Filer, no trading of its securities has occurred since it filed the First Prospectus;

17. the Filer is not eligible to use the simplified procedure under CSA Staff Notice 12-307 *Applications for a decision that an Issuer is not a Reporting Issuer* because it is a reporting issuer in British Columbia and is unable to cease reporting in British Columbia under BCI 11-502 *Voluntary Surrender of Reporting Issuer Status* because it has more than 50 beneficial security holders and therefore has too many security holders to use the simplified procedure; and

18. if the Exemptive Relief Sought is granted, the Filer will no longer be a reporting issuer or equivalent in any jurisdiction in Canada.

Decision

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

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

"Andrew S. Richardson"
Acting Director, Corporate Finance
British Columbia Securities Commission

2.1.3 Alvest International

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Dual application for relief from the prospectus and registration requirements for certain trades made in connection with an employee share offering by a French issuer – The issuer cannot rely on the employee exemption in section 2.24 of National Instrument 45-106 Prospectus and Registration Exemptions because the securities are not being offered to Canadian employees directly by the issuer but rather through a special purpose entity – Canadian participants will receive disclosure documents – The special purpose entity is subject to the supervision of the local securities regulator – Canadian employees will not be induced to participate in the offering by expectation of employment or continued employment – There is no market for the securities of the issuer in Canada – The securities will not be listed on any stock exchange – Units are not transferable by the Canadian participants – The number of Canadian share ownership is *de minimis* – Relief granted.

Applicable Legislative Provisions

Securities Act (Ontario), ss. 53, 74.
National Instrument 45-106 Prospectus and Registration Exemptions, s. 24
National Instrument 31-103 Registration Requirements and Exemptions, s. 8.16.
National Instrument 45-102 Resale of Securities, s. 2.14.

TRANSLATION

April 23, 2014

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUÉBEC AND ONTARIO
(THE "FILING JURISDICTIONS")

AND

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

AND

IN THE MATTER OF
ALVEST INTERNATIONAL
(THE "FILER")

DECISION

Background

The securities regulatory authority or regulator in each of the Filing Jurisdictions (the "**Decision Makers**") has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") for:

1. an exemption from the prospectus requirements of the Legislation (the "**Prospectus Relief**") so that such requirements do not apply to trades in units "C" and "units "D" (collectively, the "**Units**") of a *fonds commun de placement d'entreprise* named Alvest (the "**FCPE**"), made pursuant to the Employee Share Offering (as defined below) to or with Qualifying Employees (as defined below) resident in the Filing Jurisdictions and in the Provinces of British Columbia and Alberta (collectively, the "**Canadian Employees**", and Canadian Employees who subscribe for Units, the "**Canadian Participants**"); and

2. an exemption from the dealer registration requirements of the Legislation (the "**Registration Relief**") so that such requirements do not apply to the Filer and the Local Affiliates (as defined below), the FCPE and Equalis Capital France (the "**Management Company**") in respect of trades in Units made pursuant to the Employee Share Offering to or with Canadian Employees.

(the Prospectus Relief and the Registration Relief being collectively referred to as the "**Offering Relief**").

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* ("**Regulation 11-102**") is intended to be relied upon in British Columbia and Alberta, 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*, *Regulation 45-106 respecting Prospectus and Registration Exemptions* and Regulation 11-102 have the same meaning as used in this decision, unless otherwise defined.

Representations

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

1. The Filer is a corporation formed under the laws of France. It is not, and has no current intention of becoming, a reporting issuer under the Legislation

or under the securities legislation of any other jurisdiction of Canada. The head office of the Filer is located in France. The shares of the Filer (the "**Shares**") are privately owned. No Share is listed on a stock exchange and the Filer currently does not intend to list one of its securities on a stock exchange. None of the shareholders is a Canadian resident. The Filer is not in default under the Legislation or under the securities legislation of any other jurisdiction of Canada.

2. The Filer carries on business in Canada through two affiliated companies that employ Canadian Employees, TLD (Canada) Inc. and Sage Parts Canada Inc. (collectively, the "**Local Affiliates**," and together with the Filer and other affiliates of the Filer, the "**Alvest Group**"). The Local Affiliates are not in default under the Legislation or under the securities legislation of any other jurisdiction of Canada.

3. Each of the Local Affiliates is a direct or indirect controlled subsidiary of the Filer and is not, and has no current intention of becoming, a reporting issuer under the Legislation or under the securities legislation of any other jurisdiction of Canada. The main affiliate of the Filer in Canada is TLD (Canada) Inc., located in Sherbrooke (Québec). There are more Canadian senior management members of the Filer that reside in Québec and there are more assets of the Filer located in Québec than any other Province of Canada.

4. The Filer has established a global employee share offering for employees of the Alvest Group (the "**Employee Share Offering**"). The Employee Share Offering involves an offering of Units to be subscribed through the FCPE, which has been established for the purposes of implementing the Employee Share Offering. There is no current intention for the FCPE to become a reporting issuer under the Legislation or the securities legislation of any other jurisdiction of Canada.

5. A *fonds commun de placement d'entreprise* is a form of collective shareholding vehicle commonly used in France for the conservation or custodianship of shares held by employee investors. The FCPE is a limited liability entity under the French law. The FCPE has been registered with the French *Autorité des marchés financiers* (the "**French AMF**") and approved by it on December 27th 2013 and remains subject to the regulatory and supervisory authority of the French AMF.

6. Only persons who are employees of a member of the Alvest Group for at least three months at the end of the subscription period for the Employee Share Offering (the "**Qualifying Employees**") will be allowed to participate in the Employee Share Offering.

7. The Units are not currently and will not be listed on any stock exchange.

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

9. Under the Employee Share Offering, Canadian Participants will subscribe for Units in the FCPE which itself will then subscribe for Shares, and hold them on behalf of Canadian Participants, using the Canadian Participants' contributions and the employer contributions from Local Affiliates that employ the Canadian Participants, as described in paragraph 10. Subscription to the FCPE will be limited to a single period of three weeks, beginning as soon as the Offering Relief has been granted by the Decision Makers. The subscription price will be the Canadian dollar equivalent equal to the Unit price, set at 10 Euro per Unit, based itself on a Share price set at 1 Euro per Share. The Share price has been set by an independent appraiser (the "**Independent Appraiser**") in accordance with regulations from the French AMF and as described in the terms and rules (the "**Rules**") of the FCPE.

10. The Local Affiliate employing a Canadian Participant will also contribute on behalf of such Canadian Participant an amount into the Employee Share Offering. For each contribution that a Canadian Participant makes up to the Canadian dollar equivalent of 500 Euros, the Local Affiliate employing such Canadian Participant will contribute 100 % of such amount on behalf of such Canadian Participant. If a Canadian Participant contributes more than the Canadian dollar equivalent of 500 Euros, then the Local Affiliate that employs such Canadian Participant will not contribute any amount in respect of the portion of the Canadian Participant's contribution that exceeds the Canadian dollar equivalent of 500 Euros. The maximum amount that a Canadian Participant is allowed to contribute is the Canadian dollar equivalent of 1,000 Euros.

11. The Unit value of the FCPE will be calculated and reported to the French AMF every six months, based on the net assets of the FCPE divided by the number of Units outstanding. The value of FCPE Units will be based on the value of the underlying Shares but, as described in paragraph 9, the number of Units of the FCPE will not correspond to the number of the underlying Shares. The underlying value of the Shares will be re-evaluated once a year by the Independent

Appraiser in accordance with regulations from the French AMF and as described in the Rules of the FCPE.

12. Under no circumstances will a Canadian Participant be liable, to the Filer or the FCPE, for an amount exceeding its contribution to the Employee Share Offering.

13. At the end of the Lock-Up Period a Canadian Participant may:

    (a) request the redemption of Units in the FCPE in consideration for a cash payment equal to the then value of the Unit, less a transaction cost of 1 % (the "**Transaction Cost**"), or

    (b) continue to hold Units in the FCPE and request the redemption of those Units at a later date in consideration for a cash payment equal to the then value of the Unit less the Transaction Cost.

14. In the event of an early unwind resulting from the Canadian Participant exercising one of the exceptions to the Lock-Up Period prescribed by French law and meeting the applicable criteria, a Canadian Participant may request the redemption of Units in the FCPE in consideration for a cash payment equal to the then value of the Unit less the Transaction Cost.

15. Dividends paid on the Shares held in the FCPE will be contributed to the FCPE and

    (a) either paid in cash to the Unit "D" holder; or

    (b) reinvested by the FCPE in cash or cash equivalents on behalf of the Unit "C" holder. To reflect this reinvestment, no new Units will be issued. Instead, the reinvestment will increase the asset base of the Unit "C" of the FCPE as well as the value of the Units "C" held by the Canadian Participants.

16. The portfolio of the FCPE will consist almost entirely of Shares, but may, from time to time, include cash in respect of dividends paid on the Shares. From time to time, the portfolio may also include cash or cash equivalents that the FCPE may hold for the purposes of Unit redemptions. Initially the portfolio of the FCPE will consist of 90 % of Shares and 10 % of cash equivalents.

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

18. The Management Company's portfolio management activities in connection with the Employee Share Offering and the FCPE are limited to subscribing for Shares from the Filer, selling such Shares to the Filer at the Share price set by the Independent Appraiser as necessary in order to fund redemption requests and investing available cash in cash equivalents.

19. The Management Company is also responsible for preparing accounting documents and publishing periodic informational documents about the FCPE as provided by the Rules of the FCPE. The Management Company's activities do not affect the underlying value of the Shares. To the Filer's knowledge, the Management Company is not in default of the Legislation or the securities legislation of any other jurisdiction of Canada.

20. The Management Company is obliged to act exclusively in the best interest of the Canadian Participants and is liable to them, jointly and severally with the Depositary (as this term is defined hereinafter) for any violation of rules and regulations governing the FCPE, any violation of the Rules of the FCPE or for any self-dealing or negligence.

21. The members of the Alvest Group, the FCPE and the Management Company, as well as any director, officer, employee, agent or representative respective thereof will not provide investment advice to the Canadians Employees with respect to an investment in the Shares or the Units nor to the Canadian Participants in respect of the holding or redemption of the Units.

22. Shares issued in the Employee Share Offering will be deposited in the FCPE through *Banque Fédérative du Crédit Mutuel* (the "**Depositary**"), a large French commercial bank subject to French banking legislation.

23. The accounts of the FCPE are audited by chartered auditors, appointed for a period of six years with the agreement of the French AMF.

24. All management charges relating to the FCPE will be paid by the Filer, as provided in the Rules of the FCPE.

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

26. The total amount which may be invested by a Canadian Employee in the Employee Share Offering cannot exceed 25 % of his or her gross annual compensation for the 2014 calendar year.

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

28. Canadian Employees can have access, through their Management or their Human Resources Services, to a copy of a presentation of the Filer, its annual financial statements consolidated and audited, as well as a copy of the information documents of the Filer deposited with the French AMF relating to the Shares and the Rules of the FCPE. The new value of the Share and general information on the business of the Filer will also be communicated annually to the Canadian Employees.

29. Canadian Participants will receive an initial statement of their holdings under the Employee Share Offering, together with an updated statement at least once per year.

30. There are approximately 150 Qualifying Employees resident in Canada (with the greatest number, approximately 120, resident of Québec), who represent, in aggregate, less than 15 % of the total number of employees in the Alvest Group worldwide.

31. At the date hereof and after giving effect to the Employee Share Offering, Canadian Participants do not and will not beneficially own (which term, for the purposes of this paragraph, is deemed to include all Shares held by the FCPE on behalf of Canadian Participants) more than 1 % of the outstanding Shares as shown on the books of the Filer.

32. Neither the FCPE nor an entity being a member of the Alvest Group are in default under the Legislation or under the securities legislation of any other jurisdiction of Canada.

Decision

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

The decision of the Decision Makers under the Legislation is that the Offering Relief is granted provided that the prospectus requirements of the Legislation will apply to the first trade in any Units acquired by Canadian Participants pursuant to this decision.

"Lucie J. Roy"
Senior Director, Corporate Finance

2.1.4 TD Asset Management Inc. and TD Investment Services Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the requirement in s.3.2(2), NI 81-101 to deliver a fund facts document to investors for subsequent purchases of mutual fund securities made pursuant to pre-authorized investment plans, subject to certain conditions.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 3.2(2), 6.1.

June 12, 2014

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE JURISDICTION)

AND

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

AND

IN THE MATTER OF
TD ASSET MANAGEMENT INC.
(TDAM)

AND

IN THE MATTER OF
TD INVESTMENT SERVICES INC.
(REPRESENTATIVE DEALER)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from TDAM on behalf of the mutual funds (the **Funds**) that are or will be managed from time to time by TDAM or by an affiliate or successor of TDAM (the **Filer**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that the requirement in the Legislation to send or deliver the most recently filed fund facts document (**Fund Facts**) at the same time and in the same manner as otherwise required for the prospectus (the **Fund Facts Delivery Requirement**), not apply in respect of purchases of securities of the Funds on a regularly scheduled basis pursuant to a pre-authorized investment plan, including employee purchase plans, capital accumulation plans, or any other contracts or arrangements for the purchase of a specified amount on a dollar or percentage basis of securities of the Funds (each an **Investment Plan**) (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, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

1. The Filer is a wholly-owned subsidiary of The Toronto-Dominion Bank and is registered under the Act in the categories of investment fund manager, portfolio manager, exempt market dealer and, under the *Commodity Futures Act* (Ontario), in the category of commodity trading manager. Its head office is in Toronto, Ontario.

2. The Funds are, or will be, reporting issuers in one or more of the Jurisdictions. Securities of the Funds are, or will be, qualified for sale on a continuous basis pursuant to a simplified prospectus.

3. Neither the Filer, nor any of its Funds, is in default of any of the requirements of securities legislation in any Jurisdiction.

4. Securities of each Fund are, or will be, distributed through dealers which may or may not be affiliated with the Filer (individually, each dealer that distributes securities of a Fund managed by the Filer is a **Dealer**, and includes the Representative Dealer, and collectively, the **Dealers**).

5. Each Dealer is, or will be, registered as a dealer in one or more of the Jurisdictions.

6. Certain series of certain of the existing Funds may be purchased through the Representative Dealer.

7. Each of the investors may be offered the opportunity to invest in a Fund on a regular or periodic basis pursuant to an Investment Plan.

8. Under the terms of an Investment Plan, an investor instructs a Dealer to accept additional contributions on a pre-determined frequency and/or periodic basis and to apply such contributions on each scheduled investment date to additional investments in specified Funds. The investor authorizes a Dealer to debit a specified account or otherwise makes funds available in the amount of the additional contributions. An investor may terminate the instructions, or give amended instructions, at any time.

9. Currently, an investor who establishes an Investment Plan (a **Participant**) receives a copy of the latest simplified prospectus (or Fund Facts) relating to the relevant securities of the Fund at the time an Investment Plan is established or following the first purchase.

10. An agreement of purchase and sale of mutual fund securities is not binding on the purchaser if a Dealer receives notice of the intention of the purchaser not to be bound by the agreement of purchase and sale within a specified time period.

11. The terms of an Investment Plan are such that a Participant can terminate the instructions to the Dealer at any time. Therefore, there is no agreement of purchase and sale until a scheduled investment date arrives and the instructions have not been terminated. At this point, the securities are purchased.

12. Pursuant to the prospectus delivery requirement in the Legislation (the **Prospectus Delivery Requirement**), a Dealer not acting as agent of the purchaser, who receives an order or subscription for a security of a Fund offered in a distribution to which the Legislation applies, must, unless it has previously done so, send to the purchaser the latest simplified prospectus and any amendment to the simplified prospectus filed either before entering into an agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after entering into such agreement.

13. Currently, the Prospectus Delivery Requirement obligates a Dealer not acting as agent for the applicable investor to send or deliver to all Participants who purchase securities of the Funds pursuant to an Investment Plan, the latest simplified prospectus of the applicable Funds at the time the investor enters into the Investment Plan or following the first purchase and thereafter, any subsequent simplified prospectus or amendment thereto (a **Renewal Prospectus**).

14. With the implementation of the amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) and consequential amendments as described in *Stage 2 of Point of Sale Disclosure for Mutual Funds – Delivery of Fund Facts* (**Stage 2 POS**), Dealers must deliver the Fund Facts in lieu of delivering the simplified prospectus to all investors, including the Participants, pursuant to the Fund Facts Delivery Requirement, effective June 13, 2014.

15. Pursuant to the Fund Facts Delivery Requirement, a Dealer not acting as agent of the purchaser, who receives an order or subscription for a security of a Fund offered in a distribution to which the Legislation applies, must, unless it has previously done so, send to the purchaser the Fund Facts most recently filed either before entering into an

agreement of purchase and sale resulting from the order or subscription or not later than midnight on the second day, exclusive of Saturdays, Sundays and holidays, after entering into such agreement.

16. The Filer has obtained exemptive relief (**PAC Relief**) dated October 22, 2004 from the Prospectus Delivery Requirement to deliver the Renewal Prospectus of the Funds to Participants in an Investment Plan unless the Participant asks to receive them.

17. The PAC Relief terminates one year after the publication in final form of any legislation or rule dealing with the Prospectus Delivery Requirement (the **Sunset Clause**).

18. As a result of the publication of Stage 2 POS on June 13, 2013, the PAC Relief will terminate on June 13, 2014, pursuant to the Sunset Clause.

19. The proposed amendments to NI 81-101 and consequential amendments as described in *Stage 3 of the Point of Sale Disclosure for Mutual Funds – Point of Sale Delivery of Fund Facts*, and published for comment on March 26, 2014, contemplate an exception from the Fund Facts Delivery Requirement for Investment Plans (**Proposed Exception**).

20. Until the Canadian Securities Administrators publish final amendments to implement the Proposed Exception, the Filer would like the Investment Plans to continue to operate in the same manner and using the same process as the existing regime under the PAC Relief with the exception of the delivery of a Fund Facts to a Participant instead of a simplified prospectus.

Decision

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

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

1. A one-time notice is sent or delivered to current Participants, no later than the next scheduled annual reminder notice required by the Filer's current PAC Relief, in lieu of receiving a Fund Facts for any purchase of securities of the Funds made on or after June 13, 2014 under the Investment Plan, advising the current Participants:

    (a) that they will not receive the Fund Facts when they purchase securities of the applicable Fund under the Investment Plan unless

        (i) the Participant requests the Fund Facts; or

        (ii) the Participant has previously instructed that they want to receive the simplified prospectus, in which case, the Fund Facts will now be sent or delivered in lieu of the simplified prospectus;

    (b) that they may request the most recently filed Fund Facts by calling a specified toll-free number or by sending a request via mail or e-mail to a specified address or email address;

    (c) that the most recently filed Fund Facts will be sent or delivered to any Participant that requests it at no cost to the Participant;

    (d) that the most recently filed Fund Facts may be found either on the SEDAR website or on the Filer's website;

    (e) that they will not have the right to withdraw from an agreement of purchase and sale (a **Withdrawal Right**) in respect of a purchase of securities of any Funds made pursuant to an Investment Plan, but they will have the right of action for damages or rescission in the event any Fund Facts or document incorporated by reference into any Renewal Prospectus contains a misrepresentation (a **Misrepresentation Right**), whether or not they request the Fund Facts; and

    (f) that they will continue to have the right to terminate the Investment Plan at any time before a scheduled investment date.

2. Investors who become Participants and invest in any Funds on or after June 13, 2014 will be sent or delivered the most recently filed Fund Facts and a one-time notice advising the Participants:

    (a) that they will not receive the Fund Facts when they subsequently purchase securities of the applicable Fund under the Investment Plan unless they request the Fund Facts at the time they initially invest in an Investment

Plan or subsequently request the Fund Facts by calling a specified toll-free number or by sending a request via mail or e-mail to a specified address or email address;

(b) that the most recently filed Fund Facts will be sent or delivered to any Participant that requests it at no cost to the Participant;

(c) that the most recently filed Fund Facts may be found either on the SEDAR website or on the Filer's website;

(d) that they will not have a Withdrawal Right in respect of a purchase made pursuant to an Investment Plan, other than in respect of the initial purchase and sale, but they will have a Misrepresentation Right, whether or not they request the Fund Facts; and

(e) that they have the right to terminate an Investment Plan at any time before a scheduled investment date.

3. Following either 1 or 2 above, Participants will be advised annually in writing as to how they can request the Fund Facts and that they have a Misrepresentation Right.

The decision, as it relates to a Jurisdiction, will terminate on the effective date following any applicable transition period for any legislation or rule dealing with the Proposed Exception.

"Vera Nunes"
Manager, Investment Funds and Structured Products Branch
Ontario Securities Commission

2.1.5 Hesperian Capital Management Ltd.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – rollover transaction exempt from the self-dealing prohibitions in paragraph s.13.5(2)(b)(iii), National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – funds managed and advised by the same portfolio manager – one time trade of securities from non-redeemable investment fund to mutual fund in connection with rollover of flow-through LP – non-redeemable investment fund is not a reporting issuer.

Applicable Legislative Provisions

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

June 12, 2014

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
HESPERIAN CAPITAL MANAGEMENT LTD.
(the Filer)

DECISION

Background

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**) for exemptive relief from sub-paragraph 13.5(2)(b)(iii) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), which prohibits a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase or sell a security from or to the investment portfolio of an investment fund for which a responsible person acts as an adviser (the **Exemption Sought**).

The Filer seeks the Exemption Sought with respect to and in order to effect the transfer of the assets of Centurion Short Duration 2013 Flow-Through Limited Partnership (the **Partnership**) to Norrep Energy Class of Norrep Opportunities Corp. (the **Mutual Fund Corp.**) in consideration for the issue to the Partnership of series I shares of Norrep Energy Class (the **Fund**), a class of shares of the Mutual Fund Corp., on a tax-deferred basis, followed by the dissolution and winding-up of the Partnership (the **Roll-over Transaction**).

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

(a) the Alberta Securities Commission is the principal regulator (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 each of the provinces and territories of Canada; and

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

Interpretation

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

Representations

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

1. The Partnership is a limited partnership established under the laws of the Province of Alberta and governed by a limited partnership agreement dated as of April 3, 2013 (the **Partnership Agreement**). On April 30, 2013, May 2, 2013 and June 18, 2013, units of the Partnership were issued on a private placement basis pursuant to exemptions from the prospectus requirement in accordance with subscription agreements executed by unitholders and the Partnership (the **Subscription Agreements**). The proceeds raised by the Partnership pursuant to the offering were used principally to subscribe for flow-through shares of resource issuers in accordance with the investment criteria and restrictions set out in the Partnership Agreement. As disclosed in its term sheet provided to potential unitholders, and in the Subscription Agreements executed by unitholders, the Partnership intends on or before December 31, 2014 to transfer its assets to the Mutual Fund Corp. (which specifically allocates such assets as assets of the Fund) in exchange for series I shares of the Fund to be distributed to the investors in the Partnership, subject to compliance with all applicable laws. For ease of reference throughout this document, the transfer of the Partnership's

assets to the Mutual Fund Corp. and allocation to the Fund will be referred to as the transfer of the Partnership's assets to the Fund.

2. The Partnership is a "non-redeemable investment fund" as defined under applicable securities laws. Norrep FTLP Management Inc. (the **General Partner**), a corporation incorporated under the *Business Corporations Act* (Alberta), is the general partner of the Partnership and, pursuant to the Partnership Agreement, has the exclusive authority to manage and operate the business and affairs of the Partnership. The Filer was retained by the General Partner on behalf of the Partnership to manage and operate the business and affairs of the Partnership and to manage the investment portfolio of the Partnership.

3. The Fund is a class of shares of the Mutual Fund Corp., a mutual fund corporation incorporated under the *Business Corporations Act* (Alberta). Shares of the Fund are currently offered under a simplified prospectus dated June 19, 2013 and an annual information form dated June 19, 2013 (as amended December 30, 2013). As disclosed in its simplified prospectus, the Mutual Fund Corp. can facilitate exchange transactions pursuant to which the assets of one or more limited partnerships are transferred into the Fund on a mutual fund rollover transaction.

4. The Fund is a "mutual fund" as defined under applicable securities laws.

5. The Filer is the manager of the Fund and also manages the investment portfolio of the Fund.

6. The Filer is registered as investment fund manager, portfolio manager and exempt market dealer in the Provinces of Alberta and Ontario; as portfolio manager and exempt market dealer in British Columbia; and as investment fund manager in Newfoundland and Labrador. The Filer is not currently in default of any requirement of securities legislation in any of these jurisdictions.

7. The Partnership is not, and will not be, a "reporting issuer" or equivalent under applicable securities laws.

8. The Fund is a reporting issuer under the applicable securities legislation of each of the Provinces of Canada (except Quebec) and is not on the list of defaulting reporting issuers maintained under such securities legislation.

9. The General Partner, on behalf of the Partnership, and the Filer, on behalf of the Fund, intend to effect the Roll-over Transaction on or prior to December 31, 2014 (the Effective Date), subject to regulatory approval and the satisfaction of all other conditions precedent to the proposed transaction.

10. Although not required by National Instrument 81-107 *Independent Review Committee for Investment Funds* (**NI 81-107**), an independent review committee (**IRC**) has been appointed for the Partnership and maintained in all material respects as if NI 81-107 applied to the Partnership, and the Roll-over Transaction has been presented to the IRC for a recommendation. The IRC of the Partnership considered the Roll-over Transaction and provided a positive recommendation on the basis that the Roll-over Transaction would achieve a fair and reasonable result for the Partnership.

11. As required by NI 81-107, an IRC has been appointed for the Fund. The IRC of the Fund has also considered and provided a positive recommendation for the Roll-over Transaction on the basis that the Roll-over Transaction would achieve a fair and reasonable result for the Fund.

12. The Roll-over Transaction is not a matter that requires approval by the unitholders of the Partnership or the shareholders of the Fund.

13. No sales charges, redemption fees or other fees or commissions will be payable by unitholders of the Partnership in connection with the Roll-over Transaction.

14. Following completion of the Roll-over Transaction, the Fund will continue as a publicly offered open-end mutual fund and the Partnership will be wound up and terminated.

15. The Roll-over Transaction will be completed on a tax-deferred basis.

16. The sale of the assets of the Partnership to the Fund (and the corresponding purchase of such assets by the Fund) as a step in the Roll-over Transaction may be considered a purchase or sale of securities, knowingly caused by a registered adviser that manages the investment portfolios of both the Partnership and the Fund, from the Partnership to, or by the Fund from, an investment fund for which a "responsible person" acts as an adviser, contrary to sub-paragraph 13.5(2)(b)(iii) of NI 31-103.

17. Completion of the Roll-over Transaction will involve two principal steps as follows:

    (a) on the Effective Date, the Partnership will, on a tax-deferred basis, transfer its assets to the Fund in exchange for series I shares of the Fund having a value equal to the Partnership's aggregate net asset value on the Effective Date; and

(b) the series I shares of the Fund that the Partnership received as consideration for the transfer of its assets will subsequently be distributed to the unitholders of the Partnership on a pro rata basis on the dissolution and winding up of the Partnership.

18. The assets of the Partnership will be valued in accordance with the formula for net asset value in the Partnership Agreement as prescribed by the Partnership Agreement, and, at this value, the assets of the Partnership will subsequently be exchanged for series I shares of the Fund.

19. Unitholders of the Partnership will not be required to take any action in order to be recognized as shareholders of the Fund or to be in a position to redeem the shares of the Fund following completion of the Roll-over Transaction.

20. In the absence of this order, the Filer would be prohibited from knowingly causing the purchase and sale of securities of the Partnership (and thereby transferring its assets to the Fund) in connection with the Roll-over Transaction.

21. The effect of the Roll-over Transaction is that unitholders of the Partnership will become shareholders of the Fund and the Fund would then own directly all of the assets previously owned by the Partnership. The assets of the Partnership to be transferred on the Effective Date will be acceptable to the portfolio adviser of the Fund and will conform with the investment objectives of the Fund. The General Partner believes that the Roll-over Transaction will be beneficial to unitholders of the Partnership because:

(a) the Roll-over Transaction will provide for liquidity because the shares of the Fund distributed to unitholders will be redeemable;

(b) the Roll-over Transaction will provide for a tax-deferral should a unitholder wish to maintain his or her investment until a future date; and

(c) the alternative of liquidating the assets of the Partnership in a short period of time may have a larger negative impact on the Partnership's net asset value, in comparison to liquidating the corresponding assets of the Fund to fund redemption requests on a shareholder by shareholder basis.

22. The Filer believes that the Roll-over Transaction will be beneficial to shareholders of the Fund because:

(a) the Roll-over Transaction will result in the Fund having a larger portfolio and so should offer improved portfolio diversification to shareholders of the Fund; and

(b) shareholders of the Fund should benefit from increased economies of scale and lower proportionate fund operating expenses.

23. The General Partner and the Filer believe that the Roll-over Transaction will not adversely affect unitholders of the Partnership or shareholders of the Fund and will in fact be in the best interests of such unitholders and shareholders.

24. The transfer of the assets of the Partnership to the Fund will not adversely impact the liquidity of the Fund.

25. The transfer of the assets of the Partnership to the Fund will not adversely impact the Fund's compliance with applicable securities law requirements.

26. The benefits of the Roll-over Transaction are precisely what the unitholders of the Partnership anticipated would occur and authorized the General Partner to implement when they made their investment in the Partnership, as disclosed in the term sheet provided to potential unitholders and in the Subscription Agreements executed by unitholders. Unitholders provided their consent to the Roll over Transaction in the Subscription Agreements executed by unitholders.

27. If NI 81-107 were applicable to the Partnership, the Roll-over Transaction would comply with subsection 6.1(2) of NI 81-107 and the Exemption Sought would not be necessary.

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 for the Rollover Transaction is granted.

"David Linder"
Executive Director
Alberta Securities Commission

2.2 Orders

2.2.1 Irish Residential Properties Reit Limited and Canadian Apartment Properties Real Estate Investment Trust

Headnote

Subsection 74(1) – Subsection 74(1) – Application for exemption from prospectus requirement in connection with first trade of shares of issuer through exchange or market outside of Canada or to person or company outside of Canada – issuer not a reporting issuer in any jurisdiction in Canada – conditions of the exemption in section 2.14 of National Instrument 45-102 Resale of Securities not satisfied as residents of Canada own more than 10% of the total number of shares –relief granted subject to conditions, including at the date of the trade, the issuer is not a reporting issuer in any jurisdiction of Canada where that concept exists, the trade is made through an exchange or market outside of Canada or to a person or company outside of Canada and immediately following the private placements, including the Ontario private placements, the Canadian security holders will beneficially own, directly or indirectly, no more than 25% of the total issued and outstanding ordinary shares.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 53, 74(1).
National Instrument 45-102 Resale of Securities, s. 2.14.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(THE "JURISDICTION")

AND

IN THE MATTER OF
IRISH RESIDENTIAL PROPERTIES REIT LIMITED
("IRES REIT")

AND

CANADIAN APARTMENT PROPERTIES REAL ESTATE INVESTMENT TRUST
("CAPREIT", AND TOGETHER WITH IRES REIT, THE "APPLICANTS")

ORDER

Background

The principal securities regulator (the "**Decision Maker**") in the Jurisdiction has received an application from the Applicants for a decision pursuant to Section 74(1) of the *Securities Act* (Ontario) for discretionary relief from the 10% De Minimis Condition (as defined below) under paragraph 2.14(1)(b) of National Instrument 45-102 *Resale of Securities* ("**NI 45-102**") for certain trades of ordinary shares of IRES REIT (the "**Ordinary Shares**") that are proposed to be distributed to CAPREIT and institutional investors in the Jurisdiction on a prospectus exempt basis (the "**Ontario Private Placements**" and such relief referred to herein as the "**Requested Resale Relief**").

Interpretation

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

Representations

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

1. CAPREIT was formed in 1997 and is an internally-managed, unincorporated, open-ended real estate investment trust governed under the laws of the Jurisdiction. CAPREIT is a reporting issuer in all provinces and territories of Canada and its units are listed for trading on the Toronto Stock Exchange (the "**TSX**") under the symbol "CAR.UN". The head office of CAPREIT is located at 11 Church Street, Suite 401, Toronto, Ontario, Canada, M5E 1W1.

2. IRES REIT was incorporated in Ireland on July 2, 2013 as a company under the Irish Companies Act and is domiciled in Ireland.

3. IRES REIT is a property investment company which will acquire, hold and manage investments primarily focused on residential real estate and related loans and ancillary and/or strategically located commercial property in Ireland.

4. IRES REIT will be externally managed by CR Fund Management Limited ("**CR**"), which is a limited liability corporation governed under the laws of Ireland and is an indirect wholly-owned subsidiary of CAPREIT, subject to CR being granted the requisite authorization under the Alternative Investment Fund Management Directive.

5. IRES REIT's initial portfolio will consist of a portfolio of Irish properties currently owned by CAPREIT, which will be sold by CAPREIT to IRES REIT at the closing of the initial public offering of IRES REIT in Ireland (the "**IPO**") at their appraised value.

6. IRES REIT is not a reporting issuer or its equivalent in the Jurisdiction or any other province or territory of Canada, nor are any of its securities listed or posted for trading on any exchange or market located in Canada.

7. While the exact number of shares to be issued has not yet been determined, IRES REIT proposes to conduct an IPO of the Ordinary Shares on the Irish Stock Exchange Limited (the "**Irish Stock Exchange**"). The total offering size (including the Ontario Private Placements) is expected to be in the range of 200-250 million Euros.

8. In connection with the IPO, IRES REIT also intends to distribute Ordinary Shares on a prospectus exempt basis (the "**Private Placements**") in various jurisdictions including in Canada (solely in the Jurisdiction under the Ontario Private Placements) and the United States in accordance with all applicable laws.

9. Assuming completion of the IPO, CAPREIT intends to subscribe for Ordinary Shares under the Ontario Private Placements, representing between 20 and 40 million Euros of the total offering, or between 10% and 25% of the issued and outstanding Ordinary Shares of IRES REIT (depending on the size of the offering) following completion of the IPO and the Private Placements. CAPREIT will also agree with the underwriters of the IPO that, subject to certain exceptions, any Ordinary Shares issued to CAPREIT on the closing of the IPO under the Ontario Private Placements will be subject to a lock-up period that is expected to be two years (the "**Lock-up**").

10. In addition to CAPREIT, it is anticipated that under the Ontario Private Placements, the opportunity to invest in the Ordinary Shares will be extended to a very limited number of institutional accredited investors (each an "**accredited investor**") as defined in National Instrument 45-106 *Prospectus and Registration Exemptions* ("**NI 45-106**"), who will all also constitute institutional permitted clients as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("**NI 31-103**").

11. All of the proposed investors (with the exception of CAPREIT) in respect of whom the Requested Relief is being sought, up to 16, will be permitted clients under NI 31-103 comprised of entities such as Canadian financial institutions, Canadian regulated pension funds and investment funds managed by registered investment fund managers and advised by registered advisors. The permitted clients will not comprise any person or entity who qualifies solely under paragraphs (k), (o), (p) or (r) of the definition of the term "permitted client" under NI 31-103 (the investors pursuant to the Ontario Private Placements described in this paragraph and CAPREIT are referred to collectively as the "**Permitted Clients**").

12. It is expected that CAPREIT, together with other Permitted Clients, will own more than 10% of the outstanding Ordinary Shares immediately following the Ontario Private Placements.

13. Immediately following the Private Placements, including the Ontario Private Placements, and the IPO, CAPREIT will own, directly or indirectly, between 20 and 40 million Euros of the total offering, or between 10% and 25% of the total issued and outstanding Ordinary Shares (depending on the size of the offering), and the Permitted Clients together will represent up to 25% of the total number of owners directly or indirectly of Ordinary Shares. The foregoing is based solely on the underwriters' estimates of demand. The IPO will be marketed almost entirely to institutional investors, with a small portion only being marketed to accredited investors (or the equivalent) in Ireland.

14. Securityholders of IRES REIT in the Jurisdiction will be entitled to all relevant disclosure that is required to be provided to securityholders generally under various provisions of European Union and Irish legislation. The main disclosure requirements will be pursuant to the Irish Listing Rules and the Irish Transparency Regulations, and consist of regular continuous disclosure filings under transparency regulations (such as annual and semi-annual financial reports, interim management statements, reports of acquisitions and dispositions of securities, etc.) as well as timely disclosure obligations relating to insider information/market abuse (such as disclosure of insider information, and certain changes in the business and/or capital). Such disclosures are usually provided through announcements made via a prescribed Regulatory Information Service, and in Ireland it will be through the announcement service provided by the Irish Stock Exchange. Certain disclosures such as annual reports and accounts and notices of annual general meeting will

generally be sent to securityholders, regardless of where they are resident and are required to be published on IRES REIT's website.

15. A resale by a Permitted Client of securities pursuant to the Requested Resale Relief will be made through any exchange or market outside of Canada or to a person or company outside Canada. Such resales will involve acts in furtherance of such trades in the Jurisdiction and will therefore constitute trades in the Jurisdiction. Accordingly, in the absence of an order granting the Requested Resale Relief, the first trade in the Ordinary Shares would be deemed a distribution pursuant to NI 45-102 unless, among other things, IRES REIT has been a reporting issuer for the four months immediately preceding the trade in the Jurisdiction.

16. Since IRES REIT is not a reporting issuer or its equivalent in the Jurisdiction, the prospectus exemptions contained in sections 2.5 and 2.6 of NI 45-102 will not be available.

17. Subsection 2.14(1) of NI 45-102 provides an exemption from the prospectus requirement for the first trade in securities of a non-reporting issuer distributed under a prospectus exemption. The Ordinary Shares to be distributed in the Ontario Private Placements will be distributed to Permitted Clients pursuant to the accredited investor exemption under section 2.3 of NI 45-106.

18. Specifically, subsection 2.14(1) states that the prospectus requirement does not apply to the first trade of a security distributed under an exemption from the prospectus requirement if:

    (a) the issuer of the security:

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

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

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

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

        (ii) did not represent in number more than 10 percent of the total number of owners directly or indirectly of securities of the class or series (subsection 18 (b)(i) and (ii) are collectively referred to as the "**10% De Minimis Condition**"); and

    (c) the trade is made:

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

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

19. Except for meeting the 10% De Minimis Condition, the Ordinary Shares distributed in the Ontario Private Placements would satisfy all of the criteria such that holders of Ordinary Shares in the Jurisdiction could rely on the prospectus exemption contained in subsection 2.14(1) of NI 45-102 to trade such securities through an exchange or market outside Canada or to a person or company outside of Canada.

Decision

This Decision evidences the decision of the Decision Maker (the "**Decision**").

The Decision Maker is satisfied that the test contained in the legislation that provides the Decision Maker with the jurisdiction to make this Decision has been met.

The Decision of the Decision Maker under the legislation is that the Requested Resale Relief is granted, provided that:

    (a) any resale by Permitted Clients qualifies under subsection 2.14(1) of NI 45-106 other than the 10% De Minimis Condition; and

    (b) immediately following the Private Placements, including the Ontario Private Placements, and the IPO, (i) the Permitted Clients will own, directly or indirectly, no more than 25% of the total issued and outstanding

Ordinary Shares, and (ii) the Permitted Clients together will represent no more than 25% of the total number of owners directly or indirectly of Ordinary Shares.

DATED at Toronto this 11th day of April, 2014.

"Mary Condon"
Commissioner
Ontario Securities Commission

"James Turner"
Commissioner
Ontario Securities Commission

2.2.2 Paul Azeff et al.

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

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 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 on July 29, 2013, the Commission ordered that: 1. the Adjournment Motion brought by Bobrow was granted; 2. the original dates scheduled for the hearing on the merits 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 23, 25 and 26, 2014, October 7, 13 and 21, 2014 and November 4, 2014; 4. a Disclosure Motion shall be held on November 20, 2013; 5. a confidential pre-hearing conference shall be held on January 16, 2014; 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;

AND WHEREAS on November 19, 2013, Staff and counsel for Azeff and Bobrow, the moving parties on the Disclosure Motion, advised the Commission that the parties resolved the Disclosure Motion on consent and without costs, and that Azeff and Bobrow wished to withdraw their Disclosure Motion;

AND WHEREAS on November 20, 2013, the Commission ordered that the Disclosure Motion be withdrawn on a without costs basis and that the hearing date for the Disclosure Motion, being November 20, 2013, be vacated;

AND WHEREAS a confidential pre-hearing conference was held on January 16, 2014 and Staff and counsel for the Respondents attended and made submissions regarding the Respondents' disclosure obligations and provision of witness lists and witness summaries of the Respondents, as well as the authenticity and admissibility of Staff's documents at the hearing on the merits;

AND WHEREAS the parties indicated that they did not have the current intention to bring any further motions prior to the hearing on the merits and the Commission encouraged the parties, once again, to ensure that any further motions be brought before the Commission in a timely fashion to avoid any delay of the hearing on the merits;

AND WHEREAS all parties have the right to bring any motions should issues subsequently arise;

AND WHEREAS on February 7, 2014, the Commission ordered that 1. the Respondents will advise Staff if they intend to object to the authenticity of any of the documents in Staff's hearing brief by July 1, 2014; 2. the Respondents will make their best efforts to advise Staff if they anticipate objecting to the admissibility of any of the documents in Staff's hearing brief by July 1, 2014 and in any event, no later than August 1, 2014; 3. the Respondents will make their best efforts to advise Staff of any additional documents (which are not in Staff's hearing brief) that they anticipate relying on at the hearing by July 1, 2014 and in any event, no later than August 1, 2014; 4. the Respondents will make their best efforts to provide Staff with witness lists and witness summaries in accordance with Rule 4.5(1), (2) and (3) of the Commission's *Rules of Procedure* by July 1, 2014 and in any event, no later than August 1, 2014; and 5. a further confidential pre-hearing conference shall be held on August 13, 2014 at 10:00 a.m.;

AND WHEREAS on May 21, 2014, counsel for Azeff and Bobrow advised the Registrar of his request to vacate the scheduled hearing dates of October 6, 8 and 9, 2014;

AND WHEREAS on June 2, 2014, the Registrar advised all parties by email that the Hearing Panel is not available to sit on September 15 to 17, 2014, but is available to sit on September 10 to 12, 2014;

AND WHEREAS on June 2, 2014, counsel for Azeff and Bobrow, counsel for Finkelstein and counsel for Cheng advised of their availability via email;

AND WHEREAS on June 3, 2014, Staff and counsel for Azeff and Bobrow attended a motion brought by Staff pursuant to section 152, and counsel for Azeff and Bobrow and Staff made submissions on their availability;

AND WHEREAS on June 3, 2014, the Panel granted Staff's section 152 motion, and reserved the right of the Respondents to bring a motion under Rule 10.2 of the *Rules of Procedure* returnable on August 13, 2014, in the event that the Superior Court of Quebec orders that the evidence of the Quebec Witnesses shall be taken in Quebec via video and audio link from Montreal;

AND WHEREAS on June 3, 2014, the Commission is of the opinion that it is in the public interest to issue this order;

IT IS HEREBY ORDERED that:

1. The dates for the hearing on the merits previously scheduled for September 15 to 17, 2014 and October 6, 8 and 9, 2014 are vacated;

2. Additional dates for the hearing on the merits are added on November 10 to 14, 2014; and

3. At the August 13, 2014 pre-hearing conference, the parties shall make the following available:

   (a) Witness lists and witness summaries; and

   (b) A draft index of documents for a joint proposed hearing brief;

DATED at Toronto this 3rd day of June, 2014.

"Alan J. Lenczner"

"AnneMarie Ryan"

"Catherine E. Bateman"

2.2.3 Gold-Quest International and Sandra Gale – s. 127

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

AND

IN THE MATTER OF
GOLD-QUEST INTERNATIONAL and SANDRA GALE

ORDER
(Section 127 of the Securities Act)

WHEREAS on April 1, 2008, the Ontario Securities Commission (the "Commission") ordered, pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), that all trading in any securities of Gold-Quest International ("Gold-Quest") shall cease (the "Temporary Order");

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 2 of subsection 127(1) and subsection 127(5) of the Act that all trading in any securities by Health and HarMONEY, Donald Iain Buchanan and Lisa Buchanan shall cease;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest, Health and HarMONEY, Donald Iain Buchanan and Lisa Buchanan;

AND WHEREAS the Commission further ordered as part of the Temporary Order that pursuant to clause 3 of subsection 127(1) and subsection 127(5) of the Act that any exemptions contained in Ontario securities law do not apply to Gold-Quest's officers, directors, agents or employees;

AND WHEREAS on April 8, 2008, the Commission issued a Notice of Hearing to consider among other things, the extension of the Temporary Order;

AND WHEREAS on April 15, 2008 the Temporary Order was extended by the Commission with some amendments (the "Amended Temporary Order");

AND WHEREAS the Amended Temporary Order has been extended from time to time, most recently, on December 10, 2009, until the completion of the hearing on the merits;

AND WHEREAS on March 13, 2009, the Commission issued a Notice of Hearing of pursuant to sections 127 and 127.1 of the Act, accompanied by a Statement of Allegations dated March 12, 2009, issued by Staff of the Commission ("Staff") with respect to Gold-Quest, 1725587 Ontario Inc. carrying on business as Health and HarMONEY, the Harmoney Club, Donald Iain Buchanan, Lisa Buchanan and Sandra Gale;

AND WHEREAS on March 20, 2009, upon hearing submissions from Sandra Gale, counsel for Staff and counsel for Donald Iain Buchanan and Lisa Buchanan, it was ordered that the hearing be adjourned to May 26, 2009;

AND WHEREAS on May 26, 2009, upon hearing submissions from Sandra Gale, counsel for Staff and counsel for Donald Iain Buchanan and Lisa Buchanan, it was ordered that the hearing be adjourned to June 25, 2009;

AND WHEREAS on June 25, 2009, upon hearing submissions from counsel for Staff, counsel for Sandra Gale, and counsel for Donald Iain Buchanan and Lisa Buchanan, it was ordered that the hearing be adjourned to August 20, 2009;

AND WHEREAS on August 20, 2009, upon hearing submissions from counsel for Staff and counsel for Sandra Gale, it was ordered that a pre-hearing conference be held on October 9, 2009;

AND WHEREAS on October 9, 2009, a pre-hearing conference was commenced and counsel for Staff, counsel for Sandra Gale and counsel for Donald Iain Buchanan and Lisa Buchanan attended before the Commission;

AND WHEREAS on October 9, 2009, counsel for Staff, counsel for Sandra Gale and counsel for Donald Iain Buchanan and Lisa Buchanan requested, and it was ordered, that the pre-hearing conference be continued on December 10, 2009;

AND WHEREAS on December 10, 2009, the pre-hearing conference was continued and counsel for Staff, Sandra Gale, counsel for Sandra Gale and counsel for Donald Iain Buchanan and Lisa Buchanan made submissions to the Commission;

AND WHEREAS Staff advised that certain of the parties intended to file an agreed statement of facts prior to the commencement of the hearing scheduled to commence on March 25, 2010 to consider sanctions and other related matters;

AND WHEREAS on December 10, 2009, the Commission ordered that the hearing be adjourned to March 25, 2010 and March 26, 2010 for the purpose of considering sanctions for certain of the respondents and for any other purpose that the parties may advise the Office of the Secretary;

AND WHEREAS on December 10, 2009, it was further ordered that the motion for leave of the Commission to withdraw brought by counsel for Sandra Gale was granted and leave of the Commission was granted for counsel to withdraw;

AND WHEREAS Staff and the respondents agreed to request that the hearing should be further adjourned;

AND WHEREAS on March 23, 2010, the hearing was adjourned to April 28, 2010 and April 29, 2010 for the purpose of considering sanctions against certain of the respondents and for any other purpose that the parties may advise the Office of the Secretary;

AND WHEREAS on April 28, 2010, Staff and counsel for Donald Iain Buchanan and Lisa Buchanan submitted an Agreed Statement of Facts on behalf of each of Donald Iain Buchanan and Lisa Buchanan;

AND WHEREAS on April 28 and September 3, 2010, Staff and counsel for Donald Iain Buchanan and Lisa Buchanan appeared before the Commission for the purpose of considering sanctions and costs;

AND WHEREAS on November 26, 2010, the Commission issued its reasons and decision on sanctions and costs with respect to Donald Iain Buchanan and Lisa Buchanan;

AND WHEREAS on March 4, 2013, Staff withdrew the allegations against Harmoney Club and Health and HarMONEY, because these companies had been administratively dissolved and cancelled, respectively;

AND WHEREAS on March 6, 2013, Staff filed an Amended Statement of Allegations with respect to Gold-Quest and Sandra Gale;

AND WHEREAS Staff requested that a pre-hearing conference be held on February 6, 2014 and such pre-hearing conference was scheduled for that date;

AND WHEREAS counsel for Sandra Gale requested that the pre-hearing conference be adjourned and Staff consented to the adjournment;

AND WHEREAS on February 5, 2014, the Commission ordered that the pre-hearing conference scheduled for February 6, 2014 be vacated and was adjourned to April 1, 2014 at 10:00 a.m.;

AND WHEREAS on April 1, 2014, the Commission held a confidential pre-hearing conference, and Staff appeared and requested that the hearing be adjourned to a status update and advised the Commission that counsel for Sandra Gale consented to adjourning the hearing to a status update;

AND WHEREAS Gold-Quest did not appear, although properly served with notice of the hearing;

AND WHEREAS on April 1, 2014, the Commission ordered that the hearing was adjourned for a status update on June 4, 2014 at 10:00 a.m.;

AND WHEREAS on June 4, 2014, Staff and counsel for Sandra Gale appeared before the Commission for a status update;

AND WHEREAS Gold-Quest did not appear, and the Commission was satisfied with Staff's attempt to serve Gold-Quest with notice of the hearing;

AND WHEREAS upon hearing the submissions of Staff and counsel for Sandra Gale, the Commission is of the opinion that it is in the public interest to issue this Order;

IT IS ORDERED that the hearing is adjourned and shall continue on September 10, 2014 at 11:00 a.m. for a sanctions hearing in the event that an Agreed Statement of Facts is executed by both parties;

IT IS FURTHER ORDERED that in the event that an Agreed Statement of Facts is not reached, the parties shall appear at a confidential pre-hearing conference on August 13, 2014 at 1:00 p.m., or such other date as are agreed to by the parties and determined by the Office of the Secretary.

DATED at Toronto this 4th day of June, 2014.

"Alan J. Lenczner, Q.C."

2.2.4 Amara Mining PLC

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application by foreign issuer for a decision that it is no longer reporting issuers in the jurisdiction – foreign issuer has a de minimis market presence in Canada – Residents of Canada do not beneficially own more than 2% of each class or series of outstanding securities of the issuer and do not comprise more than 2% of the total number of securityholders of the issuer – The issuer's securities are not listed on any stock exchange or traded on a marketplace in Canada– Canadian securityholders will continue to receive continuous disclosure as required by UK securities laws – The foreign issuer previously announced that it was applying for a decision that it is not a reporting issuer – Requested relief granted.

Applicable Legislative Provisions

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

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED
(THE "ACT")

AND

IN THE MATTER OF
AMARA MINING PLC
(THE "APPLICANT")

ORDER

UPON the Director having received an application from the Applicant for an order under subparagraph 1(10)(a)(ii) of the Act that the Applicant is not a reporting issuer in Ontario (the "**Requested Order**");

AND UPON considering the application and the recommendation of the staff of the Ontario Securities Commission (the "**Commission**");

AND UPON the Applicant representing to the Commission as follows:

1. The Applicant is a company established under the *Companies Act 1985* (as amended) in England and Wales with registered number 04822520.

2. The Applicant's head and registered office is 29-30 Cornhill, London, EC3V 3NF, United Kingdom.

3. The Applicant is a gold development and production company operating in Burkina Faso, Côte d'Ivoire, Liberia and Sierra Leone, in West Africa. Management is based in London, England.

4. The Applicant does not have operations in Canada.

5. As of April 22, 2014, the Applicant's issued capital is 328,979,827 ordinary shares (the "**Ordinary Shares**). The Applicant had no debt securities.

6. The Ordinary Shares have been listed on AIM since December 15, 2004.

7. The Ordinary Shares were listed on the Toronto Stock Exchange (the "**TSX**") on February 17, 2009.

8. The Applicant had discussion with the TSX regarding a voluntary delisting of its Ordinary Shares from the TSX and the TSX delisted the Ordinary Shares at the close of trading on October 25, 2013.

9. The Applicant is not a reporting issuer in any other jurisdiction in Canada other than Ontario.

10. The Applicant is not in default of any of its obligations under the Act as a reporting issuer.

11. The Applicant is not in default of any reporting or other requirement of AIM.

12. Using a record date of April 22, 2014, the Applicant caused Peel Hunt LLP (the "**Transfer Agent**") to provide a shareholder register and to conduct a search to confirm the residency of the beneficial holders of the Ordinary Shares held through intermediaries. The Applicant determined the number of Canadian residents that beneficially owned its Ordinary Shares, and the number of Ordinary Shares beneficially owned by Canadian residents, directly and indirectly, as at April 22, 2014, by reviewing the results of this search, and the shareholder register maintained by the Transfer Agent.

13. The review carried out by the Applicant revealed that:

    (a) residents of Canada beneficially own an aggregate of 4,697,900 Ordinary Shares, broken down by province as follows:

        (i) British Columbia: 3 securityholders holding 5,700 Ordinary Shares; and

        (ii) Ontario: 6 securityholders holding 4,692,200 Ordinary Shares;

    (b) 9 residents of Canada own 4,697,900 Ordinary Shares. Accordingly, residents of Canada hold approximately 1.43% of the Applicant's issued and outstanding Ordinary Shares.

    (c) residents of Canada comprise 9 out of 1016 shareholders of the Applicant, representing approximately 0.90% of the total number of shareholders of the Applicant.

14. Based on this review, the Applicant represents that:

    (a) Residents of Canada do not directly or indirectly comprise more than 2% of the total number of securityholders of the Applicant worldwide; and

    (b) Residents of Canada do not directly or indirectly beneficially own more than 2% of each class or series of outstanding securities of the Applicant worldwide.

15. In the past 12 months, the Applicant has not taken steps to create a market in Canada for the Ordinary Shares and, in particular, never offered securities to the public in Ontario or in any other jurisdiction in Canada by way of a prospectus offering. The Applicant has no current intention to distribute any securities to the public in Canada nor does it intend to seek financing by way of a public offering of its securities in Canada.

16. No securities of the Applicant are traded on a "marketplace" as defined in National Instrument 21-101 *Marketplace Operation* and the Applicant does not intend to have its securities listed, traded, or quoted on such a marketplace in Canada. The Applicant's Ordinary Shares were delisted from the TSX on October 25, 2013. However, the TSX only attracted a *de minimis* number of Canadian investors and the total volume of trading of the Ordinary Shares in the 12 months prior to delisting from the TSX was approximately 1,076,940 shares, which accounted for approximately 0.42% of the Applicant's worldwide trading volumes. In contrast, the total volume on AIM for the same period represented approximately 257,569,688 shares, accounting for approximately 99.58% of the Applicant's worldwide trading volumes.

17. The Applicant has provided advance notice to Canadian-resident securityholders in a press release dated May 13, 2014 that it intends to apply to the Commission for a decision that it is not a reporting issuer in Ontario, and if that decision is made, the Applicant will no longer be a reporting issuer in any jurisdiction in Canada.

18. The Applicant files continuous disclosure reports under the laws, rules and regulations of the United Kingdom and AIM (including the Companies Act 2006, the AIM Rules for Companies and the Disclosure Rules and Transparency Rules issued by the Financial Conduct Authority (together, the "**U.K. securities laws**")).

19. The Applicant qualifies as a "Designated Foreign Issuer" under National Instrument 71-102 – *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers* ("**NI 71-102**"). Because the Applicant is a Designated Foreign Issuer, it currently satisfies most of the continuous disclosure obligations under Canadian securities legislation by complying with the disclosure requirements of U.K. securities laws pursuant to Part 5 of NI 71-102. In the event that the Applicant ceases reporting in Canada, Canadian securityholders will continue to receive disclosure under U.K. securities laws.

20. The Applicant undertakes to concurrently deliver to its Canadian securityholders all disclosure it would be required under U.K. securities laws to deliver to U.K. resident securityholders.

21. The Applicant will not be a reporting issuer or the equivalent in any jurisdiction in Canada immediately following the Commission granting the relief requested.

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest.

IT IS HEREBY ORDERED pursuant to subparagraph 1(10)(a)(ii) of the Act that, for the purposes of Ontario securities law, the Applicant is not a reporting issuer.

DATED this 10th day of June, 2014.

"Judith Robertson"
Commissioner
Ontario Securities Commission

"Anne Marie Ryan"
Commissioner
Ontario Securities Commission

2.2.5 Pro-Financial Asset Management Inc.

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

AND

IN THE MATTER OF
PRO-FINANCIAL ASSET MANAGEMENT INC.

ORDER

WHEREAS on May 17, 2013, the Commission issued a temporary order (the "Temporary Order") with respect to Pro-Financial Asset Management Inc. ("PFAM") pursuant to subsections 127(1) and (5) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") ordering that:

(i) pursuant to paragraph 1 of subsection 127(1) of the Act, the registration of PFAM as a dealer in the category of exempt market dealer be suspended and the following terms and conditions apply to the registration of PFAM as an adviser in the category of portfolio manager ("PM") and to its operation as an investment fund manager ("IFM"):

a. PFAM's activities as a PM and IFM shall be applied exclusively to the Managed Accounts (as defined in the Temporary Order) and to the Pro-Hedge Funds and Pro-Index Funds (as defined in the Temporary Order); and

b. PFAM shall not accept any new clients or open any new client accounts of any kind in respect of the Managed Accounts;

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

AND WHEREAS on May 28, 2013, the Commission ordered: (i) the Temporary Order be extended to June 27, 2013; (ii) the hearing to consider whether to further extend the terms of the Temporary Order and/or to make any further order as to PFAM's registration proceed on June 26, 2013 at 10:00 a.m.;

AND WHEREAS on June 26, 2013, the Commission ordered that: (i) the Temporary Order be extended to July 15, 2013; and (ii) the affidavit of Michael Denyszyn sworn May 24, 2013 not be marked as an exhibit until the next appearance in the absence of a Commission order to the contrary; and the hearing to consider this matter proceed on July 12, 2012;

AND WHEREAS on July 11, 2013, the Commission ordered that: (i) the Temporary Order be extended to July 22, 2013; (ii) the hearing be adjourned to July 18, 2013 at 11:00 a.m.; and (iii) the hearing date of July 12, 2013 at 10:00 a.m. be vacated;

AND WHEREAS on July 18, 2013, PFAM brought a motion (the "First PFAM Motion") that the hearing be held *in camera* and that the affidavits of Michael Denyszyn sworn May 24 and June 24, 2013 and the affidavit of Michael Ho sworn July 17, 2013 (collectively the "Staff Affidavits") either not be admitted as evidence or else be treated as confidential documents and the parties agreed that the motion should be heard *in camera*;

AND WHEREAS on July 18, 2013, PFAM's counsel filed supporting documents (the "PFAM Materials") in support of the First PFAM Motion and counsel for PFAM and Staff made oral submissions and filed written submissions;

AND WHEREAS on July 22, 2013, the Commission ordered:

(i) the Temporary Order be extended to August 26, 2013;

(ii) leave be granted to the parties to file written submissions in respect of the First PFAM Motion;

(iii) the Staff Affidavits, the transcript of the PFAM motion, the PFAM Materials, written submissions filed by Staff and PFAM and other documents presented during the course of the First PFAM Motion shall be treated as confidential documents until further direction or order of the Commission; and

(iv) the hearing be adjourned to August 23, 2013 at 10:00 a.m.;

AND WHEREAS on August 23, 2013, Staff filed with the Commission the affidavit of Michael Ho sworn August 22, 2013 and PFAM's counsel filed the affidavit of Stuart McKinnon dated August 23, 2013 but the parties did not seek to mark these affidavits as exhibits;

AND WHEREAS on August 23, 2013, Staff and counsel for PFAM advised the Commission that the parties had agreed on the terms of a draft order;

AND WHEREAS on August 23, 2013, PFAM requested that the hearing be held *in camera* so PFAM's submissions on certain confidentiality issues could be heard and Staff did not oppose PFAM's request;

AND WHEREAS on August 27, 2013, the Commission ordered:

(i) the Temporary Order be extended to October 11, 2013;

(ii) the affidavit of Michael Ho sworn August 22, 2013 and the affidavit of Stuart McKinnon sworn August 23, 2013 be treated as confidential documents until further order of the Commission;

(iii) PFAM will deliver to Staff the final PPN reconciliation report by 4:30 p.m. on September 30, 2013; and

(iv) the hearing to consider whether to: (i) make any further order as to PFAM's registration as an adviser in the category of PM or in respect of its operation as an IFM, as a result of PFAM's ongoing capital deficiency; and/or (ii) otherwise vary or extend the terms of the Temporary Order, proceed on October 9, 2013 at 11:00 a.m.;

AND WHEREAS on October 9, 2013, PFAM brought a second motion (the "Second PFAM Motion") for an order that the hearing be held *in camera* and for a confidentiality order treating as confidential documents: (i) the Staff and PFAM affidavits; (ii) all facta and correspondence exchanged by Staff and PFAM; and (iii) any transcript of this and prior *in camera* proceedings;

AND WHEREAS on October 9, 2013, PFAM's counsel filed written submissions dated October 8, 2013, the affidavit of Stuart McKinnon sworn October 7, 2013 and the affidavit of Kenneth White sworn October 7, 2013 in support of the Second PFAM Motion and Staff filed written submissions dated October 9, 2013 and the affidavit of Michael Ho sworn October 8, 2013 and opposed the request for an *in camera* hearing and for the confidentiality order;

AND WHEREAS on October 9, 2013, the Commission heard submissions from counsel on the Second PFAM Motion *in camera* and the Commission requested the parties to prepare a draft order that, among other matters, addressed the confidentiality of documents filed with the Commission and permitted BNP Paribas Canada and Société Générale Canada (the "Banks") to review certain documents attached to Staff affidavits dealing substantively with the PPN reconciliation process, provided the Banks treated such documents as confidential;

AND WHEREAS on October 11, 2013, the Commission ordered that:

(i) the Temporary Order be extended to December 15, 2013;

(ii) the affidavit of Michael Ho sworn October 8, 2013, the affidavit of Stuart McKinnon sworn October 7, 2013, the affidavit of Kenneth White sworn October 7, 2013 and the written submissions of the parties dated October 8 and 9, 2013 be treated as confidential documents until further order of the Commission; and

(iii) the hearing to consider whether to: (i) make any further order as to PFAM's registration as an adviser in the category of PM or in respect of its operation as an IFM, as a result of PFAM's ongoing capital deficiency; and/or (ii) otherwise vary or extend the terms of the Temporary Order, shall proceed on December 12, 2013 at 10:00 a.m.;

AND WHEREAS on October 17, 2013, the Commission ordered (the "October 17, 2013 Order") that:

(i) the affidavit of Michael Ho sworn October 8, 2013, the affidavit of Stuart McKinnon sworn October 7, 2013, the affidavit of Kenneth White sworn October 7, 2013 and the written submissions of the parties dated October 8 and 9, 2013 be treated as confidential documents until further order of the Commission;

(ii) the previous orders as to confidentiality made by the Commission on July 22, 2013 and August 27, 2013 remain in force until further order or direction of the Commission; and

(iii) documents related to the PPN reconciliation process listed on Schedule "A" to the October 17, 2013 Order be provided to counsel for the Banks on condition that the Banks treat those documents as confidential documents and not provide copies to any third party without further direction or order of the Commission;

AND WHEREAS on September 30, 2013, PFAM agreed to sell to another portfolio manager (the "Purchaser") PFAM's interest in all of the investment management contracts for the Pro-Index Funds and the Managed Accounts (the "First Transaction"). In a second transaction, an investor agreed to purchase through a corporation (the "Investor") all of the shares of the Purchaser (the "Second Transaction"):

AND WHEREAS on October 22, 2013, the Purchaser and PFAM filed a notification letter providing Compliance and Registrant Regulation Branch ("CRR Branch") Staff with notice ("Notice") of the application filed under section 11.9 and 11.10 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103") relating to the First Transaction and the Second Transaction (collectively, the "Transactions");

AND WHEREAS on November 5, 2013, the staff member of the CRR Branch conducting the review of the Notice requested copies of the affidavits of Michael Denyszyn sworn May 24 and June 24, 2013, the affidavits of Michael Ho sworn July 17, August 22 and October 8, 2013, the affidavits of Stuart McKinnon sworn July 17, August 23 and October 7, 2013, the affidavit of Kenneth White sworn October 7, 2013 and the submissions of Staff and Pro-Financial Asset Management Inc. ("PFAM") (collectively, the "Confidential Documents");

AND WHEREAS on November 12, 2013, PFAM filed an application with the Investment Funds Branch ("IF Branch") of the Commission for an order under section 5.5 of National Instrument 81-102 – *Mutual Funds* ("NI 81-102") for approval of the Purchaser as investment fund manager of the Pro-Index Funds and the Purchaser applied on October 24, 2013 for registration in the investment fund manager category for this purpose;

AND WHEREAS on November 13, 2013, Staff filed a Notice of Motion returnable on a date to be determined by the Secretary's office seeking an Order that Staff of the Enforcement Branch be permitted to provide some or all of the Confidential Documents to certain staff members of the CRR Branch and the IF Branch;

AND WHEREAS on November 25, 2013, the Commission ordered that:

(i) Staff of the Enforcement Branch be permitted to provide the Confidential Documents to the following persons:

a. the staff members of the CRR Branch assigned to review the Notice;

b. the staff member who has been designated to act in the capacity of the Director on behalf of the CRR Branch for the purposes of deciding whether to object to the Notice;

c. the staff members of the IF Branch who have been assigned to review the application made by PFAM or the Purchaser under section 5.5 of NI 81-102; and

d. the staff member who has been designated to act in the capacity of the "Director" for the purposes of deciding whether to approve the application under section 5.5 of NI 81-102;

(ii) The CRR staff members assigned to review the Notice be permitted to provide relevant information derived from the Confidential Documents ("Relevant Information") to PFAM, the Purchaser and their counsel involved in the Notice as part of the CRR staff members' review and analysis of the Notice on condition that the recipients of such information treat it as confidential and not provide it to any third party without further direction or order of the Commission;

(iii) The IF staff members assigned to review the application for change of fund manager be permitted to provide Relevant Information to PFAM, the Purchaser and their counsel involved in the application filed under NI 81-102 as part of the Investment Funds staff members' review and analysis of the application on condition that the recipients of such information treat it as confidential and not provide it to any third party without further direction or order of the Commission;

(iv) The CRR staff members assigned to review the Notice be permitted to provide Relevant Information to the Investor or its counsel with the consent of PFAM; and

(v) The parties may seek direction from the Commission in the event that the CRR staff members and PFAM cannot agree on whether Relevant Information should be provided to the Investor or its counsel;

AND WHEREAS Staff has filed an affidavit of Michael Ho sworn December 10, 2013 attaching a letter from counsel to Investment Administration Solution Inc. ("IAS"), PFAM's recordkeeper for the PPNs, requesting a copy of the PPN reconciliation report submitted by PFAM to Staff;

AND WHEREAS PFAM's counsel provided to Staff and to the Commission and made submissions based on an affidavit of Stuart McKinnon sworn December 11, 2013 which was not marked as an exhibit on December 12, 2013 at the Commission hearing held that day;

AND WHEREAS on December 12, 2013, Staff and counsel for PFAM appeared before the Commission and made submissions on: (i) the appropriate form of order to govern the provision of the Confidential Documents to other members of Staff of the Commission; and (ii) whether IAS should receive copies of the PPN reconciliation reports submitted by PFAM to Staff;

AND WHEREAS by Commission Order dated December 13, 2013, the Commission ordered that:

(i) the Confidential Documents may be provided to any member of Staff of the Commission, as necessary in the course of their duties;

(ii) the Temporary Order be extended to January 24, 2014;

(iii) the hearing be adjourned to January 21, 2014 at 11:00 a.m.; and

(iv) Staff shall be entitled to provide a copy of each document relating to the PPN reconciliation process listed on Schedule "A" of the October 13, 2013 order to counsel for IAS on the conditions that: (a) IAS treat those documents as confidential and not provide them to any third party without further direction or order of the Commission; and (b) IAS may use the documents for the purpose of assisting Staff in resolving the PPN discrepancy, and for no other purpose;

AND WHEREAS on January 15, 2014, PFAM's counsel advised Staff that the prospectus for the distribution of securities of the Pro- Index Funds had passed its lapse date on January 14, 2014 and PFAM's counsel requested a lapse date extension of 40 days from Staff;

AND WHEREAS on January 17, 2014, PFAM's counsel filed a pre-hearing conference memorandum ("PFAM's Pre-Hearing Memorandum") with the Secretary's office to discuss various issues and seek an Order granting an extension to the lapse date for the Pro-Index Funds under subsection 62(5) of the Act (the "Lapse Date Relief");

AND WHEREAS PFAM filed the affidavit of Stuart McKinnon sworn January 19, 2014 with the Secretary's office and Staff filed the affidavit of Susan Thomas sworn January 20, 2014 with the Secretary's office but neither party marked either affidavit as an exhibit at the appearance on January 21, 2014;

AND WHEREAS on January 21, 2014, Staff and PFAM's counsel appeared before the Commission and Staff advised the Commission that: (i) Staff's review of the Notice was expected to take another three to four weeks; (ii) the parties agreed that the prior confidentiality orders should be revised to permit Staff to provide the Confidential Documents or excerpts therefrom to the Purchaser, the Investor and their counsel as Staff determines necessary in the course of their duties and on the condition that the recipients treat such documents as confidential and not disclose them to any third party without further direction or order of the Commission; and (iii) the parties agreed that the Temporary Order should be extended;

AND WHEREAS on January 21, 2014, PFAM's counsel requested that submissions relating to the issues raised in PFAM's Pre-Hearing Memorandum be made *in camera* pursuant to Rule 6 of the Commission's *Rules of Procedure*, Staff opposed PFAM's request, and the Commission directed and the parties made submissions *in camera* on the Lapse Date Relief;

AND WHEREAS on January 21, 2014, the Commission ordered that: (i) the Temporary Order be extended to February 24, 2014; (ii) the hearing be adjourned to February 21, 2014 at 2:00 p.m.; (iii) Staff who have received the Confidential Documents be permitted to provide the Confidential Documents or an excerpt of the Confidential Documents to the Purchaser, the Investor and their counsel as set out in the Order; and (iv) PFAM be granted the Lapse Date Relief under subsection 62(5) of the Act to extend the lapse date for the Pro-Index Funds to February 24, 2014 on the conditions set out in the Order;

AND WHEREAS on February 14, 2014, PFAM's counsel served on Staff and filed a pre-hearing conference memorandum with the Secretary's office and requested a confidential pre-hearing conference during the week of February 24, 2014;

AND WHEREAS on February 21, 2014, PFAM's counsel was unavailable to attend before the Commission so the Commission ordered: (i) the Temporary Order be extended to March 6, 2014; (ii) the hearing be adjourned to March 3, 2014 at 11:00 a.m.; and (iii) a confidential pre-hearing conference proceed on February 25, 2014 at 3:30 p.m.;

AND WHEREAS PFAM's counsel requested in his prehearing conference memorandum an extension to the lapse date for the Pro-Index Funds which was previously extended to February 24, 2014 by Commission order dated January 21, 2014 (the "Further Lapse Date Relief");

AND WHEREAS in connection with a confidential pre-hearing conference on February 25, 2014 and the appearance on March 3, 2014, Staff filed the affidavit of Michael Ho sworn February 24, 2014 and written submissions dated February 28, 2014 to oppose the request for the Further Lapse Date Relief and PFAM's counsel filed the affidavits of Stuart McKinnon sworn February 21, 2014 and March 3, 2014 and a factum dated March 3, 2014 in support of the Further Lapse Date Relief;

AND WHEREAS on March 3, 2014, counsel for PFAM requested that submissions relating to the Further Lapse Date Relief be heard *in camera* and the Commission agreed to this request and the parties made oral submissions *in camera* on the issue of whether the Commission should grant the Further Lapse Date Relief;

AND WHEREAS on March 3, 2014, the Commission ordered that the Further Lapse Date Relief would be granted until April 7, 2014 subject to: (i) PFAM issuing a news release, in a form satisfactory to Staff, to ensure that investors receive full disclosure of the matters identified by Staff as set out below; and (ii) PFAM only being permitted to distribute securities of the Pro-Index Funds to existing securityholders of the Pro-Index Funds;

AND WHEREAS on March 3, 2014, the Commission advised, in the public portion of the hearing, that there had been two Director decisions recently made affecting PFAM (the "Director Decisions") and PFAM's counsel advised that the affected parties would seek a hearing and review under subsection 8(2) of the Act of both of the Director Decisions on an expedited basis;

AND WHEREAS on March 4, 2014, the Commission ordered: (i) the terms and conditions imposed on PFAM's registration by the Temporary Order be deleted and replaced with new terms and conditions which provided that PFAM shall not accept any new clients or open any new client accounts of any kind in respect of its Managed Accounts and that PFAM may only distribute securities of the Pro-Index Funds to existing securityholders of the Pro-Index Funds (the "Distribution Restriction"); (ii) PFAM be granted the Further Lapse Date Relief under subsection 62(5) of the Act to extend the lapse date for the Pro-Index Funds to April 7, 2014 subject to the conditions that: (a) PFAM issue a news release by March 6, 2014, in a form satisfactory to Staff, providing disclosure about the specific items set out in the March 4, 2014 order; and (b) PFAM comply with the terms of the March 4, 2014 order; (iii) the hearing be adjourned to April 7, 2014 at 10:00 a.m.; and (iv) the Temporary Order be extended to April 10, 2014;

AND WHEREAS on March 6, 2014, a confidential prehearing conference was held to consider a motion by counsel to the Purchaser and the Investor to vary the Distribution Restriction imposed by the Commission in the March 4, 2014 order, so that PFAM could continue distributing securities until April 7, 2014 to new investors after issuing the press release provided for in the March 4 order (the "Variation Motion");

AND WHEREAS on March 6, 2014, the Commission was of the view that the hearing of the Variation Motion should proceed only after a notice of the Variation Motion has been filed with the Secretary's office so that the public could be advised of the hearing;

AND WHEREAS on March 6, 2014, the Commission ordered that: (i) portions of the Commission decision of March 3, 2014 imposing the Distribution Restriction and deleting and replacing the terms and conditions on PFAM's registration and operation be stayed until March 11, 2014; (ii) PFAM be granted lapse date relief to extend the lapse date for the Pro-Index Funds to March 11, 2014; (iii) the Purchaser and the Investor file notice of the Variation Motion with the Secretary's office; and (iv) the Variation Motion be adjourned to March 11, 2014 at 1:00 p.m.;

AND WHEREAS the Purchaser and Investor's counsel filed the affidavit of Diego Beltran sworn March 5, 2014, the affidavit of Stuart McKinnon sworn March 11, 2014 and written submissions dated March 6, 2014 in support of the Variation Motion and Staff filed the affidavit of Michael Ho sworn March 10, 2014 and written submissions dated March 10, 2014 to oppose the Variation Motion;

AND WHEREAS on March 11, 2014, the Purchaser and the Investor's counsel made a request that the hearing of the Variation Motion proceed *in camera* and Staff opposed the request and the Purchaser and Investor's counsel and Staff made oral submissions and the Commission denied the request that the hearing proceed *in camera*;

AND WHEREAS on March 11, 2014, Staff opposed the Variation Motion and the Purchaser and Investor's counsel and Staff made oral submissions on the Variation Motion and Staff advised that a separate order will be required to cease the distribution of securities of the Pro-Index Funds to new investors as of March 11, 2014 if the Variation Motion is dismissed;

AND WHEREAS on March 11, 2014, the Commission ordered that: (i) the Variation Motion be dismissed; and (ii) the distribution of securities of the Pro-Index Funds to new investors be ceased as of the end of the day on March 11, 2014;

AND WHEREAS PFAM filed the affidavit of Stuart McKinnon sworn April 4, 2014 in support of its request for a further lapse date extension (the "Third Lapse Date Extension Request") and requested that the affidavit be treated on a confidential basis and Staff filed an affidavit of Mostafa Asadi sworn April 4, 2014 and opposed the Third Lapse Date Extension Request on the basis that PFAM has not filed the annual audited financial statements or the annual management reports of fund performance for the Pro-Index Funds which were due on March 31, 2014;

AND WHEREAS on April 7, 2014, PFAM's counsel requested that the submissions of the parties be heard *in camera* and Staff opposed the request and the Commission directed PFAM's counsel and Staff to make oral submissions *in camera*;

AND WHEREAS on April 7, 2014, Staff requested permission to provide a copy of the affidavit of Stuart McKinnon sworn April 4, 2014 to IAS or its legal counsel prior to the argument of PFAM's Third Lapse Date Request and PFAM's counsel opposed Staff's request;

AND WHEREAS on April 7, 2014, the parties made submissions *in camera* and the Commission directed that the affidavit of Stuart McKinnon sworn April 4, 2014 shall not be received on a confidential basis and directed that the correspondence between Staff and PFAM's counsel be treated as confidential;

AND WHEREAS on April 7, 2014, the Commission ordered that: (i) the lapse date for the Pro-Index Funds be extended to April 21, 2014; (ii) the affidavit of Stuart McKinnon sworn April 4, 2014 shall appear on the public record except for exhibits containing the correspondence between Staff and PFAM's counsel, including enclosures; (iii) Staff shall be entitled to provide a copy of the affidavit of Stuart McKinnon sworn April 4, 2014 to IAS or IAS' legal counsel subject to the conditions that IAS shall treat as confidential all correspondence between PFAM and Staff forming part of the affidavit and IAS shall only use the affidavit to assist Staff in the ongoing proceeding; (iv) the Temporary Order be extended to April 21, 2014; and (v) the hearing be adjourned to April 17, 2014 at 11:00 a.m. to argue the Third Lapse Date Extension Request.

AND WHEREAS on April 17, 2014, Staff filed the affidavit of Michael Ho sworn April 11, 2014 to oppose the Third Lapse Date Extension Request and PFAM filed the affidavit of Stuart McKinnon sworn April 16, 2014 in support of the Third Lapse Date Extension Request;

AND WHEREAS on April 17, 2014, PFAM's counsel requested that the submissions of the parties on the Third Lapse Date Extension Request be heard *in camera* and Staff opposed PFAM's request and the Commission directed that the parties' submissions on the Third Lapse Date Extension Request would not be heard *in camera*;

AND WHEREAS on April 17, 2014, PFAM's counsel made oral submissions and filed written submissions dated April 7 and 17, 2014 in support of the Third Lapse Date Extension Request and Staff made oral and filed written submissions dated April 14, 2014 to oppose PFAM's request and after hearing the parties' submissions, the Commission reserved its decision and adjourned the hearing to April 21, 2014 at 2:00 p.m.;

AND WHEREAS on April 21, 2014, the Commission dismissed the Third Lapse Date Extension Request and provided oral reasons for its decision;

AND WHEREAS on April 23, 2014, the Commission ordered that: (i) the Third Lapse Date Extension Request be dismissed without prejudice to PFAM bringing an application under section 144 to vary or revoke this order if the audited financial statements and management reports of fund performance for the Pro-Index Funds are filed with the Commission; (ii) notwithstanding that the lapse date for the Pro-Index Funds was previously extended to April 21, 2014, the distribution of securities of the Pro-Index Funds shall cease as of the end of the day on April 21, 2014; (iii) the Temporary Order be extended to May 27, 2014; and (iv) the hearing be adjourned to May 23, 2014 at 10:00 a.m.;

AND WHEREAS on May 23, 2014, Staff filed the affidavit of Michael Ho sworn May 22, 2014 to: (i) update the Commission on the payments by PFAM on March 31, April 7 and 8, 2014 of maturity proceeds for certain series of PPNs to escrow agents as arranged by the Banks and agreed to by PFAM; and (ii) confirm that the current discrepancy between the records of the record-keeper and the trustee remains unchanged and indicates that the total cash obligation to PPN noteholders exceeds the amount in the trustee's records by $1,222,549.45;

AND WHEREAS on May 23, 2014, the parties agreed to adjourn the hearing to July 2, 2014 at 10:00 a.m. and to extend the Temporary Order to July 4, 2014;

AND WHEREAS at a confidential pre-hearing conference in respect of the section 8 hearings and reviews of the Director Decisions on June 5, 2014, the parties agreed that the confidential pre-hearing conference will continue on June 26, 2014 at 2:00 p.m.;

AND WHEREAS the Office of the Secretary has advised the parties that the Commission is no longer available on July 2, 2014 but is available on July 9, 2014 and the parties have agreed to to adjourn the hearing to July 9, 2014 at 10:00 a.m. and to extend the Temporary Order to July 11, 2014;

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

IT IS HEREBY ORDERED that:

1. A confidential pre-hearing conference in respect of the section 8 hearings and reviews of the Director Decisions will proceed on June 26, 2014 at 2:00 p.m.

2. The hearing is adjourned to July 9, 2014 at 10:00 a.m.

3. The Temporary Order is extended to July 11, 2014.

DATED at Toronto this 11th day of June, 2014.

“James E. A. Turner”

2.2.6 Canadian Pacific Railway Limited – s. 104(2)(c)

Headnote

Subsection 104(2)(c) of the Act – Issuer bid – relief from issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act – Issuer proposes to purchase, at a discounted purchase price, up to 456,791 of its common shares from one of its shareholders – due to the discounted purchase price, proposed purchases cannot be made through the TSX trading system – but for the fact that the proposed purchases cannot be made through the TSX trading system, the Issuer could otherwise acquire the subject shares in reliance upon the issuer bid exemption available under section 101.2 of the Act and in accordance with the TSX rules governing normal course issuer bid purchases – no adverse economic impact on, or prejudice to, the Issuer or public shareholders – proposed purchases exempt from the issuer bid requirements in sections 94 to 94.8 and 97 to 98.7 of the Act, subject to conditions, including that the Issuer not purchase, in the aggregate, more than one-third of the maximum number of shares to be purchased under its normal course issuer bid by way of off-exchange block purchases.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 94 to 94.8, 97 to 98.7,104(2)(c).

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

AND

IN THE MATTER OF
CANADIAN PACIFIC RAILWAY LIMITED

ORDER
(Clause 104(2)(c))

UPON the application (the "**Application**") of Canadian Pacific Railway Limited (the "**Issuer**") to the Ontario Securities Commission (the "**Commission**") for an order under clause 104(2)(c) of the Act exempting the Issuer from the requirements of sections 94 to 94.8, inclusive, and 97 to 98.7, inclusive, of the Act (the "**Issuer Bid Requirements**") in connection with the proposed purchases by the Issuer of up to 456,791 (collectively, the "**Subject Shares**") common shares in the capital of the Issuer (the "**Common Shares**") in one or more trades from Canadian Imperial Bank of Commerce (the "**Selling Shareholder**");

AND UPON considering the Application and the recommendation of staff of the Commission;

AND UPON the Issuer (and the Selling Shareholder in respect of paragraphs 5, 6, 7, 8, 12, 24 and 25 as they relate to the Selling Shareholder) having represented to the Commission that:

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

2. The registered, executive and head office of the Issuer is located at 7550 Ogden Dale Road S.E., Calgary, Alberta, T2C 4X9.

3. The Issuer is a reporting issuer in each of the provinces and territories of Canada and its Common Shares are listed for trading on the Toronto Stock Exchange (the "**TSX**") and the New York Stock Exchange (the "**NYSE**") under the symbol "CP". The Issuer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.

4. The Issuer's authorized share capital consists of an unlimited number of Common Shares, an unlimited number of First Preferred Shares and an unlimited number of Second Preferred Shares, of which 174,289,466 Common Shares and no First Preferred Shares or Second Preferred Shares were issued and outstanding as of May 23, 2014.

5. The Selling Shareholder has its corporate headquarters in Toronto, Ontario.

6. The Selling Shareholder has advised the Issuer that it does not directly or indirectly own more than 5% of the issued and outstanding Common Shares, is at arm's length to the Issuer and is not an "insider" of the Issuer, an "associate" of an "insider" of the Issuer, or an "associate" or "affiliate" of the Issuer, as such terms are defined in the Act.

7. The Selling Shareholder has advised the Issuer that it is an "accredited investor" within the meaning of National Instrument 45-106 *Prospectus and Registration Exemptions*.

8. The Selling Shareholder has advised the Issuer that it is the beneficial owner of at least 456,791 Common Shares and that the Subject Shares were not acquired by the Selling Shareholder in anticipation of resale to the Issuer pursuant to private agreements under an issuer bid exemption order issued by a securities regulatory authority ("**Off-Exchange Block Purchases**").

9. On March 11, 2014, the Issuer announced a normal course issuer bid (the "**Normal Course Issuer Bid**") to purchase up to 5,270,374 Common Shares during the period from March 17, 2014 to March 16, 2015 pursuant to the terms of the "Notice of Intention to Make a Normal Course Issuer Bid" (the "**Notice**") submitted to, and accepted by, the TSX. In accordance with the Notice, purchases under the Normal Course Issuer Bid may be conducted through the facilities of the TSX, the NYSE or alternative trading systems, if eligible, or by such other means as may be permitted by the TSX or a securities regulatory authority in accordance with sections 628 to 629.3 of Part VI of the TSX Company Manual (the "**TSX Rules**"), including private agreements under an issuer bid exemption order issued by a securities regulatory authority.

10. The Commission granted the Issuer an order on March 28, 2014 (the "**Previous Order**") pursuant to clause 104(2)(c) of the Act exempting the Issuer from the requirements of sections 94 to 94.8, inclusive, and 97 to 98.7, inclusive, of the Act in connection with the proposed purchases by the Issuer of up to 1,300,000 Common Shares, in one or more trades from an arm's length selling shareholder. As at May 23, 2014, the Issuer had acquired an aggregate of 1,728,000 Common Shares pursuant to the Normal Course Issuer Bid, including 1,300,000 Common Shares purchased under the Previous Order.

11. The Issuer implemented an automatic repurchase plan (an "**ARP**") on March 28, 2014 to permit the Issuer to make purchases under its Normal Course Issuer Bid at such times when the Issuer would not be permitted to trade in its Common Shares during regularly scheduled quarterly blackout periods. The ARP was approved by the TSX, and complies with the TSX Rules, applicable securities laws and this Order, and contains provisions restricting the Issuer from conducting a Block Purchase (as defined below) in accordance with the TSX Rules during the calendar week in which the Issuer completes a Proposed Purchase. Under the terms of the ARP, at times that the Issuer is not subject to blackout restrictions, the Issuer may, but is not required to, instruct the designated broker to make purchases under the Normal Course Issuer Bid in accordance with the terms of the ARP. Such purchases under the ARP would be determined by the broker in its sole discretion based on parameters established by the Issuer prior to any blackout period in accordance with the TSX Rules, applicable securities laws and the terms of the agreement between the broker and the Issuer.

12. The Issuer intends to enter into one or more agreements of purchase and sale with the Selling Shareholder (each an "**Agreement**"), pursuant to which the Issuer will agree to purchase Subject Shares from the Selling Shareholder by way of one or more purchases, each occurring by March 16, 2015 (each such purchase, a "**Proposed Purchase**") for a purchase price that will be negotiated at arm's length between the Issuer and the Selling Shareholder (each such price, a "**Purchase Price**" in respect of such Proposed Purchase). The Purchase Price will, in each case, be at a discount to the prevailing market price and below the prevailing bid-ask price for the Common Shares on the TSX at the time of each Proposed Purchase.

13. The Subject Shares acquired under each Proposed Purchase will constitute a "block" as that term is defined in section 628 of the TSX Rules.

14. The purchase of any of the Subject Shares by the Issuer pursuant to an Agreement will constitute an "issuer bid" for purposes of the Act, to which the applicable Issuer Bid Requirements would apply.

15. Because the Purchase Price will, in each case, be at a discount to the prevailing market price and below the bid-ask price for the Issuer's Common Shares on the TSX at the time of the relevant Proposed Purchase, none of the Proposed Purchases can be made through the TSX trading system and, therefore, will not occur "through the facilities" of the TSX. As a result, the Issuer will be unable to acquire Subject Shares from the Selling Shareholder in reliance upon the exemption from the Issuer Bid Requirements that is available pursuant to subsection 101.2(1) of the Act.

16. But for the fact that the Purchase Price in respect of each Proposed Purchase will be at a discount to the prevailing market price and below the bid-ask price for the Issuer's Common Shares at the time of each such Proposed Purchase, the Issuer could otherwise acquire the applicable Subject Shares on the TSX as a "block purchase" (a "**Block Purchase**") in accordance with the block purchase exception in clause 629(l)7 of the TSX Rules and the exemption from the Issuer Bid Requirements that is available pursuant to subsection 101.2(1) of the Act.

17. The sale of any of the Subject Shares to the Issuer will not be a "distribution" (as defined in the Act).

18. The Notice filed with the TSX by the Issuer contemplates that purchases under the Normal Course Issuer Bid may be made by means other than open market transactions as may be permitted by the TSX and/or the NYSE, and the TSX permits purchases to be made by private agreements pursuant to an issuer bid exemption order issued by a securities regulatory authority.

19. For each Proposed Purchase, the Issuer will be able to acquire the applicable Subject Shares from the Selling Shareholder without the Issuer being subject to the dealer registration requirements of the Act.

20. Management of the Issuer is of the view that through the Proposed Purchase(s), the Issuer will be able to purchase the Subject Shares at a lower price than the price at which it would otherwise be able to purchase Common Shares under the Normal Course Issuer Bid through the facilities of the TSX and management of the Issuer is of the view that this is an appropriate use of the Issuer's funds.

21. The purchase of the Subject Shares will not adversely affect the Issuer or the rights of any of the Issuer's securityholders and it will not materially affect the control of the Issuer. To the knowledge of the Issuer, the Proposed Purchases will not prejudice the ability of other securityholders of the Issuer to otherwise sell Common Shares in the open market at the then-prevailing market price. The Proposed Purchases will be carried out with a minimum of cost to the Issuer.

22. To the best of the Issuer's knowledge, as of May 23, 2014, the "public float" for the Common Shares represented approximately 92% of all issued and outstanding Common Shares for purposes of the TSX Rules.

23. The Common Shares are "highly-liquid securities" within the meaning of section 1.1 of OSC Rule 48-501 *Trading during Distributions, Formal Bids and Share Exchange Transactions* and section 1.1 of the Universal Market Integrity Rules.

24. Other than the Purchase Price, no additional fee or other consideration will be paid in connection with the Proposed Purchases.

25. At the time that each Agreement is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer, nor the Equity Derivatives Group of the Selling Shareholder, nor personnel of the Selling Shareholder that have negotiated the Agreement or have made, or participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any "material change" or "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed.

26. The Issuer will not purchase, pursuant to private agreements under an issuer bid exemption order by a securities regulatory authority, in aggregate, more than one-third of the maximum number of Common Shares that the Issuer can purchase under its Normal Course Issuer Bid. The Issuer is authorized to purchase a maximum of 5,270,374 Common Shares under the Normal Course Issuer Bid.

27. Assuming completion of the purchase of the maximum number of Subject Shares, being 456,791 Subject Shares, the Issuer will have purchased under the Normal Course Issuer Bid an aggregate of 1,756,791 Common Shares pursuant to Off-Exchange Block Purchases, representing one-third of the maximum of 5,270,374 Common Shares authorized to be purchased under the Normal Course Issuer Bid.

AND UPON the Commission being satisfied to do so would not be prejudicial to the public interest;

IT IS ORDERED pursuant to clause 104(2)(c) of the Act that the Issuer be exempt from the Issuer Bid Requirements in connection with each Proposed Purchase, provided that:

(a) the Proposed Purchases will be taken into account by the Issuer when calculating the maximum annual aggregate limit that is imposed upon the Issuer's Normal Course Issuer Bid in accordance with the TSX Rules;

(b) the Issuer will refrain from conducting a Block Purchase in accordance with the TSX Rules during the calendar week in which it completes a Proposed Purchase and will not make any further purchases under its Normal Course Issuer Bid for the remainder of the calendar day on which it completes any Proposed Purchase;

(c) the Purchase Price in respect of each Proposed Purchase will not be higher than the last "independent trade" (as that term is used in paragraph 629(l)1 of the TSX Rules) of a board lot of Common Shares immediately prior to the execution of such Proposed Purchase;

(d) the Issuer will otherwise acquire any additional Common Shares pursuant to its Normal Course Issuer Bid in accordance with the Notice and the TSX Rules, including by means of open market transactions and by such other means as may be permitted by the TSX, including under automatic trading plans and, subject to condition (i) below, by private agreements under an issuer bid exemption order issued by a securities regulatory authority;

(e) immediately following each Proposed Purchase of the Subject Shares from the Selling Shareholder, the Issuer will report the purchase of the Subject Shares to the TSX;

(f) at the time that an Agreement in respect of a Proposed Purchase is entered into by the Issuer and the Selling Shareholder and at the time of each Proposed Purchase, neither the Issuer, nor the Equity Derivatives Group of the Selling Shareholder, nor personnel of the Selling Shareholder that have negotiated the Agreement or have made, or participated in the making of, or provided advice in connection with, the decision to enter into the Agreement and sell the Subject Shares, will be aware of any "material change" or "material fact" (each as defined in the Act) in respect of the Issuer that has not been generally disclosed;

(g) the Issuer will issue a press release disclosing (i) its intention to make the Proposed Purchases and (ii) that information regarding each Proposed Purchase, including the number of Common Shares purchased and the aggregate purchase price, will be available on the System for Electronic Document Analysis and Retrieval (SEDAR) following the completion of each such purchase;

(h) the Issuer will report information regarding each Proposed Purchase, including the number of Common Shares purchased and the aggregate Purchase Price, on SEDAR before 5:00 p.m. (Toronto time) on the business day following such purchase; and

(i) the Issuer shall not purchase, pursuant to Off-Exchange Block Purchases, in the aggregate more than one-third of the maximum number of Common Shares the Issuer can purchase under its Normal Course Issuer Bid, such one-third being equal to, as of the date of this Order, 1,756,791 Common Shares.

DATED at Toronto, Ontario this 10th day of June, 2014.

"Judith Robertson"
Commissioner
Ontario Securities Commission

"Anne Marie Ryan"
Commissioner
Ontario Securities Commission

2.2.7 Issam El-Bouji et al. – s. 127(1)

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

AND

IN THE MATTER OF
ISSAM EL-BOUJI, GLOBAL RESP CORPORATION, GLOBAL GROWTH ASSETS INC.,
GLOBAL EDUCATION TRUST FOUNDATION AND MARGARET SINGH

ORDER
(Subsections 127(1))

WHEREAS on January 10, 2013, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in relation to the Statement of Allegations filed by Staff of the Commission ("Staff") on January 10, 2013 with respect to Issam El-Bouji ("Bouji"), Global RESP Corporation ("Global RESP"), Global Growth Assets Inc. ("GGAI"), Global Educational Trust Foundation (the "Foundation") and Margaret Singh ("Singh") (collectively, the "Respondents");

AND WHEREAS the Respondents entered into a Settlement Agreement with Staff dated April 14, 2014 (the "Settlement Agreement") in which the Respondents and Staff agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated January 10, 2013, subject to approval by the Commission;

AND WHEREAS on April 16, 2014, the Commission approved the Settlement Agreement and made other orders in the public interest (the "Order dated April 16, 2014") including the following orders:

(d) Pursuant to paragraph 1 of subsection 127(1) of the Act, the following terms and conditions are imposed on GGAI's registration:

(i) Within 60 days of this order, GGAI shall create and permanently maintain an independent board of directors comprised of a minimum of two independent external board members that form a majority of the board of directors and the independent directors are to be approved by a Manager in the Compliance and Registrant Regulation Branch of the Ontario Securities Commission (the "OSC Manager");

and,

(e) Pursuant to paragraph 1 of subsection 127(1) of the Act, the following terms and conditions are imposed on Global RESP's registration:

(i) within 60 days of this order, Global RESP shall create and permanently maintain an independent board of directors comprised of a minimum of two independent external board members that form a majority of the board of directors and the independent directors are to be approved by the OSC Manager;

and,

(f) Pursuant to subsection 127(2) of the Act, the Foundation shall create and permanently maintain an independent board of directors for the Foundation or any other organization that controls or oversees the Plan comprised of a minimum of two independent external board members that form a majority of the board of directors and the independent directors are to be approved by the OSC Manager;

AND WHEREAS on June 10, 2014, GGAI, Global RESP and the Foundation brought a motion returnable June 12, 2014 to extend the time by 60 days for compliance with sections 1(d)(i), 1(e)(i) and 1(f) of the Order dated April 16, 2014 and filed the affidavit of Joanne Sewell dated June 10, 2014 in support of the motion;

AND WHEREAS on June 12, 2014, Staff advised the Commission that one independent external board member candidate had been approved by the OSC Manager and counsel for GGAI, Global RESP and the Foundation advised the Commission that GGAI, Global RESP and the Foundation were working diligently, and would continue to work diligently, to find an appropriate candidate to submit to the OSC Manager for approval to serve as a second independent external board member;

AND WHEREAS on June 12, 2014, Staff advised the Commission that Staff does not oppose the motion:

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

IT IS ORDERED THAT the time for complying with sections 1(d)(i), 1(e)(i) and 1(f) of the Order dated April 16, 2014 is extended to August 14, 2014.

DATED at Toronto, Ontario this 12th day of June, 2014.

"James E. A. Turner"

2.2.8 Knowledge First Financial Inc.

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

AND

IN THE MATTER OF
KNOWLEDGE FIRST FINANCIAL INC.

ORDER

WHEREAS on March 6, 2014, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in relation to the Statement of Allegations filed by Staff of the Commission ("Staff") on March 5, 2014 with respect to Knowledge First Financial Inc. ("KFFI");

AND WHEREAS KFFI entered into a Settlement Agreement dated March 5, 2014 (the "Settlement Agreement") in relation to certain of the matters set out in the Statement of Allegations;

AND WHEREAS the Settlement Agreement acknowledged KFFI's co-operation with Staff and set out the costs incurred by KFFI in retaining an independent consultant (the "Consultant") to prepare and assist KFFI in implementing a plan to strengthen KFFI's "compliance system" within the meaning of section 11.1 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

AND WHEREAS the Settlement Agreement set out that a manager in the Compliance and Registrant Regulation Branch of the Commission (the "OSC Manager") approved the amended Consultant's plan dated November 16, 2012 and that the OSC Manager reviewed the progress reports detailing KFFI's progress with respect to the implementation of the amended Consultant's plan as revised by various progress reports (the "Amended Consultant's Plan");

AND WHEREAS the Settlement Agreement set out that the Consultant confirmed by letter dated October 17, 2013 that the Amended Consultant's Plan had been fully implemented;

AND WHEREAS the Commission issued a Notice of Hearing dated March 6, 2014, with respect to a hearing to consider the approval of the Settlement Agreement;

AND WHEREAS on March 7, 2014, the Commission ordered that: (a) the Settlement Agreement be approved; (b) no later than May 7, 2015, KFFI will provide the OSC Manager with its report which reports on whether the revised policies and procedures and internal conflicts set out in the Amended Consultant's Plan and any subsequent revisions are: (i) being followed by KFFI; (ii) working appropriately; and (iii) being adequately administered and enforced by KFFI, such report to include a description of the Consultant's testing to support its conclusions for the 12 month period ending March 7, 2015; and (c) KFFI be reprimanded;

AND WHEREAS counsel for KFFI made an application to the Commission returnable June 6, 2014 to vary the Settlement Agreement between Staff and KFFI to delete the heading that reads "PART IV – CONDUCT CONTRARY TO THE PUBLIC INTEREST" and replace it with "PART IV – CONDUCT TO BETTER SERVE THE PUBLIC INTEREST" (the "Variation Motion");

AND WHEREAS counsel for KFFI filed a motion record for the Variation Motion which included the Notice of Motion dated May 28, 2014 and the affidavit of George Hopkinson sworn May 26, 2014 and counsel for KFFI filed a factum in support of the Variation Motion and Staff filed a responding factum;

AND WHEREAS on June 6, 2014, the Commission heard oral submissions from counsel for KFFI and Staff on the Variation Motion and Staff opposed the Variation Motion;

AND WHEREAS the Commission concluded that it did not have legal authority to vary the Settlement Agreement as requested by KFFI;

AND WHEREAS the Commission advised the parties that it would have approved the Settlement Agreement with the variation requested by KFFI;

AND WHEREAS the Commission requested that, in fairness to KFFI in the circumstance, Staff reconsider whether to amend the Settlement Agreement as requested by KFFI;

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

IT IS HEREBY ORDERED THAT:

1. The Variation Motion is dismissed.

DATED at Toronto, Ontario this 13th day of June, 2014

"James E. A. Turner"

2.2.9 Conrad M. Black et al.

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

AND

**IN THE MATTER OF
CONRAD M. BLACK, JOHN A. BOULTBEE
AND PETER Y. ATKINSON**

ORDER

WHEREAS on March 18, 2005 the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing (the "**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 (the "**Original Proceeding**") filed by Staff of the Commission ("**Staff**") with respect to Hollinger Inc., Conrad M. Black ("**Black**"), F. David Radler ("**Radler**"), John A. Boultbee ("**Boultbee**") and Peter Y. Atkinson ("**Atkinson**") (collectively, the "**Original Respondents**");

AND WHEREAS the Commission held a contested hearing on October 11 and November 16, 2005, to determine the appropriate date for a hearing on the merits of the Original Proceeding;

AND WHEREAS on January 24, 2006, the Commission issued its Reasons and Order setting down the matter for a hearing on the merits commencing June 2007, subject to each of the individual Original Respondents agreeing to execute an undertaking to the Commission to abide by interim terms of a protective nature within 30 days of that decision;

AND WHEREAS following the Reasons and Order dated January 24, 2006, each of the individual Original Respondents provided an undertaking in a form satisfactory to the Commission;

AND WHEREAS on March 30, 2006, the Commission issued an Order with attached undertakings provided by the individual Original Respondents and ordered, among other things, that the hearing on the merits commence on Friday, June 1, 2007, or as soon thereafter as may be fixed by the Secretary to the Commission and agreed to by the parties;

AND WHEREAS the individual Original Respondents further provided to the Commission amended undertakings, in a form satisfactory to the Commission, stating that each of the Original Respondents agreed to abide by interim terms of a protective nature (the "**Amended Undertakings**"), pending the Commission's final decision regarding liability and sanctions in the proceeding commenced by the Notice of Hearing;

AND WHEREAS on April 4, 2007, the Commission issued an Order which attached the Amended Undertakings, and ordered that the hearing on the merits be scheduled to commence on November 12 through to December 14, 2007, and January 7 to February 15, 2008 or such other dates as may be fixed by the Secretary to the Commission and agreed to by the parties;

AND WHEREAS Black and Boultbee brought motions and requests to adjourn the Original Proceeding pending the outcome of a criminal proceeding in the United States and Staff consented to the adjournment requests;

AND WHEREAS on September 11, 2007, the Commission issued an Order which adjourned the hearing on the merits of this matter and scheduled a hearing on December 11, 2007 for the purpose of addressing the scheduling of the Original Proceeding;

AND WHEREAS Black and Boultbee brought a series of additional motions and requests to adjourn the Original Proceeding, pending the outcome of criminal proceedings in the United States, and Staff consented to the adjournment requests;

AND WHEREAS the Commission issued orders on December 10, 2007, January 7, March 27, and September 25, 2008, February 12, May 20 and July 9, 2009, which granted Black and Boultbee's motions and adjourned the hearing of the matter;

AND WHEREAS by Order dated October 7, 2009, the Commission adjourned the hearing *sine die*, pending the release of a decision of the United States Supreme Court, in relation to an appeal brought by Boultbee, or until such further order as may be made by the Commission;

AND WHEREAS on November 12, 2012, Staff filed a new Statement of Allegations against Radler alone;

AND WHEREAS on November 13, 2012, Radler provided a new undertaking to the Commission;

AND WHEREAS on November 14, 2012, the Commission approved a settlement agreement reached between Staff and Radler and approved an Order resolving the new proceeding against Radler and releasing Radler from the Amended Undertakings;

AND WHEREAS on November 15, 2013, Staff withdrew its allegations in the Original Proceeding with respect to Radler;

AND WHEREAS on July 12, 2013, Staff withdrew its allegations in the Original Proceeding with respect to Hollinger;

AND WHEREAS on July 12, 2013, the Commission issued a new Notice of Hearing pursuant to sections 127 and 127.1 of the Act in relation to an Amended Statement of Allegations filed by Staff with respect to Black, Boultbee and Atkinson (together, the "**Respondents**");

AND WHEREAS the new Notice of Hearing stated that a hearing before the Commission would be held on August 16, 2013;

AND WHEREAS on August 16, 2013, the Commission heard submissions from counsel for Staff, counsel for Black, and from Atkinson and Boultbee on their own behalf;

AND WHEREAS on August 16, 2013, Staff requested that the matter be adjourned to a pre-hearing conference and the Respondents consented to this request;

AND WHEREAS on August 16, 2013, the Commission ordered that the matter be adjourned to a confidential pre-hearing conference to be held on Monday, October 21, 2013;

AND WHEREAS on September 23, 2013, the Commission approved a settlement agreement reached between Staff and Atkinson and approved an Order releasing Atkinson from the Amended Undertakings and requiring Atkinson to comply with a new undertaking;

AND WHEREAS counsel for Black filed a signed consent of all parties to reschedule the confidential pre-hearing conference of October 21, 2013 to Wednesday, October 23, 2013;

AND WHEREAS a confidential pre-hearing conference was held on October 23, 2013 and the Commission heard submissions from counsel for Staff, counsel for Black, and from Boultbee on his own behalf;

AND WHEREAS all parties agreed to adjourn the matter to a further confidential pre-hearing conference to be held on December 2, 2013;

AND WHEREAS a confidential pre-hearing conference was held on December 2, 2013 and the Commission heard submissions from counsel for Staff, counsel for Black, and from Boultbee on his own behalf;

AND WHEREAS all parties agreed to adjourn the matter to a further confidential pre-hearing conference to be held on January 9, 2014;

AND WHEREAS a confidential pre-hearing conference was held on January 9, 2014 and the Commission heard submissions from counsel for Staff, counsel for Black, and from Boultbee on his own behalf;

AND WHEREAS on January 9, 2014, the Commission ordered that Black's motion to stay proceedings or alternatively, for directions regarding the scope of issues to be determined at the hearing ("**Black's Motion**") would be heard on March 26 and March 27, 2014, and that a further confidential pre-hearing would be held on February 26, 2014;

AND WHEREAS a confidential pre-hearing conference was held on February 26, 2014 and the Commission heard submissions from counsel for Staff and counsel for Black;

AND WHEREAS on February 26, 2014, the Commission ordered that Black's motion scheduled for March 26 and March 27, 2014 to stay proceedings or alternatively, for directions regarding the scope of issues to be determined at the hearing would be re-scheduled to April 10 and April 11, 2014, and that a further confidential pre-hearing conference take place on March 20, 2014, or such other date as agreed by the parties and set by the Office of the Secretary.

AND WHEREAS a confidential pre-hearing conference was held on March 20, 2014 and the Commission heard submissions from counsel for Staff and counsel for Black, and from Boultbee on his own behalf;

AND WHEREAS on April 1, 2014, the Commission ordered that:

1. A further confidential pre-hearing conference shall take place on June 16, 2014 at 10:00 a.m., or such other date as may be ordered by the Commission; and

2. A motion requested by Mr. Boultbee for severance of the allegations against him will be heard on July 22 and July 23, 2014, commencing at 10:00 a.m., or such other date as may be ordered by the Commission; and

3. A hearing on the merits shall be scheduled to commence on October 3, 2014 and continue on the following dates in October 2014: 6, 8-10; 14-17; 20; 22-24; 27-31; and on the following dates in February 2015: 2-6, 9, 11-13, or on such other dates as may be ordered by the Commission.

AND WHEREAS on April 10 and 11, 2014, the Commission held a hearing relating to Black's Motion for:

1. An order staying the OSC Proceeding against Black on the condition that the undertaking given to the Ontario Securities Commission (the "**Commission**") by Black on February 2, 2006, as amended on March 30, 2007 (the "**Undertaking**"), would remain in effect; or

2. In the alternative, directions regarding the scope of the issues to be determined at any hearing of the OSC Proceeding and hence the evidence permitted to be presented at the hearing.

AND WHEREAS on June 13, 2014, the Commission issued its reasons regarding Black's Motion;

AND WHEREAS the June 13, 2014 reasons require the parties to attend before the Commission for a confidential pre-hearing conference;

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

IT IS HEREBY ORDERED THAT:

1. The following dates are vacated: June 16, 2014 and July 22 and 23, 2014.

2. A confidential pre-hearing conference shall take place on July 30, 2014 at 10:00 a.m., or on such other date as may be ordered by the Commission.

DATED at Toronto this 13th day of June, 2014.

“Christopher Portner”

“Judith N. Robertson”

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 Conrad M. Black et al.

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

AND

IN THE MATTER OF
CONRAD M. BLACK, JOHN A. BOULTBEE AND PETER Y. ATKINSON

REASONS AND DECISION ON A MOTION

Hearing:	April 10 and 11, 2014		
Decision:	June 13, 2014		
Panel:	Christopher Portner	–	Commissioner and Chair of the Panel
	Judith N. Robertson	–	Commissioner
Counsel:	Johanna Superina Jed Friedman	–	For the Ontario Securities Commission
	Peter F.C. Howard Samaneh Hossieni Sinziana R. Hennig	–	For Black

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REASONS AND DECISION ON A MOTION

I. The Motion

[1] By Notice of Motion dated November 26, 2013, relating to the Notice of Hearing (the "Notice of Hearing") and Amended Statement of Allegations (the "Amended Statement of Allegations") against Conrad M. Black ("Black"), John A. Boultbee ("Boultbee") and Peter Y. Atkinson, both dated July 12, 2013 (the "OSC Proceeding"), Black brought a motion for:

(a) An order staying the OSC Proceeding against Black on the condition that the undertaking given to the Ontario Securities Commission (the "Commission") by Black on February 2, 2006, as amended on March 30, 2007 (the "Undertaking"), would remain in effect; or

(b) In the alternative, directions regarding the scope of the issues to be determined at any hearing of the OSC Proceeding and hence the evidence permitted to be presented at the hearing.

II. Historical Background

[2] This matter has had a lengthy procedural history. It was originally commenced by a Notice of Hearing and Statement of Allegations dated March 18, 2005 (the "Initial OSC Proceeding") which sought orders against Hollinger Inc., Black, F. David Radler, Boultbee and Peter Y. Atkinson pursuant to subsection 127(1) and section 127.1 of the *Securities Act*, R.S.O. 1990 c. S.5, as amended (the "Act").

[3] Following the commencement of the Initial OSC Proceeding, a parallel criminal proceeding involving similar allegations was commenced against Black and three others in the United States, the details of which are as follows:

(a) On November 17, 2005, a Grand Jury in the United States District Court for the Northern District of Illinois, Eastern Division (the "U.S. District Court") indicted Black and the others on multiple counts of criminal fraud (*United States v. Black*, 05-cr-727 (N.D. Ill. June 11, 2007) (Docket Entry [738]) [Redacted Superseding Information]);

(b) On July 13, 2007, after extensive pre-trial proceedings, approximately four months of trial and two weeks of jury deliberations, a jury convicted Black on three counts of fraud and one count of obstruction of justice;

(c) Black and the others moved for a judgment of acquittal of the convictions or a new trial. The trial judge, Justice Amy J. St. Eve of the U.S. District Court, reviewed the evidence and denied the motion in a detailed decision issued on November 5, 2007 (*United States v. Black*, 05-cr-727 (N.D. Ill. Nov. 5, 2007));

(d) On December 10, 2007, the U.S. District Court entered judgment and sentence against Black and the others (*United States v. Black*, 05-cr-727 (N.D. Ill. Dec. 10, 2007) (Docket Entry [979]) and *United States v. Black*, 05-cr-727, Transcript of Sentencing Decision (N.D. Ill. Dec. 10, 2007) (the "*2007 Sentencing Decision*"));

(e) Black and the others appealed their convictions to the United States Court of Appeals for the Seventh Circuit (the "U.S Court of Appeal") which denied the appeal in a decision issued on June 25, 2008 (*United States v. Black*, 530 F. 3d 596 (7th Cir. 2008) (the "*2008 Appeal Decision*"));

(f) Following an appeal by Black of the decision of the U.S. Court of Appeal to the Supreme Court of the United States (the "U.S. Supreme Court"), on June 24, 2010, the U.S. Supreme Court vacated the U.S. Court of Appeal Decision and remanded the criminal proceeding back to the U.S. Court of Appeal for reconsideration in light of a parallel decision narrowing the application of the U.S. fraud statute (*Black v. United States*, 561 U.S. 465 (2010));

(g) On remand from the U.S. Supreme Court, the U.S. Court of Appeal on October 29, 2010 vacated the fraud findings relating to the APC Payments (as defined in the Amended Statement of Allegations) and affirmed the fraud conviction relating to the Forum and Paxton Payments (as defined in the Amended Statement of Allegations) as well as the obstruction of justice conviction (*United States v. Black*, 625 F. 3d 386 (7th Cir. 2010) (the "*2010 Appeal Decision*");

(h) On June 24, 2011, Black appeared before the U.S. District Court and was resentenced to 42 months of incarceration for his fraud and obstruction of justice convictions (*United States v. Black*, 05-cr-727-1 (N.D. Ill. June 24, 2011)); and

(i) On June 4, 2012, Black filed a further petition with the U.S. District Court to vacate, set aside or correct his sentence, arguing that he had been unable to retain defence lawyers of his choice for the criminal trial and appeals. By decision dated February 19, 2013, Black's petition was rejected, the U.S. District Court finding that Black has been represented by "some of the most talented and well-respected attorneys in their field" (*Black v. United States*, 12-cv-4306, (N.D. Ill. Feb. 19, 2013) at p. 4 (LexisNexis) (the "*Collateral Appeal Judgment*");

(collectively, the "U.S. Criminal Proceeding")

[4] In addition to the U.S. Criminal Proceedings, on November 15, 2004, the U.S. Securities and Exchange Commission (the "SEC") instituted a separate civil proceeding against Black and the others, the details of which are as follows:

(a) On September 24, 2008, the U.S. District Court held that Black had failed to accurately disclose material facts relating to the APC Payments and the Forum and Paxton Payments in securities filings and found Black liable

for securities fraud and other violations of the U.S. *Securities Exchange Act of 1934* (*SEC v. Black*, 04-cv-7377 (N.D. Ill. Sept. 24, 2008) ("the "*Summary Judgment*")). In issuing the *Summary Judgment*, the U.S. District Court relied on, among other things, the findings from the *2008 Appeal Decision*;

(b) On October 22, 2008, the U.S. District Court entered judgment for injunctive relief against Black (*SEC v. Black*, 04-cv-7377 (N.D. Ill. Oct. 22, 2008) (Docket Entry[170]));

(c) Following the 2010 Appeal Decision, in which the U.S. Court of Appeal vacated the findings relating to the APC Payments made in the 2008 Appeal Decision, Black moved before the U.S. District Court to set aside the relief ordered in the *Summary Judgment* which relied on that and the other convictions. The District Court found that "no alternation of the prior relief ordered or of the findings made is presently warranted except with respect to some findings relating to the $5.5 million improper non-compete payments" (*SEC v. Black*, 2012 U.S. Dist. Lexis 23192 (N.D. Ill. Feb. 21, 2012) at p. 2 (LexisNexis));

(d) On October 9, 2012, the U.S. District Court entered final judgment against Black and ordered him to pay disgorgement and interest and imposed various forms of injunctive relief, including a permanent ban from serving as a director and officer of a reporting issuer in the United States (*SEC v. Black*, 04-cv-7377 (N.D. Ill. Oct. 9, 2012) (Docket Entry [236]) (the "*October 9, 2012 Decision*")); and

(e) On December 7, 2012, Black filed a notice of appeal of the October 9, 2012 Decision, but subsequently terminated the appeal pursuant to a settlement agreement. On the basis of a joint motion filed by Black and the SEC to the U.S. District Court, Black agreed to terminate his appeal in exchange for a reduction in the monetary judgement ordered against him. The U.S. District Court subsequently modified its final judgment on August 13, 2013 to reflect the reduced amount of the monetary penalty (*SEC v. Black*, 04-cv-7377 (N.D. Ill. Aug. 13, 2013) (Docket Entry [270]));

(collectively, the "SEC Proceeding", and together with the U.S. Criminal Proceeding, the "U.S. Proceedings".)

[5] The U.S. Proceedings significantly affected the timing of the hearing relating to the Initial OSC Proceeding before the Commission. As explained in the Commission's reasons issued on January 24, 2006, "common sense and judicial economy argue in favour of allowing the U.S. criminal proceedings to take place in advance of this hearing" (*Re Black* (2006), 29 O.S.C.B. 847 ("*Re Black 2006*") at para. 53). As a result, the Initial OSC Proceeding was adjourned a number of times and was adjourned sine die (*Re Black* (2009), 32 O.S.C.B. 8049) pending the resolution of the U.S. Proceedings.

[6] Following the conclusion of the U.S. Proceedings in February 2013, Staff of the Commission ("Staff") issued an Amended Statement of Allegations dated July 12, 2013 in reliance on subsection 127(10) of the Act seeking a reciprocal order against Black in Ontario based on the findings against him and convictions arising from the U.S. Proceedings.

III. Subsection 127(10) of the Act

[7] Subsection 127(10) of the Act plays an important role in facilitating the cross-jurisdictional enforcement of judgments for breaches of securities law and provides the Commission with a mechanism to issue protective and preventive orders to ensure that conduct which took place in other jurisdictions will not be repeated in Ontario's capital markets. As stated by the Supreme Court of Canada in *McLean v. British Columbia (Securities Commission)*, [2013] 3 S.C.R. 895 ("*McLean*") at paragraph 51:

> … given the reality of interprovincial, if not international, capital markets, [t]here can be no disputing the indispensable nature of interjurisdictional co-operation among securities regulators today" (*Global Securities Corp. v. British Columbia (Securities Commission)*, 2000 SCC 21 (CanLII), 2000 SCC 21, [2000] 1 S.C.R. 494, at para. 27). [Emphasis added.]

[8] Subsection 127(10) permits the Commission to bring the OSC Proceeding against Black to an end in an expeditious and minimally costly fashion. It provides a process whereby the Commission may make a final order against Black based on findings made in the United States. As explained in *McLean* at paragraph 54:

> … [the power to issue a reciprocal order] achieves the legislative goal of facilitating interprovincial [and international] cooperation by providing a triggering "event" other than the underlying misconduct. The corollary to this point must be the ability to actually rely on that triggering event – that is, the other jurisdiction's settlement agreement (or conviction or judicial finding or order, as the case may be) – in commencing a secondary proceeding. [Emphasis added.]

[9] Relying on findings of other jurisdictions obviates the need for a full hearing on the merits based on similar facts that were litigated in another jurisdiction. This saves time and resources and avoids the need for an inefficient and parallel

duplicative proceeding in Ontario. This is consistent with the statement of the Commission in *Re Azeff* (2012), 35 O.S.C.B. 5158 ("*Azeff*") at paragraph 382 that "the interests of administrative efficiency and fairness, and the *Rules of Procedure* themselves, demand that, if a matter can be disposed of without resort to a lengthy and costly proceeding, it ought to be".

IV. Request for a Stay

[10] In his application, Black is seeking an order staying the OSC Proceeding against him on the condition that the Undertaking would remain in effect. Black contends that the continuation of the OSC Proceeding is entirely unnecessary so as to be unfair and vexatious, and to constitute an abuse of process.

[11] Black also contends that the continuation of the OSC Proceeding is not only completely disproportionate to the seriousness of the remaining allegations against Black, it would serve no proper and useful purpose and that the only remedy for this abuse is a stay of the proceeding.

[12] The Supreme Court of Canada has emphasized that a stay of proceedings "is only one remedy to an abuse of process, but the most drastic one" (*R. v. Regan*, [2002] 1 S.C.R. 297 ("*Regan*") at para. 53) and that a stay will only be appropriate if the following criteria are met:

> (1) The prejudice caused by the abuse in question will be manifested, perpetuated or aggravated through the conduct of the trial, or by its outcome,
>
> (2) No other remedy is reasonably capable of removing that prejudice, and
>
> (3) A balancing of interests that would be served by the granting of the stay of proceedings against the interest that society has in having a final decision.
>
> (*Regan*, *supra* at paras. 54 and 57)

[13] The Supreme Court also set a high threshold for determining whether there is an abuse of process by requiring that it be demonstrated that:

> (1) the proceedings are oppressive or vexatious; and
>
> (2) violate the fundamental principles of justice underlying the community's sense of fair play and decency.
>
> (*Regan*, *supra* at para. 50 citing *R. v. Scott*, [1990] 3 S.C.R. 979 at p.1007)

[14] The use by the Commission of a subsection 127(10) proceeding is an entirely proper discharge by the Commission of its statutory mandate under section 1.1 of the Act to protect investors and ensure the efficiency of Ontario's capital markets and is not an abuse of process. The OSC Proceeding is neither oppressive (harsh and authoritarian) nor vexatious (brought without sufficient grounds for winning purely to cause annoyance to the defendant). In fact, the exercise by the Commission of its authority to issue a reciprocal order following the completion of the U.S. Proceedings eliminates the need to re-litigate matters with respect to which another jurisdiction has already made findings, precisely as intended by the legislature. Reciprocal orders are an effective tool to facilitate inter-jurisdictional enforcement and enable the proper administration of justice by eliminating duplicative proceedings based on similar evidence.

[15] In the criminal law context, the Supreme Court of Canada has recognized that a stay of proceedings for abuse of process will only be granted in the clearest of cases and that:

> [T]o conclude that the situation "is tainted to such a degree" and that it amounts to one of the "clearest of cases", as the abuse of process has been characterized by the jurisprudence, requires overwhelming evidence that the proceedings under scrutiny are unfair to the point that they are contrary to the interest of justice.
>
> (*R. v. Powe*r, [1994] 1 S.C.R. 601 at paras. 10 and 12) [Emphasis added.]

[16] In an administrative law context, the Supreme Court of Canada has held that, in order to find an abuse of process, we must be satisfied that "the damage to the public interest in the fairness of the administrative process should the proceedings go ahead would exceed the harm to the public interest in the enforcement of the legislation if the proceedings were halted". (*Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307 at para. 120). In our view, quite the opposite would be true in the Black matter.

[17] As noted in paragraph 10 above, Black alleges in his Notice of Motion, an allegation which is repeated at paragraph 34 of his Factum, that, as the Undertaking would remain in effect under his proposal, "the continuation of the Proceeding against Black is entirely unnecessary so as to be unfair and vexatious, and to constitute an abuse of process." The foregoing allegation quite clearly does not satisfy the requirements for a determination that there has been an abuse of process articulated in *Reagan* and *Power*. Moreover, there would, in our view, be a public expectation that the Commission will finally address and make a determination with respect to the allegations against Black in Ontario that have been outstanding for more than nine years (since the Initial OSC Proceeding commenced) and the Commission's failure to make such a determination would bring its regulatory role into disrepute and would likely be viewed as a means by which Black would avoid any finding against him in Ontario.

[18] The Undertaking was always understood to be of an interim nature and that it would remain in place to ensure the protection of Ontario's capital markets pending the Commission's final decision in this matter. As the Commission made clear when agreeing to the delay in 2006:

> In view of the protective and preventive role of the Commission in safeguarding the capital markets, [Black's] agreement to provide an undertaking to the Commission that [he] will abide by appropriate terms and conditions restricting [his] participation in the capital markets is critical to a lengthy adjournment of this proceeding.
>
> (*Re Black 2006*, *supra* at para. 57)

[19] Allowing the Undertaking to remain outstanding in the absence of a final decision and reasons issued by the Commission would also raise a number of legal concerns relating to its future enforceability. Similar concerns would arise in the event that Black were to make to an application in the future to vary the terms of the Undertaking which would likely obligate the Commission to proceed with a hearing relating to the OSC Proceeding, potentially years after the events took place. Such an outcome would be untenable.

[20] Black's proposal that the Undertaking simply remain outstanding in lieu of a hearing of the OSC Proceeding would have the effect of delaying indefinitely, or avoiding entirely, the final adjudication of the allegations against Black in Ontario.

[21] Black has merely asserted but not established that the OSC Proceeding is oppressive and vexatious and an abuse of process and, by failing to do so, he has not satisfied the criteria for the granting of a stay. As a result, and for the reasons set out above, the public interest clearly compels us to reject Black's application for a stay of the OSC Proceeding and to proceed with the hearing under subsection 127(10) of the Act.

V. Scope of the Hearing

[22] As an alternative submission, Black is seeking direction from the Panel on the scope of evidence that will be permitted at the hearing relating to the OSC Proceeding. The categories of evidence proposed by Black in his Notice of Motion are couched in such broad terms that it is clear that, if we were to permit all of such evidence, we would effectively be permitting the re-litigation of the U.S. Proceedings which Black categorically states is not his objective.

[23] We agree that it is appropriate for us to deal with Black's scope of evidence request now to avoid uncertainty regarding the type of evidence that will be permitted at the hearing and to more efficiently allocate the resources of the Commission. Determining in advance the evidence that will be considered appropriate will also permit for a more efficient hearing and limit the need to deal with numerous objections relating to evidence during the hearing.

[24] As noted above, subsection 127(10) proceedings are not a forum for re-litigating findings made in other jurisdictions. The purpose of such proceedings is to hear evidence and submissions with respect to the terms of an appropriate reciprocal order to protect Ontario's capital markets by ensuring that similar conduct does not occur in Ontario in the future.

[25] As stated by the Commission in *Re Graham* (2009), 32 O.S.C.B. 7202 at paragraph 31, "relying on the Final Judgment in a s. 127(10) application represents a timely, open and efficient administration and enforcement of the Act by the Commission." Further, as stated by the Alberta Securities Commission in *Re Anderson*, 2007 ABASC 912 at paragraph 16:

> This is not an appeal or a review of the BCSC Decision, nor a rehearing into the events giving rise to that decision (see *Re Alexander*, 2007 ABASC 146 at paras. 37, 46; and *Re Kuipers*, 2007 ABASC 293 at paras. 23, 25). To the contrary, section 198(1.1) (like its counterparts in the securities laws of other provinces) establishes a mechanism by which this Commission can issue protective and deterrent orders on the basis of determinations made by other decision-making bodies *without* the necessity of duplicating the process by which the original determinations were reached. The effects – and, it may be inferred, the legislative purposes – are to enhance the efficiency and effectiveness of regulatory oversight of the capital markets, and the protection of

> participants in those markets, while diminishing the ability of wrongdoers to avoid the consequences of misconduct merely by moving their activities from one jurisdiction to another. [Emphasis added.]

[26] Although there is a low threshold for determining whether it is in the public interest to reciprocate an order from another regulatory authority, the Commission must make its own determination of what is in the public interest in Ontario "rather than make an order automatically, based on the order of the foreign jurisdiction" (*Lines v. British Columbia (Securities Commission)* (2012) BCCA 316, at para. 31). The Commission has also recognized that:

> The decision of a foreign jurisdiction stands as a determination of fact for the purpose of the Commission's considerations under subsection 127(10) of the Act. The Commission's task is then to determine whether, based on those findings of fact, the sanctions proposed by Staff would be in the public interest in Ontario. An important factor to consider is, if the facts had occurred in Ontario, whether the respondent's conduct would have constituted a breach of the Act and been considered to be contrary to the public interest, such that it would attract the same or similar sanctions.
>
> (*Re JV Raleigh Superior Holdings Inc.* (2013), 36 O.S.C.B. 4639 at para. 16)

[27] The Commission has also considered the threshold when reciprocal orders are based on decisions of courts and regulators outside Canada. In *Re New Futures Trading International Corp* (2013), 36 O.S.C.B. 5713 ("*New Futures*"), when considering judgments from the United States, the Commission commented at paragraph 27 that:

> Although the application of subsection 127(10) of the Act does not involve the direct enforcement of a foreign judgment, the principles of comity and reciprocity espoused in Morguard and in Beals, underlying the enforcement of interprovincial and foreign judgments should equally apply to securities regulators. I acknowledge that the Commission's orders in the public interest involve more than monetary judgment enforcement. The Commission has the authority to impose a number of market prohibitions on the Respondents, only when it is in the public interest to do so. Comity requires that there not be barriers to recognizing and reciprocating the orders of other regulatory authorities when the findings of the foreign jurisdiction qualify under subsection 127(10) of the Act as a judgment that invokes the public interest. For comity to be effective and the public interest to be protected, the threshold for reciprocity must be low. The onus will rest with the Respondents to show that there was no substantial connection between the Respondent and the originating jurisdiction, that the order of the foreign regulatory authority was procured by fraud or that there was a denial of natural justice in the foreign jurisdiction. [Emphasis added.]

[28] In *Beals v. Saldanha*, [2003] 3 S.C.R. 416 ("*Beals*"), the Supreme Court of Canada stated as follows:

> If the foreign state's principles of justice, court procedures and judicial protections are not similar to ours, the domestic enforcing court will need to ensure that the minimum Canadian standards of fairness were applied. If fair process was not provided to the defendant, recognition and enforcement of the judgment may be denied.
>
> (at para. 63)
>
> …
>
> The defence of natural justice is restricted to the form of the foreign procedure, to due process, and does not relate to the merits of the case. The defence is limited to the procedure by which the foreign court arrived at its judgment. However, if that procedure, while valid there, is not in accordance with Canada's concept of natural justice, the foreign judgment will be rejected. The defendant carries the burden of proof and, in this case, failed to raise reasonable apprehensions of unfairness.
>
> (at para. 64) [Emphasis added.]

[29] Based on the principles articulated in *New Futures* and *Beals*, we need to consider whether the U.S. Proceedings lacked due process or otherwise subjected Black to a denial of natural justice in the United States.

[30] Black was represented in the U.S. Proceedings by extremely capable counsel. As noted by Justice St. Eve, "… the Court noted that [Black's] trial and appellate counsel were some of the most talented and well-respected attorneys in their field" and then listed in detail the accomplishments of his U.S. trial counsel (*Collateral Appeal Judgment*, *supra* at p. 4). Black's counsel before the Supreme Court of the United States and on remand before the U.S. Court of Appeal was Miguel Estrada,

and in his book, *A Matter of Principle*, which formed part of Black's submissions to us, Black acknowledges at page 478 that Mr. Estrada was "very able and motivated" and "proved a magnificently thorough counsel".

[31] With respect to the conduct of Justice St. Eve, who presided over the trial, the motion for a judgment of acquittal of the convictions and the sentencing before the U.S. District Court, Black stated at the first sentencing hearing "…it only remains for me to thank your Honor for the unfailing courtesy and efficiency with which you conducted this trial" (*2007 Sentencing Decision*, *supra* at page 111 lines 12-14).

[32] As reflected in the numerous decisions resulting from the U.S. Proceedings, Black was provided with an exhaustive opportunity to repeatedly contest the criminal and administrative allegations against him before some of the most consequential courts in the United States, including the Supreme Court. Although the principles of natural justice, court procedures and judicial protections in the United States are not identical in all respects to those that exist in Ontario, Black has not raised with us any alleged deficiencies in or procedural failures of the U.S. Proceedings that would amount to a denial of natural justice. Clearly, Black's assertion through his counsel that he "doesn't believe that he did something wrong" (Hearing Transcript, April 10, 2014 at p. 69, lines 22-24), is not evidence of a denial of natural justice.

[33] By any measure, the U.S. Proceedings met Canadian standards of fairness and Canada's concept of natural justice. As stated in *Beals*, Black carried the burden of proof, and, in our view, has "failed to raise reasonable apprehensions of unfairness" in the conduct of the U.S. Proceedings. In addition, the U.S. Proceedings resulted in convictions in the United States relating to offenses arising from transactions businesses or courses of conduct related to securities within the meaning of paragraph 1 of subsection 127(10) of the Act), and Black agreed with a securities regulatory authority in the United States to be made subject to sanctions and restrictions within the meaning of paragraph 5 of subsection 127(10) of the Act.

[34] Having concluded that the convictions and orders resulting from the U.S. Proceedings are a reliable basis for an enforcement proceeding against Black under subsection 127(10) of the Act, the questions that remain are (i) what protective and preventive order would be in the public interest in Ontario; and (ii) what evidence relating to such an order would be appropriate at the subsection 127(10) hearing. The case law previously referred to establishes that the purpose of the hearing is not to re-litigate the U.S. Proceedings. The conduct at issue has already been the subject of adjudication in the United States and it is not the Commission's role to go behind foreign judgments and overturn prior court findings.

[35] Our role under subsection 127(10) of the Act is to craft a reciprocal order that is protective and preventive to ensure that conduct similar to the conduct which was the subject matter of the U.S. Proceedings cannot occur in Ontario's capital markets. To be admissible, any evidence presented at the subsection 127(10) hearing must be relevant to crafting such an order. As summarized in *Administrative Law in Canada*:

> The basic criterion for the admissibility of evidence is relevance. Relevant evidence is admissible, irrelevant evidence is inadmissible. Relevance is determined by the purpose and subject matter of the proceeding described in the notice of hearing or written allegations. Evidence relevant to those matters is admissible.
>
> (Sara Blake, *Administrative Law in Canada*, 5th ed (Markham: Lexis Nexis Canada 2011) at 60)

[36] A tribunal's ability to exclude irrelevant evidence is well established. For example, in *Wright v. College and Assn. of Registered Nurses of Alberta (Appeals Committee)*, 2012 ABCA 267 at paragraph 33, the Alberta Court of Appeal affirmed a tribunal's decision to exclude evidence as follows:

> Deciding what issues are raised by the hearing, and what evidence is relevant to those issues is an integral part of the decision making process. Likewise, deciding what evidence will be persuasive or helpful (i.e. material) on those issues is well within the mandate of the Hearing Tribunal. … A tribunal is entitled to decide that some evidence is not sufficiently persuasive to warrant the time and expense required for its consideration.

[37] For the purposes of subsection 127(10) hearings, the Act provides that the Commission may make orders on the basis of: convictions by courts and/or the orders and decisions of, or settlement agreements with, regulators in other jurisdictions. However, the Commission has accepted that other evidence might also be relevant to assist the Commission in crafting an appropriate reciprocal order. For example, in *Re Euston Capital Corp.* (2009), 32 O.S.C.B. 6313, in addition to the decisions of other Canadian securities regulators, evidence was led "…indicat[ing] that the Respondents may have been engaged in serious misconduct in Ontario, and their conduct may have harmed a number of Ontario investors"(at para. 78). This evidence could be relevant to the sanctions that should be imposed on respondents.

[38] In our view, in addition to convictions, orders or agreements emanating from the United States, in the circumstances of this matter, other evidence of the parties that may be relevant to the determination of an appropriate and proportionate order by the Commission would be evidence relating to Black's conduct as contemplated by paragraphs 39(e) and (g) below.

[39] We have reviewed the summary of the evidence that Black seeks to adduce set out in paragraphs (aa) and (bb) of his Notice of Motion, and have assessed its relevance. We find that:

(a) The value that the Black-led management team built and the Black-led management team's expertise, described in paragraphs (aa)(i) and (ii) are not relevant. The growth of the Hollinger Inc. ("Hollinger") enterprise is not at issue in the OSC Proceeding.

(b) The allegations by certain groups regarding Black and the Black-led management team's improprieties described in paragraph (aa)(iii) are not relevant. The management of the Hollinger enterprise is not at issue in the OSC Proceeding.

(c) The alleged destruction of the Hollinger enterprise described in paragraph (aa)(iv) is not relevant. The decline in the value of the Hollinger enterprise is not at issue in the OSC Proceeding.

(d) The efforts of the Black-led management team to increase Hollinger's market capitalization described in paragraph (bb)(i) are not relevant and are not at issue in the OSC Proceeding.

(e) The Hollinger corporate governance procedures described in paragraph (bb)(ii) may be relevant to the issue of sanctions but only to the extent of Black's conduct relating to the APC Payments and the Forum and Paxton Payments.

(f) The circumstances that lead to the departure of the Black-led management team described in paragraph (bb)(iii) are not relevant and are not at issue in the OSC Proceeding.

(g) Black's conduct relating to the removal of 13 boxes of documents from Hollinger's Toronto offices described in paragraph (bb)(iv) may be relevant to the issue of sanctions.

VI. Conclusion

[40] For the reasons set out above, the application by Black for a stay of the OSC Proceeding is dismissed. The evidence permitted to be adduced at the subsection 127(10) hearing is set out in paragraphs 39(e) and (g) of these reasons provided that, at the subsection 127(10) hearing, the Panel may make further rulings relating to the admissibility of specific evidence sought to be adduced and may determine the weight to be ascribed to such evidence.

[41] In coming to the foregoing conclusions, we have taken a practical approach to ensure we do not waste valuable Commission resources re-litigating the U.S. Proceedings, while at the same time ensuring that we have all relevant information to craft a reciprocal order in this matter. As these reasons narrow the scope of the evidence that will be permitted, the subsection 127(10) hearing will be much shorter than originally contemplated. As a result, we have also issued a separate order rescheduling certain future appearances and scheduling a pre-hearing conference to ensure the efficient case management of this hearing and that there are no further delays.

[42] During the hearing of Black's application for a stay of proceedings, both parties alluded to the subsection 127(10) hearing taking place in two phases, namely, an evidentiary phase and a sanctions phase. We do not agree with such an approach, which has never been followed in any other subsection 127(10) proceeding before the Commission, and see no compelling reason to alter the Commission's current practice. For clarity, the hearing scheduled to commence on October 3, 2014 is for the purposes of making a reciprocal order under subsection 127(10) of the Act, and will deal with evidence and submissions relating to such an order.

Dated at Toronto this 13th day of June, 2014.

"Christopher Portner"

"Judith N. Robertson"

3.1.2 Wealth Stewards Portfolio Management Inc. and Sushila Lucas – s. 31

IN THE MATTER OF
STAFF'S RECOMMENDATION TO SUSPEND THE REGISTRATIONS OF
WEALTH STEWARDS PORTFOLIO MANAGEMENT INC. AND SUSHILA LUCAS

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 as follows:

   - Wealth Stewards Portfolio Management Inc. (Wealth Stewards) registration as a portfolio manager is suspended indefinitely.
   - Sushila Christine Lucas' (Ms. Lucas) registration as Ultimate Designated Person (UDP) and Chief Compliance Officer (CCO) are suspended for a period of three years. If, after the three-year period, Ms. Lucas seeks to register as a:
     - UDP, she must complete the Partners, Directors and Senior Officers Course before submitting her application; and/or
     - CCO, she must complete the Chief Compliance Officers Qualifying Exam and the Partners, Directors and Senior Officers Course before submitting her application.
   - Ms. Lucas' advising registration is suspended for a period of 6 months. Prior to re-applying for registration, Ms. Lucas must successfully complete the Conduct and Practices Handbook Course.

Overview

2. Wealth Stewards is registered under the *Securities Act* (Ontario) (Act), and in Alberta and British Columbia, in the category of portfolio manager and Ms. Lucas is registered as the advising representative, CCO and UDP, and permitted individual of Wealth Stewards in all three jurisdictions.

3. By letter dated February 24, 2014, staff (Staff) of the Ontario Securities Commission (the Commission or the OSC) advised Wealth Stewards and Ms. Lucas that Staff has recommended to the Director that her registration as an advising representative, CCO, and UDP and the registration of Wealth Stewards as a portfolio manager be suspended.

4. The basis of Staff's recommendation was the number of significant deficiencies identified during the compliance review of Wealth Stewards, conducted under section 20 of the Act. The review period was August 1, 2012, to July 31, 2013. Staff has fundamental concerns with the integrity and proficiency of Ms. Lucas and Wealth Stewards.

5. Pursuant to section 31 of the Act, Wealth Stewards and Ms. Lucas requested an in-person opportunity to be heard (OTBH). The OTBH occurred on May 1, 2014 and additional information was submitted on May 21, 2014.

6. Three primary issues were discussed at the OTBH:

   a. Staff contends that there was improper delegation of know-your-client (KYC) and suitability obligations along with advisory activities to an unregistered person.

   b. Staff contends that the OSC was not notified of a material change in the ownership structure of Wealth Stewards.

   c. Staff contends that there was false certification of client identification documents and inappropriate signatures on firm documents.

Submissions

Issue 1 – Delegating KYC and suitability requirements, and advisory activity, to a person that is not registered.

7. KYC and suitability obligations are among the most fundamental obligations owed by a registrant to its clients and are cornerstones of the investor protection regime. Part 13 of National Instrument 31-103 *Registration Requirements,*

Exemptions and Ongoing Registrant Obligations (NI 31-103) provides the regulatory requirements for these fundamental obligations and further guidance is provided in its accompanying companion policy (Companion Policy).

8. Subsection 13.2(2) of NI 31-103 provides that a "registrant must take reasonable steps to (a) establish the identity of a client … (c) ensure that it has sufficient information regarding all of the following to enable it to meet its obligations under section 13.3 … (i) the client's investment needs and objectives; (ii) the client's financial circumstances; (iii) the client's risk tolerance …".

9. Subsection 13.3(1) provides that a "registrant must take reasonable steps to ensure that, before it … makes a purchase or sale of a security for a client's managed account, the purchase or sale is suitable for the client." Additionally, section 13.3 of the Companion Policy explicitly states that a "[r]egistrants may not: delegate their suitability obligations to anyone else …".

10. Staff presented information obtained from the compliance review of Wealth Stewards, and interviews with clients and Ms. Lucas, that demonstrate Ms. Lucas and Wealth Stewards delegated their KYC and suitability obligations to an unregistered individual, Mr. Bruce Deck (Mr. Deck), who is a 50% owner, permitted individual and employee of Wealth Stewards.

11. To summarize the information provided, Mr. Deck interacted with the Wealth Stewards clients by:

- maintaining the exclusive client facing relationship
- completing all account forms including the KYC information form with clients during in-person meetings,
- completing annual KYC review forms for some of the accounts,
- being listed under the generic heading of "Manager" on the KYC form,
- being listed as either the "WSPM Adviser" or "Adviser" on other forms,
- selecting the investments mandates and sub-adviser for the clients, and
- informing Ms. Lucas, the only advising representative of Wealth Stewards, what investment mandates were appropriate for the clients.

12. Additionally, when Staff interviewed clients, all but one stated that Mr. Deck was their portfolio manager at Wealth Stewards.

13. In a voluntary interview and at the OTBH, Ms. Lucas stated that during the relevant period she had not met with the clients, in-person or by any other means, that Mr. Deck selected the investment mandates and sub-adviser for the clients, and that she had not changed any of the investment mandates selected on the account forms. As required by securities law, Ms. Lucas as the sole advising representative, failed to take reasonable steps to complete the KYC and suitability obligations for Wealth Stewards' clients.

14. Additionally, the vast majority of the Wealth Stewards clients are receiving financial planning services from Mr. Deck through a separate entity, Wealth Stewards Planning and Management Corp. (Wealth Stewards Planning). Mr. Deck has a long standing relationship with most of the clients and it is clear from the information presented that the clients do not know what services they are receiving from Mr. Deck (through Wealth Stewards Planning) as a financial planner and those services as an employee of Wealth Stewards.

15. The confusion may arise because the financial planning services and portfolio management services are not clearly distinguished by Mr. Deck and Wealth Stewards. For example, at the OTBH, the Director notified Mr. Deck that on the Financial Planning Standards Council website Mr. Deck had listed Wealth Stewards Portfolio Management Inc., as the entity from which he provides financial planning services, not Wealth Stewards Planning. This is also the case for the Institute of Advanced Financial Planners website. Also, the names of the two companies are very similar and the client account documents use the same logo and acronym (WSPM) which further exacerbates the confusion.

16. Another factor that contributes to client confusion is that Mr. Deck was previously registered as a dealing representative. This is more fully explained in Issue 2 below. While Mr. Deck was registered as a dealing representative, he provided similar services to clients at various other registrants. However, in 2007 his registration was suspended for a period of time. After becoming an unregistered employee of Wealth Stewards, he continued to service clients in a manner that appears not to have changed after his registration was suspended. This point is evident from a statement made by one of the clients to Staff. The client stated that he had been a client of Mr. Deck's since 1993 or

1994 and that Mr. Deck bounced around from X dealer to Y dealer and then to Wealth Stewards. This shows, from a client's perspective, that Mr. Deck continued to provide the same type of services that he had provided before his registration was suspended.

17. The information presented by Staff was sufficient evidence to support a finding that Wealth Stewards and Ms. Lucas failed to comply with the regulatory obligations under Part 13 of NI 31-103 by allowing an unregistered person to perform KYC and suitability obligations which are among the most fundamental obligations a registrant owes to its clients.

Issue 2 – The OSC was not notified of a material change in the ownership structure of Wealth Stewards.

18. Section 11.10 of NI 31-103 provides in part that a registered firm must give the regulator written notice if it knows, or has reason to believe, that any person or company is about to acquire, or has acquired, beneficial ownership of, or direct or indirect control or direction over, 10% or more of any class or series of voting securities of the registered firm.

19. Wealth Stewards filed a Form 33-109 (F4) at the time that Mr. Deck acquired a 50% ownership interest and became a permitted individual, but failed to file a Section 11.10 notice. Section 11.10 of the Companion Policy states that a section 11.10 notice provides the "regulator an opportunity to consider ownership issues that may affect a firm's fitness for registration."

20. Subsection 27(2) of the Act provides the foundation of the registration regime which is that a person or company must meet the proficiency, solvency and integrity requirements prescribed in the regulations.

21. In this instance, Staff contends that the integrity of Wealth Stewards is objectionable because of Mr. Deck's 50% ownership. In 2007, Mr. Deck was the subject of a disciplinary action by the Investment Dealers Association of Canada (IDA) (now known as Investment Industry Regulatory Organization of Canada) in which a settlement agreement was entered into by Mr. Deck and the IDA.

22. In this action, Mr. Deck's registration as a registered representative was suspended for a period of two years, a fine of $138,212 was levied and he was ordered to pay $15,000 towards the costs of the investigation and prosecution. Also, he was required to complete educational courses before re-applying as a registered representative with a dealer member. Mr. Deck stated that he completed the educational course as required, but made no attempt to pay the fine and administrative costs in full or through a payment arrangement. Staff provided confirmation that the settlement agreement has not been fulfilled because Mr. Deck has failed to pay the fine and administrative costs.

23. The meaning of integrity as provided in *Re Sawh* (2012), 35 OSCB 7431 (Sawh), a recent Commission-level decision that was later upheld by the Divisional Court in *Sawh v. Ontario Securities Commission*, 2013 ONSC 4018. At paragraph 264 of *Sawh*, the Commission wrote:

> In determining the integrity of the Applicants, however, we are guided by the principle that the Commission shall consider in pursuing the purposes of the Act which, as set out in [*Re Istanbul* (2008), 31 OSCB 3799] at para. 68 and subparagraph 2(iii) of section 2.1 of the Act, excerpted at paragraph [152] above, is "the maintenance of *high standards of fitness and business conduct* to ensure *honest and responsible conduct* by market participants" [Emphasis in the original]."

24. Based upon the principle reiterated in Sawh, integrity encompasses honest and responsible conduct.

25. As previously stated, Mr. Deck provides financial planning services to clients for which he holds two financial planning designations. He also holds the Certified Investment Management designation. In order to maintain the financial planning designations, Mr. Deck is subject to standards of professional responsibility including codes of ethics. Even while being subject to the standards of professional responsibility, Mr. Deck failed to fully comply with the terms of the IDA settlement agreement. This, in my opinion, is not honest and responsible conduct and therefore, if Mr. Deck would apply for registration or make a submission as a permitted individual, I have concerns about his integrity.

26. Also, as provided in a voluntary interview, Ms. Lucas stated that after entering into the business arrangement with Mr. Deck, she became aware that Mr. Deck had not fully satisfied the terms of the IDA settlement agreement.

27. The integrity of Wealth Stewards is impugned by continuing to conduct business with the knowledge that a 50% owner lacks integrity. Also, as the UDP, CCO and advising representative of Wealth Stewards, it was not responsible conduct for Ms. Lucas to continue to permit Mr. Deck to conduct registerable activity without being registered.

Issue 3 – False certification of client identification documents and inappropriate signatures on firm documents.

28. Staff presented documentation to show that Ms. Lucas had signed photocopies of client identification documents as "certified true copies" in order to fulfill the client identification procedures of Wealth Stewards' custodian. Ms. Lucas confirmed that she certified the documents without meeting any of the clients in-person or seeing the original documents.

29. During the OTBH there was debate about whether the custodian was aware that Ms. Lucas was providing the certification without seeing the original documents. However, this debate does not bear on my decision, because taking the words "certified true copy" at their plain meaning, it means that the person signing has reviewed the original document and made a copy. Ms. Lucas failed to exercise responsible conduct when she certified the documents as true and forwarded them to the custodian.

30. Additionally, Staff presented other evidence where the actual practice conducted by Wealth Stewards was not what was evidenced by written documents. The Wealth Stewards KYC form contains boilerplate language that states:

> "Acknowledgment and Agreement – I (we) have read, discussed and understood the foregoing information with the Wealth Steward whose signature appears below. I (we) are satisfied with the long term investment objectives as outlined in this document. I (we) understand that these objectives are to be reviewed every three years or sooner, as dictated by myself (ourselves the clients(s)."

31. Ms. Lucas' signature is on these forms. Ms. Lucas stated that she did not meet with clients in-person or through any other means and that Mr. Deck was the person who completed the KYC forms. Mr. Deck's signature does not appear on the forms.

32. Finally, another issue identified is the requirement that Wealth Stewards' clients sign a "No Advice Waiver" Form which states among other things:

> "Please note that only our licensed portfolio managers are able to provide direction and instructions with respect to specific portfolio holdings."
>
> "We ask that you read and sign this document to acknowledge that non-licensed advisers that may refer you to our firms and/or our non-advising employees are not able to provide advice on specific securities holdings nor act in a way that would induce you to participate in any securities transactions."
>
> "Should you have any questions regarding specific securities that may be held in our portfolios, we require that you be directed to one of our licensed portfolio managers. Bruce Deck, who is a non-advising employee of our firm, is unable to provide advice with respect to securities matters. Any such questions in this regard will be noted in the input section of this document and be acknowledged by your signature below. By doing so, you and Bruce Deck agree to refer all securities-related questions to our attention should they arise."

However, based upon the information provided throughout this OTBH, the statements agreed to in the "No Advice Wavier" contradict what actually occurs in practice.

33. The combination of these issues along with the deficiencies detailed in the Compliance Review Report demonstrates a lack of a compliance system. The responsibilities of a UDP and CCO, as provided in sections 5.1 and 5.2 of NI 31-103, carry great importance and must be fully appreciated and fulfilled by persons registered in those capacities. Additionally, section 11.1 of NI 31-103 provides the requirements for a compliance system. Ms. Lucas indicated that a compliance consultant and external legal counsel were hired previously when the firm was first established which is reasonable, but in the end the registrant is responsible for establishing and executing a compliance system.

Decision

34. My decision is based on the submissions of Michael Denyszyn (Senior Legal Counsel, CRR); the affidavit, supplemental affidavits, and testimony of Chris Caruso (Accountant, CRR); submissions by Kevin Cohen (President and CEO) and Richard Roskies (Legal Counsel) of AUM Law Professional Corporation on behalf of Ms. Lucas, Wealth Stewards and Mr. Deck; and testimony of Ms. Lucas and Mr. Deck.

35. Section 28 of the Act provides that the registration of a person or company may be suspended or terms and conditions placed on the registration if it is determined that the person or company is not suitable for registration or has failed to comply with Ontario securities law, or that their registration is otherwise objectionable.

36. Based upon the authority provided in section 28 of the Act, my decision is to suspend the registration of Wealth Stewards indefinitely and to suspend Ms. Lucas' registration as UDP and CCO for a period of three years. If, after the three-year period, Ms. Lucas seeks to register as a:

- UDP, she must complete the Partners, Directors and Senior Officers Course before submitting her application, and/or
- CCO, she must complete the Chief Compliance Officer Qualifying Exam and the Partners, Directors and Senior Officers Course before submitting her application.

37. Ms. Lucas' advising registration is suspended for a period of 6 months. Prior to re-applying for registration as an advising representative, Ms. Lucas must successfully complete the Conduct and Practices Handbook Course.

38. All courses provided above are administered by Moody's Analytics Global Education (Canada) Inc., operating as Canadian Securities Institute.

39. Prior to reaching this decision, I fully considered whether terms and conditions could be drafted to address the regulatory breaches of failing to comply with Part 5 and sections 11.1, 13.2 and 13.3 of NI 31-103 and remediate the integrity and proficiency concerns.

40. Ultimately, I concluded that terms and conditions were not sufficient in this instance due to the following factors:

a. In a prior matter, *Re Jaynes* (2000), 23 OSCB 1543, the Director stated in part that "[w]hile terms and conditions restricting registration may be appropriate in a wide variety of circumstances; they should not be used to "shore up" a fundamentally objectionable registration."

b. Wealth Stewards previously engaged a compliance consultant to establish its compliance system which on paper appeared to have elements of a compliant structure. However, it was the execution of the compliance system that failed in this instance so a term and condition requiring a compliance consultant to enhance the compliance system will not address the failures of the UDP and CCO.

c. Ms. Lucas is the sole registrant carrying the full regulatory responsibilities of the firm. It may have been possible to develop a term and condition requiring Wealth Stewards to hire a new CCO, but if Ms. Lucas remained as UDP then having a CCO report to an ineffective UDP is not reasonable.

d. The UDP must be the chief executive officer, sole proprietor or person acting in a similar capacity. Wealth Stewards ownership structure is split 50/50 between Ms. Lucas and Mr. Deck. Mr. Deck, in my opinion, lacks the integrity required of a registrant and Ms. Lucas is ineffective as the current UDP so there is no one else that could fulfill the requirements of the UDP.

e. As the sole advising representative of Wealth Stewards, Ms. Lucas bears the responsibility to conduct KYC and suitability obligations for Wealth Stewards clients. Her conduct, in my opinion, was not reasonable.

f. The time periods for the suspension of the UDP, CCO and advising representative registrations are varied from that recommended by Staff due to the fact that Ms. Lucas did fully cooperate and provided candid responses to Staff's inquiries, there was no evidence presented that the KYC forms were falsified, and no client complaints were brought to my attention during the OTBH.

41. In my opinion, there are no other effective options available to address the breaches of securities law and address the integrity issues identified in this matter. Considering that registration is a privilege not a right, I believe it is in the public interest to suspend the registrations as indicated above.

42. Furthermore, a copy of this Director's Decision will be forwarded to the Financial Planning Standards Council, the Institute of Advanced Financial Planners, and any other professional organizations that are relevant.

"Debra Foubert", J.D.
Director, Compliance and Registrant Regulation Branch
Ontario Securities Commission

Dated: June 13, 2014

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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 ofPermanent Order	Date of Lapse/Revoke
BW Park Place Limited Partnership	18 April 11	29 April 11	29 April 11	13 June 14
CASH STORE FINANCIAL SERVICES INC., THE	6 June 14	18 June 14	18 June 14	
Greenstar Agricultural Corporation	3 June 14	16 June 14	16 June 14	
PRIMARIA CAPITAL (CANADA) LTD.	17 June 14	30 June 14		
Touchstone Gold Limited	30 June 14	11 June 14	11 June 14	
United Silver Corp	17 June 14	30 June 14		
Western Plains Petroleum Ltd.	17 June 14	30 June 14		

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
Family Memorials Inc.	2 May 14	14 May 14	14 May 14	2 June 14	

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
Carpathian Gold Inc.	4 April 14	16 April 14	16 April 14		
Pacific Vector Holdings Inc.	8 May 14	20 May 14	20 May 14		
Red Tiger Mining Inc.	2 May 14	14 May 14	14 May 14		
Sendero Mining Corp.	5 May 14	16 May 14	16 May 14		
Sonomax Technologies Inc.	9 May 14	21 May 14	21 May 14		

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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

There are no Reports of Exempt Distribution on Forms 45-106F1 or 45-501F1 (Reports) in this Bulletin.

Reports filed on or after February 19, 2014 must be filed electronically.

As a result of the transition to mandated electronic filings, the OSC is considering the most effective manner to make data about filed Reports available to the public, including whether and how this information should be reflected in the Bulletin. In the meantime, Reports filed with the Commission continue to be available for public inspection during normal business hours.

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Alaris Royalty Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated June 11, 2014
NP 11-202 Receipt dated June 11, 2014
Offering Price and Description:
$76,014,900 - 2,847,000 Common Shares
Price: $26.70 per Common Share
Underwriter(s) or Distributor(s):
Acumen Capital Finance Partners Limited
Cormark Securities Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Canaccord Genuity Corp.
Raymond James Ltd.
Promoter(s):
-
Project #2221409

Issuer Name:
Bauer Performance Sports Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 9, 2014
NP 11-202 Receipt dated June 9, 2014
Offering Price and Description:
US$ * and C$ * - *Common Shares
Price: * U.S.$ per share and * C$ per share)
Underwriter(s) or Distributor(s):
Morgan Stanley Canada Limited
Merrill Lynch Canada Inc.
RBC Dominion Securities Inc.
GMP Securities L.P.
Paradigm Capital Inc.
Promoter(s):
-
Project #2222102

Issuer Name:
Espial Group Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 9, 2014
NP 11-202 Receipt dated June 10, 2014
Offering Price and Description:
$10,000,080.00 - 3,508,800 Common Shares
Price: $2.85 per Share
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
BEACON SECURITIES LIMITED
CLARUS SECURITIES INC.
EURO PACIFIC CANADA INC.
GLOBAL MAXFIN CAPITAL INC.
Promoter(s):
-
Project #2221726

Issuer Name:
Excelsior Mining Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 12, 2014
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
$4,000,000.00 - 16,000,000 Units
Price: $0.25 per Unit
Underwriter(s) or Distributor(s):
DUNDEE SECURITIES LTD.
Promoter(s):
-
Project #2223145

Issuer Name:
Fiera Capital Balanced Fund
Fiera Capital Equity Growth Fund
Fiera Capital Equity Growth Fund - Defensive Series
Fiera Capital Global Equity Fund
Fiera Capital Global Equity Fund - Defensive Series
Fiera Capital U.S. Equity Fund
Fiera Capital U.S. Equity Fund - Defensive Series
Principal Regulator - Quebec
Type and Date:
Preliminary Simplified Prospectuses dated June 6, 2014
NP 11-202 Receipt dated June 10, 2014
Offering Price and Description:
Classes A Units, AV Units, B Units, F Units, FV Units and O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Fiera Capital Corporation
Project #2221948

Issuer Name:
Gold Standard Ventures Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Base Shelf Prospectus dated June 13, 2014
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
US$50,000,000
Common Shares
Warrants to Purchase Common Shares
Share Purchase Contracts
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2223595

Issuer Name:
Heroux-Devtek Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated June 11, 2014
NP 11-202 Receipt dated June 11, 2014
Offering Price and Description:
$37,106,500.00 - 3,158,000 Common Shares
Price: $11.75 per Common Share
Underwriter(s) or Distributor(s):
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
SCOTIA CAPITAL INC.
DESJARDINS SECURITIES INC.
LAURENTIAN BANK SECURITIES INC.
RAYMOND JAMES LTD.
Promoter(s):
-
Project #2221678

Issuer Name:
iShares Core Short Term High Quality Canadian Bond Index ETF
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated June 10, 2014
NP 11-202 Receipt dated June 11, 2014
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
BlackRock Asset Management Canada Limited
Promoter(s):
-
Project #2222606

Issuer Name:
Marquest American Dividend Growth Fund
Marquest Covered Call Canadian Banks Plus Fund
Marquest Money Market Fund
Marquest Short Term Income Fund (Corporate Class)
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified dated June 9, 2014
NP 11-202 Receipt dated June 10, 2014
Offering Price and Description:
Class A, Class F Units and Series F Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Marquest Asset Management Inc.
Project #2222304

Issuer Name:
PIMCO Unconstrained Bond Fund (Canada)
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated June 9, 2014
NP 11-202 Receipt dated June 10, 2014
Offering Price and Description:
Series A, Series F, Series I, Series M and Series O Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
PIMCO Canada Corp.
Project #2222195

Issuer Name:
Polaris Minerals Corporation
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 13, 2014
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
Cdn $15,163,000 - 5,900,000 Common Shares
Price: Cdn $2.57 per Common Share
Underwriter(s) or Distributor(s):
Dundee Securities Ltd.
GMP Securities L.P.
Paradigm Capital Inc.
Promoter(s):
-
Project #2222618

Issuer Name:
TD Canadian Equity Pool
TD Canadian Low Volatility Fund
TD Global Equity Pool
TD Retirement Balanced Portfolio
TD Retirement Conservative Portfolio
TD Tactical Monthly Income Fund
TD Tactical Pool
TD U.S. Shareholder Yield Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectuses dated June 12, 2014
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
Institutional Series Unit, F-Series Units, W-Series Units and K-Series Units
Underwriter(s) or Distributor(s):
TD Investment Services Inc.
TD Waterhouse Canada Inc.
TD Investment Services Inc. (for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series units)
TD Investment Services Inc.(for Investor Series units)
TD Investment Services Inc. (for Investor Series and e-Series Units)
TD Waterhouse Canada Inc.
TD Waterhouse Canada Inc. (W-Series and WT-Series only)
TD Investment Services Inc. (for Investor Series)
TD Asset Management Inc. (for Investor Series units)
TD Investment Services Inc. (for Investor Series and Premium Series units)
Promoter(s):
TD Asset Management Inc.
Project #2223225

Issuer Name:
Thompson Creek Metals Company Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Base Shelf Prospectus dated June 11, 2014
NP 11-202 Receipt dated June 11, 2014
Offering Price and Description:
U.S.$1,000,000,000.00
Common Shares
First Preferred Shares
Depositary Shares
Debt Securities
Warrants Subscription Receipts
Units
Share Purchase Contracts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2222883

Issuer Name:
Timbercreek Global Real Estate Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 10, 2014
NP 11-202 Receipt dated June 11, 2014
Offering Price and Description:
Warrants to Subscribe for up to * Class A Units at a Subscription Price of $*
Underwriter(s) or Distributor(s):
-
Promoter(s):
TIMBERCREEK ASSET MANAGEMENT LTD.
Project #2222740

Issuer Name:
Uranerz Energy Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary MJDS Prospectus dated June 11, 2014
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
$100,000,000.00
Common Shares
Warrants
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2223304

Issuer Name:
5N Plus Inc.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated June 10, 2014
NP 11-202 Receipt dated June 10, 2014
Offering Price and Description:
$60,000,000.00
5.75% Convertible Unsecured Subordinated Debentures
Due June 30, 2019
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
GMP Securities L.P.
CIBC World Markets Inc.
TD Securities Inc.
Laurentian Bank Securities Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Cormark Securities Inc.
Promoter(s):
-
Project #2220501

Issuer Name:
Aston Hill Short-Term Income Fund
(Series A, F, I, Y* and Z** units)
(* formerly called Series A)
(** formerly called Series F)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated May 27, 2014 to the Simplified Prospectus and Annual Information Form dated May 13, 2014
NP 11-202 Receipt dated June 12, 2014
Offering Price and Description:
Series A, F, I, Y and Z units
Underwriter(s) or Distributor(s):
Aston Hill Asset Management Inc.
Promoter(s):
Aston Hill Asset Management Inc.
Project #2190472

Issuer Name:
BTB Real Estate Investment Trust
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated June 11, 2014
NP 11-202 Receipt dated June 11, 2014
Offering Price and Description:
$22,003,800.00
4,836,000 Units
$4.55 per Unit
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Dundee Securities Ltd.
Laurentian Bank Securities Inc.
TD Securities Inc.
Canaccord Genuity Corp.
GMP Securities L.P.
Euro Pacific Canada Inc.
Raymond James Ltd.
Desjardins Securities Inc.
Promoter(s):
-
Project #2217232

Issuer Name:
CI Financial Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 10, 2014
NP 11-202 Receipt dated June 10, 2014
Offering Price and Description:
$2,275,200,000.00
72,000,000 Common Shares
Price: $31.60 per Offered Share
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
RBC DOMINION SECURITIES INC.
GMP SECURITIES L.P.
BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
TD SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
GOLDMAN SACHS CANADA INC.
BARCLAYS CAPITAL CANADA INC.
Promoter(s):
-
Project #2216130

Issuer Name:
DIRTT Environmental Solutions Ltd.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated June 11, 2014
NP 11-202 Receipt dated June 11, 2014
Offering Price and Description:
$16,177,866.00
6,222,256 Common Shares
Price: $2.60 per Common Share
Underwriter(s) or Distributor(s):
Raymond James Ltd.
National Bank Financial Inc.
Cormark Securities Inc.
Paradigm Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #2220677

Issuer Name:
Element Financial Corporation
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 11, 2014
NP 11-202 Receipt dated June 12, 2014
Offering Price and Description:
$825,052,500.00;
64,710,000 Subscription Receipts, each representing the right to receive one Common Share
and
$300,000,000.00;
5.125% Extendible Convertible Unsecured Subordinated Debentures
and
$125,000,000.00
5,000,000 6.40% Cumulative 5-Year Rate Reset Preferred Shares, Series E
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
GMP Securities L.P.
National Bank Financial Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
Cormark Securities Inc.
Manulife Securities Incorporated.
Scotia Capital Inc.
Barclays Capital Canada Inc.
Credit Suisse Securities (Canada) Inc.
Promoter(s):
-
Project #2220491

Issuer Name:
ElevenFund
Type and Date:
Final Simplified Prospectus dated April 24, 2014
Receipted on June 10, 2014
Offering Price and Description:
Series A and Series F Units
Underwriter(s) or Distributor(s):
Spartan Fund Management Inc.
Promoter(s):
Spartan Fund Investment Inc.
Project #2156616

Issuer Name:
Journey Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Long Form Prospectus dated June 12, 2014
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
$198,000,000.00
16,500,000 Common Shares
Price: $12.00 per Common Share
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Peters & Co. Limited
Cormark Securities Inc.
FirstEnergy Capital Corp.
RBC Dominion Securities Inc.
TD Securities Inc.
AltaCorp Capital Inc.
Promoter(s):
Infra-PSP Partners Inc.
Project #2208506

Issuer Name:
Madalena Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated June 12, 2014
NP 11-202 Receipt dated June 12, 2014
Offering Price and Description:
$50,031,000.00
98,100,000 Subscription Receipts
each representing the right to receive one Common Share
$0.51 per Subscription Receipt
Underwriter(s) or Distributor(s):
Dundee Securities Ltd.
RBC Dominion Securities Inc.
Haywood Securities Inc.
Beacon Securities Limited
National Bank Financial Inc.
FirstEnergy Capital Corporation
Mackie Research Capital Corporation
TD Securities Inc.
Canaccord Genuity Corp.
Jennings Capital Inc.
Raymond James Ltd.
Promoter(s):
-
Project #2217173

Issuer Name:
Pinnacle Income Portfolio
Pinnacle Balanced Portfolio
Pinnacle Growth Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated May 14, 2014 to the Simplified Prospectuses and Annual Information Form dated November 8, 2013
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
Series A units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Promoter(s):
-
Project #2085027

Issuer Name:
Pure Industrial Real Estate Trust
Principal Regulator - British Columbia
Type and Date:
Final Base Shelf Prospectus dated June 12, 2014
NP 11-202 Receipt dated June 12, 2014
Offering Price and Description:
$750,000,000.00
Units
Debt Securities
Warrants
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2220817

Issuer Name:
Scotia Mortgage Income Fund (Series A, Series F and Series I units)
Scotia Bond Fund (Series A and Series I units)
Scotia Canadian Income Fund (Series A, Series F and Series I units)
Scotia U.S. $ Bond Fund (Series A and Series F units)
Scotia Global Bond Fund (Series A, Series F and Series I units)
Scotia Diversified Monthly Income Fund (Series A and Series F units)
Scotia Income Advantage Fund (Series A units)
Scotia Canadian Balanced Fund (Series A and Series F units)
Scotia Dividend Balanced Fund (Series A and Series I units)
Scotia Balanced Opportunities Fund (Series A and Series F units)
Scotia Global Balanced Fund (Series A and Series I units)
Scotia U.S. $ Balanced Fund (Series A units)
Scotia Canadian Dividend Fund (Series A, Series F and Series I units)
Scotia Canadian Blue Chip Fund (Series A, Series F and Series I units)
Scotia Canadian Growth Fund (Series A, Series F and Series I units)
Scotia Canadian Small Cap Fund (Series A, Series F and Series I units)
Scotia Resource Fund (Series A, Series F and Series I units)
Scotia U.S. Dividend Fund (Series A and Series I units)
Scotia U.S. Blue Chip Fund (Series A, Series F and Series I units)
Scotia U.S. Opportunities Fund (Series A, Series F and Series I units)
Scotia International Value Fund (Series A, Series F and Series I units)
Scotia European Fund (Series A, Series F and Series I units)
Scotia Pacific Rim Fund (Series A, Series F and Series I units)
Scotia Latin American Fund (Series A, Series F and Series I units)
Scotia Global Dividend Fund (Series A and Series I units)
Scotia Global Growth Fund (Series A, Series F and Series I units)
Scotia Global Small Cap Fund (Series A, Series F and Series I units)
Scotia Global Opportunities Fund (Series A, Series F and Series I units)
Scotia Canadian Bond Index Fund (Series A, Series F and Series I units)
Scotia Canadian Index Fund (Series A, Series F and Series I units)
Scotia U.S. Index Fund (Series A, Series F and Series I units)
Scotia CanAm Index Fund (Series A and Series F units)
Scotia Nasdaq Index Fund (Series A and Series F units)
Scotia International Index Fund (Series A, Series F and Series I units)
Scotia Selected Income Portfolio (Series A units)
Scotia Selected Balanced Income Portfolio (Series A and Series F units)
Scotia Selected Balanced Growth Portfolio (Series A and Series F units)
Scotia Selected Growth Portfolio (Series A and Series F units)
Scotia Selected Maximum Growth Portfolio (Series A and Series F units)
Scotia Partners Income Portfolio (Series A units)
Scotia Partners Balanced Income Portfolio (Series A and Series F units)
Scotia Partners Balanced Growth Portfolio (Series A and Series F units)
Scotia Partners Growth Portfolio (Series A and Series F units)
Scotia Partners Maximum Growth Portfolio (Series A and Series F units)
Principal Regulator - Ontario
Type and Date:
Amendment No. 1 dated May 14, 2014 to the Simplified Prospectuses of the above Issuers dated November 8, 2013, and Amendment No. 2 dated May 14, 2014 to the Annual Information Form dated November 8, 2013 (Amendment to SP and AIF)
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
Series A, Series F and Series I Units
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
1832 Asset Management L.P.
Project #2085029, 2085071, 2085046

Scotia Conservative Income Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated May 14, 2014 to the Simplified Prospectus and Annual Information Form dated January 15, 2014
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
1832 Asset Management L.P.
Project #2147514

Issuer Name:
Scotia Floating Rate Income Fund
Scotia Mortgage Income Fund
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated May 14, 2014 to the Simplified Prospectus and Annual Information Form dated January 15, 2014
NP 11-202 Receipt dated June 13, 2014
Offering Price and Description:
Series I and M units
Underwriter(s) or Distributor(s):
Scotia Securities Inc.
Promoter(s):
1832 Asset Management L.P.
Project #2147508

Issuer Name:
Series A, Series P, Series F, Series PF and Series I securities of:
Sentry Canadian Income Class *
Sentry Canadian Income Fund
Sentry Diversified Equity Class *
Sentry Diversified Equity Fund
Sentry Diversified Income Fund
Sentry Global Growth and Income Class *
Sentry Global Growth and Income Fund
Sentry Growth and Income Fund
Sentry Small/Mid Cap Income Class *
Sentry Small/Mid Cap Income Fund
Sentry U.S. Growth and Income Class *
Sentry U.S. Growth and Income Fund
Sentry Canadian Resource Class *
Sentry Energy Growth and Income Fund
Sentry Infrastructure Fund
Sentry Precious Metals Growth Class *
Sentry Precious Metals Growth Fund
Sentry REIT Class *
Sentry REIT Fund
Sentry Conservative Balanced Income Class *
Sentry Conservative Balanced Income Fund
Sentry Global Balanced Income Fund
Sentry U.S. Balanced Income Fund
Sentry Canadian Bond Fund (formerly, Sentry Bond Plus Fund)
Sentry Enhanced Corporate Bond Class * (formerly, Sentry Enhanced Corporate Bond Capital
Yield Class)
Sentry Enhanced Corporate Bond Fund
Sentry Money Market Class *
Sentry Money Market Fund
Sentry Tactical Bond Class * (formerly, Sentry Tactical Bond Capital Yield Class)
Sentry Tactical Bond Fund
(* A class of shares of Sentry Corporate Class Ltd.)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated June 6, 2014
NP 11-202 Receipt dated June 12, 2014
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Sentry Investments Inc.
Promoter(s):
Sentry Investments Inc.
Project #2191886

Issuer Name:
Spartan Energy Corp.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated June 9, 2014
NP 11-202 Receipt dated June 10, 2014
Offering Price and Description:
$130,012,500.00
34,670,000 Common Shares
$3.75 per Common Share
Underwriter(s) or Distributor(s):
PETERS& CO. LIMITED
CLARUS SECURITIES INC.
GMP SECURITIES L.P.
TD SECURITIES INC.
DUNDEE SECURITIES LTD.
DESJARDINS SECURITIES INC.
FIRSTENERGY CAPITAL CORP.
ALTACORP CAPITAL INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
NATIONAL BANK FINANCIAL INC.
PARADIGM CAPITAL INC.
SCOTIA CAPITAL INC.
Promoter(s):
-
Project #2215061

Issuer Name:
Sun Life Managed Conservative Portfolio
Principal Regulator - Ontario
Type and Date:
Amendment #2 dated May 26, 2014 to the Annual Information Form dated January 23, 2014
NP 11-202 Receipt dated June 9, 2014
Offering Price and Description:
Series A, T5, F, I
Underwriter(s) or Distributor(s):
-
Promoter(s):
SUN LIFE GLOBAL INVESTMENTS (CANADA) INC.
Project #2136831

Issuer Name:
Suncor Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated June 11, 2014
NP 11-202 Receipt dated June 11, 2014
Offering Price and Description:
$2,000,000,000.00
Series 5 Medium Term Notes
(Unsecured)
Underwriter(s) or Distributor(s):
AltaCorp Capital Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Desjardins Securities Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #2220789

Issuer Name:
True North Apartment Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 9, 2014
NP 11-202 Receipt dated June 9, 2014
Offering Price and Description:
$20,000,000.00
5.75% Extendible Convertible Unsecured Subordinated Debentures
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
RAYMOND JAMES LTD.
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
SCOTIA CAPITAL INC.
DUNDEE SECURITIES LTD.
GMP SECURITIES L.P.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
Promoter(s):
STARLIGHT INVESTMENTS LTD.
Project #2217441

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	Saguenay Strathmore Capital Inc.	From: Portfolio Manager To: Portfolio Manager and Exempt Market Dealer	June 9, 2014
Voluntary Surrender	Castor Asset Management Ltd.	Exempt Market Dealer, Portfolio Manager and Investment Fund Manager	June 13, 2014
New Registration	Questrade Wealth Management Inc.	Restricted Portfolio Manager, Exempt Market Dealer and Investment Fund Manager	June 13, 2014

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