The Ontario Securities Commission

OSC Bulletin

July 3, 2014

Volume 37, Issue 27

(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
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2075 Kennedy Road
Toronto, Ontario
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Subscriptions are available from Carswell at the price of $773 per year.

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

U.S.	$175
Outside North America	$400

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ISSN 0226-9325
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CSA Staff Notice 21-313
Information Processor for Exchange-Traded Securities other than Options

June 27, 2014

1. Introduction

Canadian Securities Adminstrators (CSA) staff (CSA staff or we) are publishing this notice to inform the public that TMX Information Processor (TMX IP) will continue to act as an information processor for exchange-traded securities other than options[1] under National Instrument 21-101 *Marketplace Operation* (NI 21-101) for a period of four years from July 1, 2014 to June 30, 2018.

2. Regulatory Requirements and the Need for an Information Processor

In the current environment where multiple marketplaces trade the same exchange-traded securities, it is important to have a consolidated source of data to address issues related to the fragmentation of information that may occur as a result. An information processor collects, consolidates and disseminates the marketplaces' data and thus ensures that investors and market participants have at least one source of consolidated data. An information processor also facilitates compliance by marketplace participants with relevant regulatory requirements that apply in a multiple marketplace environment by ensuring the availability of consolidated data that meets regulatory standards and which users can use to demonstrate or evaluate compliance with these requirements.

NI 21-101 provides for the operation and regulation of an information processor. An information processor is defined as a person or company that receives and provides information under NI 21-101 and has filed Form 21-101F5 *Initial Operation Report for Information Processor* (Form 21-101F5).

Part 7 of NI 21-101 sets out the transparency requirements for marketplaces that trade exchange-traded securities. Subsection 7.1(1) of NI 21-101 requires a marketplace that displays orders of exchange-traded securities to a person or company to provide accurate and timely information regarding orders for the exchange-traded securities displayed by the marketplace to an information processor or, in its absence, to an information vendor. An exception is provided in subsection 7.1(2) for marketplaces that only display orders to their employees or to persons or companies retained by the marketplaces to assist in the operation of the marketplace, if the orders posted on the marketplaces meet the size threshold set by a regulation services provider.

Section 7.2 of NI 21-101 requires marketplaces to provide trade information related to exchange-traded securities to an information processor or, in its absence, to an information vendor. The information processor has some flexibility regarding the information to be reported to it by the marketplaces.

The regulatory requirements that apply to the information processor are set out in Part 14 of NI 21-101. They include:

- a requirement to provide prompt and accurate order and trade information and to not unreasonably restrict fair access to such information;
- a requirement to provide timely, accurate, reliable and fair collection, processing, distribution and publication of information for orders for, and trades in, securities;

[1] In Québec, options are not "exchange-traded securities", but are derivatives under the *Derivatives Act* (Québec) and are therefore already excluded.

- an obligation to maintain reasonable books and records; and

- certain system requirements, including an annual independent systems review.

In addition, the information processor is required to establish, in a timely manner, an electronic connection to each marketplace that is required to provide information under NI 21-101, and also to enter into an agreement with each such marketplace. The agreement must set out that the marketplace will provide the information processor information in accordance with Part 7 of NI 21-101 and that it will comply with any other reasonable requirements set by the information processor.

An information processor is designated as a market participant under the *Securities Act* (Ontario) and may be recognized as an information processor under the *Securities Act* (Québec).

3. TMX IP

TMX IP has been an information processor for exchange-traded securities other than options since July 1, 2009. It is operated by a division of TMX Group Limited. As an information processor, it collects data from all the marketplaces that are required to provide it to meet the requirements set out in Part 14 of NI 21-101, and consolidates and disseminates this data.

TMX IP disseminates the following products (together, the Consolidated Products):

- Consolidated Data Feed, which provides access to order and trade market data from each marketplace that contributes its data to the TMX IP (contributing marketplace);

- Consolidated Last Sale, which provides real-time trading data from all contributing marketplaces;

- Canadian Best Bid and Offer, which provides a consolidated best bid and offer for all Canadian exchange-traded securities other than options; and

- Consolidated Depth of Book, which provides a single consolidated view of the order book from the contributing marketplaces.

The TMX IP has a "pass-through" fee model, where the contributing marketplaces enter into contractual agreements with data vendors and subscribers directly, allowing each marketplace's fees to be passed along to the end users. A monthly fee is charged by TMX IP for each of the Consolidated Products. The fees are published on the TMX IP's website.[2]

The TMX IP has a Governance Committee (the IP Governance Committee) with representatives from each contributing marketplace. An individual who is independent of all marketplaces and the TMX sits on the IP Governance Committee in a non-voting capacity and acts as Committee Chair. Each marketplace has one voting seat. The IP Governance Committee has decision-making authority with respect to the scope of service, operational priorities and enhancements, bandwidth and capacity planning, criteria and methods for monitoring performance.

CSA Staff Notice 21-309 *Information Processor for Exchange-Traded Securities other than Options* (CSA Staff Notice 21-309)[3] was published in 2009 to inform the public that TMX IP would act as an information processor. CSA Staff Notice 21-309 also outlined a number of undertakings over and above the applicable requirements in Part 14 of NI 21-101 with which TMX IP agreed to comply. A high-level summary of these undertakings is included below:

- TMX IP agreed to establish policies and procedures to address conflicts of interest related to the operation of the information processor by the TMX;

- TMX IP agreed to only distribute the Consolidated Products under the information processor designation and to obtain approval from CSA staff to distribute additional products using the data provided to it by marketplaces;

- TMX IP agreed to conduct an annual self-assessment of its compliance with subsections 14.4(2), (4) and (5) of NI 21-101 and with its performance with respect to the undertakings;

- TMX IP agreed to provide a report of the self-assessment to the IP Governance Committee and file the report and the views of the IP Governance Committee with the CSA;

- TMX IP acknowledged that it does not have exclusive rights to consolidating and disseminating order and trade data; and

[2] http://www.tmx.com/en/pdf/IP_InfomationSheet.pdf

[3] http://www.osc.gov.on.ca/documents/en/Securities-Category2/csa_20090605_21-309_processor-exchange.pdf.

- TMX IP agreed to ensure that all data contributors are given access to the IP on fair and reasonable terms.

4. CSA Oversight over TMX IP

Since July 1, 2009, TMX IP has been subject to ongoing oversight of CSA staff, which consists of:

- Quarterly and ad-hoc meetings or calls with TMX IP staff to discuss issues;
- Staff reviews of changes to the information included in Form 21-101F5 that were filed in accordance with the requirements of NI 21-101;
- Review of the reports related to the independent systems reviews that TMX IP arranged to have completed in accordance with the applicable requirement in NI 21-101;
- Review of minutes of meetings of the IP Governance Committee to understand the issues discussed and how they were resolved;
- Reviews of the reports of self-assessment prepared by TMX IP and of the comments from the IP Governance Committee;
- Review of financial information provided by TMX IP in accordance with the requirements of NI 21-101;
- Review of incident reports, including how the incidents were resolved; and
- An on-site oversight review to look at areas that may not have been fully covered through ongoing oversight, such as conflicts of interest, interaction between the TMX IP and the IP Governance Committee and financial viability.

We found, through our ongoing oversight, that TMX IP was in compliance with the applicable provisions in NI 21-101 and with its undertakings and do not have concerns regarding its performance as an IP.

5. Conclusion

Based on the results of our oversight of the TMX IP, CSA staff believe that it is not contrary to the public interest for TMX IP to continue to act as an information processor for exchange-traded securities other than options for a period of four years from July 1, 2014 to June 30, 2018.

CSA staff note that, on May 15, 2014, the CSA published for comment Proposed Amendments to National Instrument 23-101 *Trading Rules.*[4] A significant part of the Proposed Amendments deals with the order protection rule (OPR). Currently, OPR requires that all better-priced orders be executed before inferior-priced orders, regardless of the marketplace on which the order is displayed. Under the Proposed Amendments, orders would only be protected when displayed on a marketplace that has met certain criteria. The comment period for the Proposed OPR Amendments ends on September 19, 2014, and the CSA will consider whether the Proposed Amendments will proceed in their current form or whether further changes will be needed. In the event that OPR will be amended to require that orders only be protected when displayed on certain marketplaces, staff will discuss the issue with TMX IP and will determine what changes are necessary prior to the implementation of the amendments. The TMX IP Undertakings have been revised to reflect this fact, and also to acknowledge that some of the undertakings that TMX IP had agreed to meet in 2009 have been completed. The new undertakings are listed at Appendix A of this notice.

6. Questions

Please refer your questions to any of the following:

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Ontario Securities Commission
(416) 593-8322

Tracey Stern
Ontario Securities Commission
(416) 593-8167

Alina Bazavan
Ontario Securities Commission
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Stephane Dupuis
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[4] See CSA Notice and Request for Comment Proposed Amendments to National Instrument 23-101 *Trading Rules*, available at (2014), 37 OSCB 4873

Paula Kaner
Alberta Securities Commission
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APPENDIX A

UNDERTAKINGS PROVIDED BY TMX IP

In connection with the extension of its role as the information processor for exchange-traded securities other than options[1], TMX IP undertakes the following:

1. Changes to Form 21-101F5

a. As required by section 14.2 of National Instrument 21-101 *Marketplace Operation* (NI 21-101), TMX IP will file with the CSA amendments to the information provided in Form 21-101F5. The significant changes referred to in section 14.2(1) of NI 21-101 will be reviewed and approved by CSA staff prior to their implementation. Examples of significant changes are provided in subsection 16.3 of the Companion Policy to NI 21-101 and, for greater certainty, include

- changes to the governance of the TMX IP, including the structure and mandate of its Governance Committee (IP Governance Committee) and the IP Advisory Sub-Committee,
- significant changes to the fees related to the services provided by the TMX IP, including subscriber access fees and distribution fees,
- changes to the fee structure and fee / revenue sharing model related to the services provided by the TMX IP,
- changes to the data products offered by the TMX IP,
- significant changes to the systems and technology used by the TMX IP, including those affecting capacity, or
- changes in the technology provider and any changes that would have the effect of increasing the TMX IP's level of dependence on TMX Group Limited proprietary technology.

b. TMX IP will notify CSA staff of the representatives of the IP Governance Committee and the IP Advisory Sub-Committee, and will provide notice of any changes to those representatives.

2. Governance and Conflicts of Interest

a. The Boards of Directors of TMX Group Limited, TMX Group Inc. and TSX will not be involved in IP Governance Committee decisions relating to the scope of service, operational priorities, bandwidth, capacity planning, performance management, including service levels, and the fee and revenue sharing model related to the TMX IP.

b. TMX IP will maintain and monitor compliance with policies and procedures to separate TSX's marketplace business operations from the TMX IP operations and manage inherent conflicts of interest and provide changes to these policies and procedures to CSA staff for review and approval.

c. The technology used by the TMX IP will not give the marketplaces affiliated (as defined in NI 21-101) with TMX Group Limited an unfair advantage with respect to their data as compared to other marketplaces.

3. IP Products

a. TMX IP will only distribute the following products which are described in Form 21-101F5 (together, the Consolidated Data Products):

- the Consolidated Data Feed (CDF);
- the Canadian Best Bid and Offer (CBBO);
- the Consolidated Last Sale (CLS); and
- the Consolidated Depth of Book Feed.

[1] In Quebec, options are not "exchange-traded securities", but are derivatives under the Derivatives Act (Quebec) and are therefore already excluded.

b. TMX IP will review the Consolidated Data Products, and consider any new products or changes to the Consolidated Data Products that may be reasonably required in response to amendments to Part 6 of National Instrument 23-101 *Trading Rules* (Order Protection Rule), as such amendments may be adopted by the CSA during the term of this Undertaking.

c. TMX IP will not distribute any additional products using the data provided to it under Part 7 of NI 21-101 unless it obtains prior approval from CSA staff.

d. As provided by TMX IP, each data product comprising the Consolidated Data Products is permitted to be bundled for sale to Data Purchasers[2], but will also be made available as separately permissionable feeds.

e. If TMX Group Limited or any affiliated entity, (where an affiliated entity has the meaning ascribed to it in section 1.3 of NI 21-101), intends to create and distribute products using the data provided to TMX IP under Part 7 of NI 21-101, through its commercial distribution channels and not through TMX IP:

   i. the data required to be provided to the TMX IP by Data Contributors[3] will not be used for such other products without the permission of the Data Contributors; and

   ii. the additional products will be made available for purchase separately from, and will not be bundled with, the Consolidated Data Products and any other products approved under paragraph 3a and 3c.

   TMX Group Limited will not provide an associate (where an associate has the meaning ascribed to it in subsection 1(1) of the *Securities Act* (Ontario)) with the underlying data which is provided by the Data Contributors to TMX IP for the purposes of creating the Consolidated Data Products without the permission of the Data Contributors.

f. TMX IP will consolidate, update and provide in real-time the Consolidated Data Products during the hours of operation of any Canadian marketplace required to provide information to an information processor under NI 21-101, provided that TMX IP can perform normal course recycle, batch and maintenance operations. TMX IP will provide customer support between the hours of 7:30 -17:30 and 24/7 technical support for TMX IP.

4. Agreements with Data Contributors

a. TMX IP will ensure that all Data Contributors are given access to the TMX IP on fair and reasonable terms.

b. The standard agreements or contracts to be entered into between TMX IP and Data Contributors in connection with the TMX IP services will be provided to CSA staff for review and approval prior to their execution. In addition, any proposed material changes to these standard agreements or contracts will be provided to CSA staff for review and approval.

5. Fees / Fee structure / Revenue sharing

a. TMX IP will make the fee schedule for the Consolidated Data Products available on its website.

b. If any adjustment or modification is proposed to fees, fee structure, or the fee / revenue sharing model relating to the services of TMX IP, the TMX IP will ask the IP Governance Committee to seek input from the IP Advisory Sub-Committee prior to approving such adjustments or modifications.

c. TMX IP will report annually to CSA staff, in writing, whether it has fully recovered its costs (including cost of capital and cost to meet the requirements under subsections 14.4(2), (4), and (5) of NI 21-101) associated with offering the TMX IP services and will review and report on whether the profit margin received from the TMX IP services is in line with industry standards.

d. If there are excess revenues over costs plus a reasonable profit margin, and that excess is not allocated to operating and/or capacity expansion of the TMX IP, the TMX IP will examine its options for the use of that excess revenue and analyze and recommend an appropriate use to the IP Governance Committee. TMX IP will ask the IP Governance Committee to review the analysis and recommendations and provide its views in writing to TMX IP. The analysis, recommendations and the views of the IP Governance Committee will be provided to CSA staff within 30 days of the IP Governance Committee having received the analysis and recommendations.

[2] For the purposes of this reference and any subsequent reference, the term Data Purchaser includes subscribers, vendors, and any other party that purchases any data product offered by the TMX IP.

[3] For the purposes of this reference and any subsequent reference, the term Data Contributor includes marketplaces and any other party that provides data to the TMX IP under requirements in NI 21-101 to provide order and trade information to an information processor.

e. TMX IP will conduct a review of the 'pass-through' fee model upon request by CSA staff. Such review will examine the fee models used by data consolidators in other jurisdictions and the cost of data in Canada. It will also consider reports or studies available at the time of the review. A report outlining the conclusions from the review and the basis for those conclusions, along with any recommendations, will be provided to the IP Governance Committee promptly upon completion. TMX IP will ask the IP Governance Committee to review the report and provide its views in writing to the TMX IP. The report and the views of the IP Governance Committee will be provided to CSA staff within 90 days of the Review Initiation Date.

6. Non-exclusivity

TMX IP acknowledges that the selection of an information processor does not grant the information processor exclusive rights to consolidating and disseminating order and trade data. TMX IP will not seek exclusivity through the terms of any contract relating to the Consolidated Data Products, or involving the data underlying the Consolidated Data Products, with a Data Contributor or Data Purchaser.

7. Self-assessment

In addition to arranging for an annual independent system review referred to in section 14.5 of NI 21-101, TMX IP will conduct an annual self-assessment of its compliance with subsections 14.4(2), (4), and (5) of NI 21-101 and with its performance with respect to the undertakings provided to the CSA. A report on the self-assessment will be provided to the IP Governance Committee promptly upon its completion. TMX IP will ask the IP Governance Committee to review the report and provide its views in writing. The report and the views of the IP Governance Committee will be provided to CSA staff within 90 days of the end of the TMX IP's fiscal year.

8. Financial Viability

TMX Group Limited will provide TMX IP with sufficient financial and other resources to ensure its financial viability and the proper performance of its functions.

9. Term and Notice

TMX IP will continue to act as an information processor for exchange traded securities other than options for a period of four years starting from July 1, 2014 to June 30, 2018 subject to the right of the TMX IP to provide CSA staff with at least one year notice should it determine that it does not wish to continue to act as an information processor.

1.1.2 CSA Staff Notice 21-314 – Information Processor for Corporate Debt Securites

Canadian Securities Administrators | Autorités canadiennes en valeurs mobilières

CSA Staff Notice 21-314
Information Processor for Corporate Debt Securities

June 27, 2014

1. Introduction

Canadian Securities Administrators (CSA) staff (CSA staff or we) are publishing this notice to inform the public that CanPX Inc. (CanPX) will continue to act as an information processor for corporate debt securities under National Instrument 21-101 *Marketplace Operation* (NI 21-101) for a period of 18 months from July 1, 2014 to December 31, 2015.

2. Regulatory Requirements

NI 21-101 provides for the operation and regulation of an information processor. An information processor is defined as a person or company that receives and provides information under NI 21-101 and has filed Form 21-101F5 *Initial Operation Report for Information Processor* (Form 21-101F5). An information processor is designated as a market participant under the *Securities Act* (Ontario) and may be recognized as an information processor under the *Securities Act* (Quebec).

Part 8 of NI 21-101 sets out the transparency requirements applicable to corporate debt securities. Specifically, marketplaces that display orders of corporate debt securities are required to provide information regarding orders for designated corporate debt securities to an information processor, if an information processor is in place. Marketplaces, inter-dealer bond brokers (IDBs) and dealers are also required to provide trade information for corporate debt securities to an information processor, if one is in place, as required by the information processor.[1] CanPX is the information processor for corporate debt securities.

The regulatory requirements that apply to the information processor are set out in Part 14 of NI 21-101. They include:

- a requirement to provide prompt and accurate order and trade information and not unreasonably restrict fair access to such information;
- a requirement to provide timely, accurate, reliable and fair collection, processing, distribution and publication of information for orders for, and trades in, securities;
- an obligation to maintain reasonable books and records; and
- certain system requirements, including an annual independent systems review.

3. CanPX

CanPX has been an information processor for corporate debt securities since 2003. Its status as an information processor was most recently renewed in 2009, for a period of five years from July 1, 2009 to June 30, 2014.[2]

As the information processor for corporate debt securities, CanPX is responsible for designating the corporate debt securities for which it receives and disseminates post-trade information (the Designated Corporate Debt Securities).[3] It makes the selection in accordance with a set of selection criteria which are published on its website[4] and which include trading volumes, whether bonds are included in domestic Canadian corporate bond indices and issue size.[5] At this time, approximately 340 securities are included on the Designated Corporate Debt Securities list. The information disseminated is subject to volume caps and is

1 For government debt securities, the requirements for marketplaces and IDBs to provide order and trade information have been postponed until December 31, 2014. On April 24, 2014, the CSA published for comment proposed amendments to NI 21-101 that would, among others, extend the exemption from transparency requirements for government debt securities for an additional three year period.

2 CSA staff announced the renewal of CanPX in CSA Staff Notice 21-310 *Information Processor for Corporate Debt Securities*, published in Ontario at (2009) 32 OSCB 5159.

3 The CSA allowed CanPX to make the selection in order to promote an industry solution to corporate debt transparency, in response to significant industry pressure against a solution to fixed income transparency that is mandated by regulators.

4 For a description of the criteria and process for selection, see http://www.canpxonline.ca/selectioncriteria.php.

5 Currently, this is $250 million, however, CanPX has proposed to eliminate this threshold.

disseminated one hour after the trade was reported to CanPX. The volume caps are $2 million for investment grade corporate debt securities and $200,000 for non-investment grade corporate debt securities. The trade data is aggregated by CanPX's technical facilitator and made available to market participants and investors through data vendors contracted by CanPX.

CanPX currently requires that only marketplaces and dealers that have achieved a market share of 0.5% of total corporate bond trading provide trade details regarding the Designated Corporate Debt Securities. Currently, this includes 12 investment dealers.

In addition to complying with the applicable requirements in NI 21-101, CanPX has agreed to comply with a number of undertakings that, among others, require CanPX to address conflicts of interest such as those related to the business activities of its board members, maintaining transparency for corporate debt securities and maintaining the integrity of corporate debt data it disseminates. These initial undertakings were published in CSA Staff Notice 21-310 *Information Processor for Corporate Debt Securities*.[6]

4. CSA Oversight over CanPX

CanPX has been subject to ongoing oversight of CSA staff which includes:

- Quarterly and ad-hoc meetings or calls with CanPX board members to discuss issues;
- Staff reviews of changes to the information included in Form 21-101F5 that were filed in accordance with the requirements of NI 21-101;
- Review of the reports related to the independent systems reviews that CanPX arranged to have completed in accordance with the requirement in NI 21-101;
- Review of minutes of meetings of the Advisory Committee to understand the issues discussed and how they were resolved;
- Reviews of the self-assessments prepared by CanPX;
- Review of financial information provided by CanPX in accordance with the requirements of NI 21-101; and
- An on-site oversight review to look at areas that may not have been fully covered through ongoing oversight, such as processes to address conflict of interest, processes for maintaining and increasing transparency in the corporate debt market, fees and resources, and the processes for maintaining the integrity of data reported to and disseminated by CanPX.

Our ongoing oversight shows that CanPX generally met its undertakings and was in compliance with the applicable requirements of NI 21-101. As of June 4, 2014, the list of Designated Corporate Debt Securities was approximately 340 securities.

We are concerned, however, that the increase in the number of Designated Corporate Debt Securities has been slow and that CanPX's corporate bond trade data has not been made readily available to investors, and specifically, to retail investors. This calls into question whether CanPX's contribution to corporate fixed income transparency has been meaningful.

We note that fixed income transparency, including corporate debt transparency, is an important regulatory objective. In Ontario, regulation of fixed income securities has been identified as one of the priorities of the Ontario Securities Commission for both the fiscal year 2013-2014[7] and fiscal year 2014-2015.[8] We included these considerations in our decision whether to extend CanPX's status as an information processor and for how long it should be extended.

CanPX has committed to a number of measures to increase corporate debt transparency to retail and institutional investors. These measures include enhancing the process through which corporate bonds are designated by CanPX for inclusion on the Designated Corporate Debt Securities list, increasing CanPX's profile in the marketplace to ensure that the public is aware of the existence of this consolidated source of information, and providing greater access to CanPX's transparency products, particularly among retail investors. Despite this, it is our intention to conduct a review of transparency in the corporate debt market to assess whether the current approach is appropriate to achieve our goal. As part of this review, we will determine whether it is appropriate to continue with an industry-led solution to corporate debt transparency or whether additional regulatory intervention is required. We have extended CanPX for the interim period and will assess its role at the conclusion of our review.

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6 Ibid 2, at page 5167.

7 OSC Notice 11-768 – *Notice of Statement of Priorities for Financial Year to End March 31, 2014*, available at http://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20130627_11-768_sop-fiscal-2013-2014.htm.

8 OSC Notice 11-769 – *Statement of Priorities – Request for Comments Regarding the Statement of Priorities for Financial Year to End March 31, 2015*, available at http://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20140403_11-769_rfc-sop-fiscal-2014-2015.htm.

5. Conclusion

CSA staff believe that it is not contrary to the public interest for CanPX to continue to act as an information processor for corporate debt securities for the interim period of 18 months from July 1, 2014 to December 31, 2015. CanPX has agreed to comply with additional undertakings to reflect this commitment. The new undertakings are listed at Appendix A of this notice.

In the meantime, as described above, we will conduct a review of the framework for corporate debt transparency and will consider steps to increase corporate debt transparency in the coming year

6. Questions

Please refer your questions to any of the following:

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Douglas MacKay
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APPENDIX A

UNDERTAKINGS PROVIDED BY CANPX

In connection its role as the information processor for corporate debt securities, CanPX undertakes the following:

1. Changes to Form 21-101F5

a. As required by section 14.2 of National Instrument 21-101 *Marketplace Operation* (NI 21-101), CanPX will file with the CSA amendments to the information provided in Form 21-101F5. The significant changes referred to in section 14.2(1) of NI 21-101 will be reviewed and approved by CSA staff prior to their implementation. These significant changes include the following:

- changes to the governance of CanPX, including the structure of the Advisory Committee referred to in paragraph 2b below,
- significant changes to the fees charged for corporate debt information distributed as the IP,
- changes to the fee structure and fee / revenue sharing model related to the services provided as the IP,
- changes to the data products offered as the IP,
- changes to the threshold for reporting trades in corporate debt securities,
- removal of marketplaces, dealers or inter-dealer bond brokers required to report trade data regarding corporate debt securities,
- changes to the selection criteria for the corporate debt securities reported to CanPX,
- any reduction in the number of corporate debt securities reported to CanPX,
- significant changes to the systems, technology or technology provider used by CanPX, including those affecting capacity, or
- changes affecting the independence of the IP from the contributors of corporate debt securities information (Data Contributors) or the business activities of its technology provider.

2. Governance

a. CanPX's Board of Directors will meet at regular times, and no less than quarterly.

b. CanPX will maintain its Advisory Committee that includes representation from Data Contributors, and from subscribers and vendors (Data Purchasers) and will provide a report within 15 days after each of its meetings that describes the topics discussed and their resolution.

c. CanPX will notify CSA staff of any changes to the composition of the Advisory Committee and of any changes to its mandate within 15 days from making the change.

d. The mandate of the Advisory Committee will continue to make reference to the ability of the committee to contact the Director of the Market Regulation Branch of the Ontario Securities Commission and the Senior Director, Market Structures at the Autorité des marchés financiers with any concerns that it may have regarding the governance or operations of the IP.

e. The Advisory Committee will maintain minutes of its meetings and these minutes will reflect the views and recommendations provided to CanPX's management. The minutes will be made available, upon request, to CSA staff.

3. Conflicts of Interest

a. CanPX will maintain and monitor compliance with policies and procedures to address the conflicts of interest related to the business activities of its board members.

b. CanPX will maintain and monitor compliance with policies and procedures to address the potential conflicts of interest that arise due to the fact that its technology provider is also a marketplace and a distributor of data.

c. CanPX will provide any changes to the policies and procedures referred to in paragraphs 3a and 3b to CSA staff for review and approval.

4. IP Products

a. CanPX will limit the products distributed as the IP to a consolidated feed (the Consolidated Data Product) that displays the information related to corporate debt securities provided to it in accordance with the requirements set out in Part 8 of NI 21-101 and Part 10 of the Companion Policy 21-101CP (Designated Corporate Debt Securities). CanPX will display this information no later than one hour from the time of the trade.

b. CanPX will not distribute, as the IP, any additional products using the data provided to it under Part 8 of NI 21-101unless it obtains prior approval from CSA staff.

c. If CanPX intends to create and distribute, other than as the IP, any products using the data provided to it under Part 8 of NI 21-101:

i. the data required to be provided to the IP by Data Contributors will not be used for such other products without the permission of the Data Contributors; and

ii. the additional products will be made available for purchase separately from, and will not be bundled with, the Consolidated Data Product and any other products approved under paragraph 4b.

5. Data reported to and disseminated by CanPX

a. CanPX will maintain and monitor compliance with:

i. policies and procedures to verify the timeliness and accuracy of information received and disseminated by the IP; and

ii. processes to resolve on a timely basis any data integrity issues identified.

b. CanPX will provide any changes to the policies and procedures referred to in paragraph 5a to CSA staff for review and approval'

c. CanPX will monitor the timeliness and accuracy of information received by and disseminated by the IP on an ongoing basis and take adequate measures to resolve any data integrity issues on a timely basis. CanPX will report to its Board of Directors at each of their quarterly meeting on the timeliness and accuracy of the information received by and disseminated by the IP, along with significant data integrity issues, for the most recent quarter. Within 15 days following the board meeting, a report will be provided by CanPX to CSA staff outlining the issues identified, if any, and the measures CanPX will take to address them.

d. CanPX will provide to CSA staff updates to its plan to increase the number of Designated Corporate Debt Securities by December 31, 2014 and by June 30, 2015.

e. CanPX will conduct additional reviews of the adequacy of the list of Designated Corporate Debt Securities by December 31, 2014 and by June 30, 2015 and prepare a report outlining the results of these reviews and its analysis to CSA staff within 15 days of the completion of the reviews. The report must include an analysis showing the coverage of retail-sized bonds trades, coverage of corporate bonds traded and coverage of total bonds issued, as well as statistics indicating the types of bonds on the Designated Corporate Debt Securities and the frequency of trades for bonds not included on the list.

f. CanPX will provide reports of the corporate debt securities removed from the Designated Corporate Debt Securities within 15 days of their removal. Such reports will include a brief analysis supporting the reason for their removal from the list.

g. CanPX will introduce a web-based application displaying end-of-day pricing for the previous day for each Designated Corporate Debt Securities, including the high and low traded prices and yields, by July 31, 2014.

h. CanPX will provide updates to staff regarding developments on new or potential agreements with data distributors on a monthly basis.

i. CanPX will assess, on an annual basis, the continuing adequacy of the existing threshold for reporting of corporate debt securities and of the parties that qualify as Data Contributors and will report the results of the assessment to CSA staff. This assessment will be included as part of the self-assessment described in paragraph 7a below.

6. Resources

a. CanPX will maintain sufficient financial resources to ensure its financial viability.

b. CanPX will provide to CSA staff its audited financial statements, along with the report signed by an independent auditor within 90 days of the end of each fiscal year.

c. CanPX will ensure that it has an adequate number of staff dedicated to its systems and operations to ensure the proper performance of its functions, including staff directly responsible for monitoring of the corporate debt data reported to it in accordance with the requirements of NI 21-101.

7. Self-assessment

a. In addition to arranging from an annual independent system review referred to in section 14.5 of NI 21-101, CanPX will conduct an annual self-assessment of its compliance with subsections 14.4(2), (4) and (5) of NI 21-101 and with its performance with respect to the undertakings provided to the CSA. A report on the self-assessment will be provided to CanPX's Advisory Committee promptly upon its completion. CanPX will ask the Advisory Committee to review the report and provide its views in writing. The report and the views of the Advisory Committee will be provided to CSA staff within 90 days of the end of CanPX's fiscal year.

8. Agreements with Data Contributors

a. CanPX will ensure that all Data Contributors are given access to CanPX on fair and reasonable terms.

b. New standard agreements or contracts to be entered into between CanPX and Data Contributors in connection with the IP services will be provided to CSA staff for review and approval prior to their execution. In addition, any proposed material changes to these standard agreements or contracts will be provided to CSA staff for review and approval.

9. Fees / Fee structure / Revenue sharing

CanPX will make available, on its website, the fee schedule for the Consolidated Data Product, and any additional products subsequently approved by CSA staff to be distributed by CanPX as an information processor.

10. Non-exclusivity

CanPX acknowledges that the selection as an IP does not grant that IP exclusive rights to consolidate and disseminate order and trade data. CanPX will not seek such exclusivity through the terms of any contract with a Data Contributor or Data Purchaser.

11. Term and notice

a. CanPX will continue to act as an information processor for corporate debt securities for a period of 18 months starting from July 1, 2014. CanPX will use best efforts to provide CSA staff with at least one year notice should it determine that it does not wish to continue as an information processor upon the expiry of this 18 month term.

1.1.3 Application for Recognition of Aequitas Innovations Inc. and Aequitas Neo Exchange Inc. as an Exchange

Aequitas Innovations Inc. and Aequitas Neo Exchange Inc. (the Applicants) have each applied to the Commission for recognition as an exchange pursuant to section 21 of the *Securities Act* (Ontario).

A notice requesting comment (Notice), the application submitted by the Applicants and a draft recognition order are being published in Chapter 13 of this Bulletin. The Notice, application, draft recognition order and additional supporting materials are also available on the OSC website at www.osc.gov.on.ca. The public comment period will end on August 26, 2014.

July 3, 2014

1.1.4 Notice of Ministerial Approval of Amendments to Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting

NOTICE OF MINISTERIAL APPROVAL OF
AMENDMENTS TO ONTARIO SECURITIES COMMISSION RULE 91-507
TRADE REPOSITORIES AND DERIVATIVES DATA REPORTING

July 3, 2014

On June 16, 2014 the Minister of Finance approved amendments to Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (the Rule Amendments) pursuant to section 143.3(3)(a) of the *Securities Act* (Ontario). The Rule Amendments were made by the Commission on April 11, 2014. On April 11, 2014, the Commission also adopted changes to Companion Policy 91-507CP to Ontario Securities Commission Rule 91-507 *Trade Repositories and Derivatives Data Reporting* (the Policy Changes).

The Rule Amendments and Policy Changes (collectively, the Amendments) were published in the Bulletin on April 17, 2014. See (2014), 37 OSCB 3949. The Amendments are effective July 2, 2014. The text of the Rule Amendments is reproduced in Chapter 5 of this Bulletin.

1.1.5 Notice of Commission Approval – Amended List of Exchanges, Lead Regulators and Exempting Regulators

NOTICE OF COMMISSION APPROVAL OF
AN AMENDED LIST OF EXCHANGES, LEAD REGULATORS AND EXEMPTING REGULATORS
IN RELATION TO THE MEMORANDUM OF UNDERSTANDING RESPECTING
THE OVERSIGHT OF EXCHANGES AND QUOTATION AND TRADE REPORTING SYSTEMS

On June 20, 2014, the Commission approved changes to the List of Exchanges, Lead Regulators and Exempting Regulators in relation to the Memorandum of Understanding respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems (List of Exchanges), effective July 1, 2014.

The Memorandum of Understanding respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems (MOU) sets out the responsibilities of a lead regulator when conducting its oversight of an exchange or quotation and trade reporting system (QTRS) and the involvement of an exempting regulator in such oversight. The List of Exchanges identifies each lead and exempting regulator for every exchange subject to the MOU.

The List of Exchanges has been amended to reflect the recognition of Alpha Exchange Inc. (Alpha) as an exchange and the identification of lead and exempting regulators for Alpha. The amended List of Exchanges also reflects changes to the exempting regulators for ICE Futures Canada Inc. and Natural Gas Exchange Inc.

The amended List of Exchanges is found at Appendix A of this Notice and a marked version reflecting the changes is found at Appendix B.

July 3, 2014

APPENDIX A

List of Exchanges, Lead Regulators and Exempting Regulators in relation to the Memorandum of Understanding respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems As of July 1, 2014

Exchange – QTRS	Lead Regulator(s)	Exempting Regulator(s)
Alpha Exchange Inc.	• Ontario Securities Commission	• Alberta Securities Commission • Autorité des marchés financiers • British Columbia Securities Commission • Manitoba Securities Commission • Saskatchewan Financial Services Commission
Bourse de Montréal Inc.	• Autorité des marchés financiers	• Ontario Securities Commission
CNSX Markets Inc.	• Ontario Securities Commission	• Alberta Securities Commission • Autorité des marchés financiers • British Columbia Securities Commission • Manitoba Securities Commission
ICE Futures Canada Inc.	• Manitoba Securities Commission	• Alberta Securities Commission[1] • Autorité des marchés financiers • Ontario Securities Commission
Natural Gas Exchange Inc.	• Alberta Securities Commission	• Autorité des marchés financiers • Manitoba Securities Commission • Ontario Securities Commission • Saskatchewan Financial Services Commission
TSX Inc.	• Ontario Securities Commission	• Alberta Securities Commission • Autorité des marchés financiers • British Columbia Securities Commission
TSX Venture Exchange Inc.	• Alberta Securities Commission • British Columbia Securities Commission	• Autorité des marchés financiers • Manitoba Securities Commission • Ontario Securities Commission

[1] Pursuant to a recognition order dated May 30, 2013 ASC recognized as an exchange ICE Futures Canada Inc. and acknowledged in section 2 of the order that "Under a MOU respecting the oversight of exchanges and QTRS among the ASC, AMF, BCSC, MSC, OSC and FCCA, the MSC has been designated as the lead regulator for ICE Futures Canada, Inc.". For the purpose of this MOU, the ASC will be considered an Exempting Regulator and has the rights of an Exempting Regulator under this MOU.

APPENDIX B

List of Exchanges, Lead Regulators and Exempting Regulators in relation to the Memorandum of Understanding respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems As of ~~January 1, 2014~~July 1, 2014

Exchange – QTRS	Lead Regulator(s)	Exempting Regulator(s)
Alpha Exchange Inc.	• Ontario Securities Commission	• Alberta Securities Commission • Autorité des marchés financiers • British Columbia Securities Commission • Manitoba Securities Commission • Saskatchewan Financial Services Commission
Bourse de Montréal Inc.	• Autorité des marchés financiers	• Ontario Securities Commission
CNSX Markets Inc.	• Ontario Securities Commission	• Alberta Securities Commission • Autorité des marchés financiers • British Columbia Securities Commission • Manitoba Securities Commission
ICE Futures Canada Inc.	• Manitoba Securities Commission	• Alberta Securities Commission[2] • Autorité des marchés financiers • Ontario Securities Commission
Natural Gas Exchange Inc.	• Alberta Securities Commission	• Autorité des marchés financiers • Manitoba Securities Commission • Ontario Securities Commission • Saskatchewan Financial Services Commission
TSX Inc.	• Ontario Securities Commission	• Alberta Securities Commission • Autorité des marchés financiers • British Columbia Securities Commission
TSX Venture Exchange Inc.	• Alberta Securities Commission • British Columbia Securities Commission	• Autorité des marchés financiers • Manitoba Securities Commission • Ontario Securities Commission

[2] Pursuant to a recognition order dated May 30, 2013 ASC recognized as an exchange ICE Futures Canada Inc. and acknowledged in section 2 of the order that "Under a MOU respecting the oversight of exchanges and QTRS among the ASC, AMF, BCSC, MSC, OSC and FCCA, the MSC has been designated as the lead regulator for ICE Futures Canada, Inc.". For the purpose of this MOU, the ASC will be considered an Exempting Regulator and has the rights of an Exempting Regulator under this MOU.

1.1.6 OSC Staff Notice 23-703 – Order Protection Rule – Industry Roundtable

OSC STAFF NOTICE 23-703

ORDER PROTECTION RULE – INDUSTRY ROUNDTABLE

On May 15, 2014, the Canadian Securities Administrators (CSA) published a CSA notice and request for comment related to proposed amendments to National Instrument 23-101 *Trading Rules* (NI 23-101) and the related Companion Policy 23-101CP (23-101CP), proposed plans regarding a pilot program prohibiting the payment of rebates by marketplaces and a proposed data fee review methodology (together known as the Proposed Amendments).

The Proposed Amendments are intended to address certain costs and inefficiencies resulting from or associated with the Order Protection Rule (OPR). The current OPR necessitates that all better-priced orders be executed before inferior-priced orders regardless of the marketplace on which the order is displayed. Under the Proposed Amendments, orders would only be protected from trade-through where displayed on a marketplace that meets or exceeds a market share threshold. The comment period for the Proposed Amendments closes on September 19, 2014.

The Ontario Securities Commission intends to hold a roundtable, subsequent to the end of the public comment process, in order to further dialogue with interested stakeholders regarding this important policy initiative. The roundtable will provide an opportunity to discuss submissions made to the Commission during the comment period and to engage in an open discussion about the proposals being considered and the issues identified.

Interested parties wishing to participate in the discussion at the roundtable must submit a comment letter in response to the Proposed Amendments on or before September 19, 2014, and should expressly indicate a desire to participate.

The roundtable will take place in the Fall of 2014, and additional details will be provided when available, including a list of parties who will participate.

Questions regarding this notice may be directed to:

Kent Bailey
Ontario Securities Commission
(416) 595-8908
kbailey@osc.gov.on.ca

Tracey Stern
Ontario Securities Commission
(416) 593-8167
tstern@osc.gov.on.ca

July 3, 2014

1.4 Notices from the Office of the Secretary

1.4.1 Sino-Forest Corporation et al.

FOR IMMEDIATE RELEASE
June 24, 2014

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

AND

IN THE MATTER OF
SINO-FOREST CORPORATION, ALLEN CHAN, ALBERT IP, ALFRED C.T. HUNG, GEORGE HO, SIMON YEUNG and DAVID HORSLEY

TORONTO – The Commission issued an Order in the above named matter which provides that the pre-hearing conference in this matter be continued on August 20, 2014 at 10:00 a.m. or such other date and time as agreed to by the parties and set by the Office of the Secretary.

The pre-hearing conference will be held *in camera*.

A copy of the Order dated June 23, 2014 is available at www.osc.gov.on.ca.

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Alison Ford
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416-593-8307

For investor inquiries:

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

1.4.2 Portfolio Capital Inc. et al.

FOR IMMEDIATE RELEASE
June 27, 2014

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

AND

IN THE MATTER OF
PORTFOLIO CAPITAL INC., DAVID ROGERSON and AMY HANNA-ROGERSON

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

(a) Staff shall serve and file its supplementary or restated written closing submissions by 5 p.m. E.D.T. on July 24, 2014;

(b) the Respondents shall serve and file any supplementary or restated written closing submissions by 5 p.m. E.D.T. on August 7, 2014; and

(c) Staff shall serve and file any reply written closing submissions, if necessary, by 5 p.m. E.D.T. on August 28, 2014.

A copy of the Order dated June 25, 2014 is available at www.osc.gov.on.ca.

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1.4.3 Powerwater Systems, Inc. et al.

FOR IMMEDIATE RELEASE
June 27, 2014

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

AND

IN THE MATTER OF
POWERWATER SYSTEMS, INC., DUNCAN CLEWORTH
and POWERWATER USA LTD.

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

(a) Staff's application to proceed by way of written hearing is granted;

(b) Staff's materials in respect of the written hearing shall be served and filed no later than July 7, 2014;

(c) the Respondents' responding materials, if any, shall be served and filed no later than September 15, 2014; and

(d) Staff's reply materials, if any, shall be served and filed no later than September 22, 2014.

A copy of the Order dated June 26, 2014 is available at www.osc.gov.on.ca.

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1.4.4 Capital Markets Technologies, Inc.

FOR IMMEDIATE RELEASE
June 27, 2014

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

AND

IN THE MATTER OF
CAPITAL MARKETS TECHNOLOGIES, INC.

TORONTO – The Commission issued an Order in the above named matter which provides that pursuant to paragraph 3 of subsection 127(1) of the Act, except for the securities to be issued on the conversion of the Convertible Loan Agreements, as defined in the Settlement Agreement, the exemptions set out in National Instrument 45-106 do not apply to CMT in Ontario until June 5, 2018.

A copy of the Order dated June 26, 2014 is available at www.osc.gov.on.ca.

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1.4.5 Bluestream Capital Corporation et al.

FOR IMMEDIATE RELEASE
June 27, 2014

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

AND

IN THE MATTER OF
BLUESTREAM CAPITAL CORPORATION,
BLUESTREAM INTERNATIONAL INVESTMENTS INC.,
KROWN CONSULTING CORP.,
1859585 ONTARIO LTD. (operating as
SOVEREIGN INTERNATIONAL INVESTMENTS)
and PETER BALAZS

TORONTO – The Commission issued an Order in the above named matter which provides that the hearing on the merits in this matter will commence on January 12, 2015 at 10:00 a.m and will continue through January 21, 2015, except for January 13, 2015, or such other dates as are agreed to by the parties and fixed by the Office of the Secretary.

A copy of the Order dated June 26, 2014 is available at www.osc.gov.on.ca.

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1.4.6 2196768 Ontario Ltd carrying on business as RARE Investments et al.

FOR IMMEDIATE RELEASE
June 30, 2014

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

AND

IN THE MATTER OF
2196768 ONTARIO LTD carrying on business as
RARE INVESTMENTS, RAMADHAR DOOKHIE,
ADIL SUNDERJI and EVGUENI TODOROV

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

The Commission also issued an Order in the above named matter which provides that the hearing to determine sanctions and costs will be held at the offices of the Commission at 20 Queen Street West, 17th floor, Toronto, ON, on August 28, 2014 at 10:00 a.m., or such further or other dates as agreed by the parties and set by the Office of the Secretary.

A copy of the Reasons and Decision and Order dated June 27, 2014 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
JOSÉE TURCOTTE
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Toreigh Stuart et al.

Headnote

NP 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval granted for change of control of mutual fund manager under s. 5.5(2) of NI 81-102 – change of control of manager to occur in two steps – Filers have no current plans to change the manager of the Funds, or to amalgamate or merge the current manager with any other entity, for the foreseeable future.

Applicable Legislative Provisions

National Instrument 81-102 Mutual Funds, ss. 5.5(2), 5.7(1)(a).

May 30, 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
TOREIGH STUART
(the Purchaser)

AND

ROBERT ANTON AND DAVID SCOBIE
(collectively, the Subsequent Purchasers who, together with the Purchaser are referred to herein as the Management Group)

AND

IN THE MATTER OF
MAN INVESTMENTS CANADA CORP.
(Man Canada) (the Management Group and Man Canada, collectively, the Filers)

AND

IN THE MATTER OF
THE FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for approval of a change of control of the manager of the

funds listed in Exhibit "A" (the **Funds**) in accordance with sections 5.5(2) of National Instrument 81-102 – *Mutual Funds* (**NI 81-102**) and National Policy 11-203 – Process for Exemptive Relief Applications in Multiple (the **Approval Sought**).

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

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

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

Man Canada

1. Man Canada is a privately-owned corporation existing under the *Business Corporations Act* (Ontario) (the **OBCA**) with its head office located in Toronto, Ontario. Man Canada is a wholly owned subsidiary of the Man Group Holdings Ltd., a corporation existing under the laws of the United Kingdom (the **Parent**), with its head office located in, London, United Kingdom.

2. The Parent is a wholly-owned subsidiary of Man Group plc (**Man Group**), a publicly held corporation existing under the laws of the United Kingdom. The Parent is also a global alternative investment management business providing a range of fund products and investment management services for institutional and private investors globally.

3. Man Canada is the investment fund manager and trustee of the Funds. Man Canada is registered in the following categories under the applicable securities legislation of certain of the Jurisdictions indicated below:

   a) the Alberta Securities Commission – Exempt Market Dealer (**EMD**) and Portfolio Manager (**PM**);

   b) the British Columbia Securities Commission – EMD;

   c) The Manitoba Securities Commission – EMD;

   d) the Financial and Consumer Services Commission (New Brunswick) – EMD;

   e) the Office of the Superintendent of Securities Service Newfoundland and Labrador – Investment Fund Manager (**IFM**);

   f) the Nova Scotia Securities Commission – EMD;

   g) the Ontario Securities Commission – EMD, IFM and PM;

   h) the Autorité des marchés financiers (Québec) – IFM and EMD; and

   i) the Financial and Consumer Affairs Authority of Saskatchewan – EMD.

4. Toreigh Stuart, David Scobie, Martin Schweikhart and Eric Burl are the current directors of Man Canada.

5. Robert Anton is an executive vice-president of Man Canada and is responsible for the distribution of Man Canada's products through various channels and joint venture relationships in Canada.

6. Toreigh Stuart is the Chief Executive Officer, Ultimate Designated Person, Chief Compliance Officer and Advisory Officer of Man Canada in respect of the Jurisdictions described in Paragraph 3 above.

7. Man Canada is not in default of any requirements under applicable securities legislation.

The Funds

8. Each of the Man Canada AHL DP Investment Fund, the GLG EM Income Fund, and the Man Canada AHL Alpha Fund is a commodity pool structured as an open-end investment trust established under the laws of the province of Ontario.

9. Securities of the Funds are distributed in each of the Jurisdictions under a long form prospectus prepared in accordance with the requirements of National Instrument 41-101 – *General Prospectus Requirements*.

10. Each Fund is a reporting issuer under the applicable securities legislation of the Jurisdictions.

11. The Funds are not in default of applicable securities legislation in any of the Jurisdictions.

The Management Group

12. For many years, the day to day operations of Man Canada have been managed by the Management Group, independently of the Parent.

13. Man Canada, under the direction of the Management Group, acts as trustee and manager for each of the Funds, and its duties include: negotiating contracts with certain third-party service providers, including, but not limited to, investment managers custodians, registrars, transfer agents, auditors and printers; maintaining accounting records for the Funds, preparing the reports to unitholders of the Funds and to the applicable securities regulatory authorities; calculating income tax returns and financial and accounting information as required by the Funds; seeking to ensure that unitholders of the Funds are provided with financial statements and other reports as are required from time to time by applicable law; seeking to ensure that the Funds comply with all other regulatory requirements including the continuous disclosure obligations of the Funds under applicable Canadian securities laws; administering purchases, redemptions and other transactions in units of the Funds; arranging for any payments required upon termination of the Funds; and dealing with communications to unitholders of the Funds. These duties have been performed by Man Canada, under the direction of the Management Group. Upon completion of the Proposed Transaction, Man Canada (under a new name) will continue to perform the duties listed above in a manner consistent with past practice.

The Proposed Transaction

14. On March 3, 2014, the Purchaser and the Parent entered into a definitive share purchase agreement (the **Purchase Agreement**) in connection with a proposed transaction (the **Proposed Transaction**) pursuant to which the Purchaser will acquire all of the issued and outstanding shares of Man Canada from the Parent. The Purchase Agreement cites the mutual intention of the Purchaser and the Parent to complete the Proposed Transaction on the third business day following the later of: (i) receipt of the approval, or confirmation of non-objection, of the applicable securities regulators in respect of the Approval Sought; (ii) the expiry of the 60-day period following the delivery a written notice of Man Canada to the securityholders of the Funds in connection with the proposed change of control of the manager of such Funds (the **Securityholder Notice**) and (iii) following the satisfaction or waiver of certain conditions precedent. Following the completion of the Proposed Transaction, the Purchaser and the Subsequent Purchasers will complete a transaction which will result in the ownership of Man Canada being held by the three members of the Management Group.

Change of Control of Manager

15. The Filers propose to complete the change of control of Man Canada in two stages as the Purchase Agreement was entered into between only the Purchaser and the Parent.

16. First, the Proposed Transaction will involve the Purchaser's acquisition of 100% of the issued and outstanding shares of Man Canada. Secondly, the Purchaser is currently structuring a subsequent transaction for the Subsequent Purchasers to acquire shares of Man Canada, which is expected to occur within 90 days of the completion of the Proposed Transaction (the **Subsequent Transaction**).

17. The Subsequent Transaction will result in the ownership of Man Canada being held by the three members of the Management Group in the following proportions: Toreigh Stuart – 37.5%, David Scobie – 31.25%, and Robert Anton – 31.25%. Each member of the Management Group will hold their interest in Man Canada either directly or through a family trust.

18. Completion of both the Proposed Transaction and the Subsequent Transaction (the **Closing Date**) will result in the change of control of Man Canada contemplated by the Approval Sought (the **Change of Control of Manager**).

19. The Purchase Agreement did not include all members of the Management Group, as the final ownership structure of Man Canada by the members of the Management Group had not been determined during the period of negotiation between the Parent and the Management Group over the terms of the Purchase Agreement. Toreigh Stuart executed the Purchase Agreement with the Parent in order to ensure the timely completion of the Proposed Transaction without the delay that would have been required to determine the final ownership structure of Man Canada prior to signing of the Purchase Agreement.

20. Upon completion of the Change of Control of Manager, the Parent will not have any interest or role in the operation of Man Canada.

21. In respect of the impact of the Change of Control of Manager on Man Canada and on the management and administration of the Funds:

    a) the Management Group has confirmed that there is no current intention:

        (i) to make any substantive changes as to how Man Canada operates or manages the Funds;

        (ii) to amalgamate or merge Man Canada with any other IFM;

        (iii) immediately following the Closing Date, to change the IFM of the Funds to any other entity, including any affiliate of the Parent or Man Group; and

        (iv) within a foreseeable period of time, to change the IFM of the Funds from Man Canada to any other entity, including any affiliate of the Parent or Man Group;

    b) the Management Group currently intends to maintain the Funds as a separately managed fund family with Man Canada as its IFM;

    c) the Change of Control of Manager is not expected to have any material impact on the business, operations or affairs of the Funds or the securityholders of the Funds;

    d) following the Change of Control of Manager, the directors and officers of Man Canada will be unchanged with the exception of the following:

        (i) Martin Schweikhart and Eric Burl, who are directors of Man Canada and officers of affiliates of the Parent and Man Group, will tender their resignations as directors of Man Canada;

        (ii) Robert Anton will be appointed a director of Man Canada;

    e) Man Canada will retain the management teams and supervisory personnel that were in place prior to the Change of Control of Manager;

    f) it is not expected that there will be any change in the management of the Funds including the investment objectives and strategies of the Funds, or the expenses that are charged to the Funds as a result of the Change of Control of Manager;

    g) the Change of Control of Manager will not adversely affect Man Canada's financial position or its ability to fulfill its regulatory obligations; and

    h) upon the Change of Control of Manager, the members of Man Canada's Independent Review Committee (**IRC**) will cease to be IRC members by the operation of section 3.10(1)(c) of National Instrument 81-107 – *Independent Review Committee for Investment Funds*. Immediately following the Change of Control of Manager, the IRC will be reconstituted.

22. Upon completion of the Change of Control of Manager, Man Canada will change its name to a name that does not include the "Man" brand, perform required re-branding activities consistent with its new name (which will include removal of the Man Canada reference from the names of the Funds) and will update the registrations of Man Canada and any registered individuals of Man Canada to reflect the new name of Man Canada.

Notice Requirements

23. On March 6, 2014, the Securityholder Notice was sent to securityholders of the applicable investment funds managed by Man Canada pursuant to Section 5.8(1) of NI 81-102.

24. On March 10, 2014, notice was filed by Man Canada pursuant to sections 11.9 and 11.10 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* in respect of the Proposed Transaction.

25. A press release and material change report describing the Change of Control of Manager were issued and filed by Man Canada on March 3, 2014.

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 Approval Sought is granted.

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

EXHIBIT "A"

List of Funds

1. GLG EM Income Fund
2. Man Canada AHL DP Investment Fund
3. Man Canada AHL Alpha Fund

2.1.2 Canada Fluorspar Inc. – s. 1(10)(a)(ii)

Headnote

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

Applicable Legislative Provisions

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

June 25, 2014

Canada Fluorspar Inc.
c/o Davies Ward Phillips & Vineberg LLP
155 Wellington Street West
Toronto, Ontario M5V 3J7
Attn: Jared Solinger

Dear Sirs:

Re: Canada Fluorspar Inc. (the "Applicant") – application for a decision under the securities legislation of the provinces of the Provinces of Alberta, Saskatchewan, Ontario, Prince Edward Island and Newfoundland and Labrador (collectively, the "Jurisdictions") that the Applicant is not a Reporting Issuer

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

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

The Applicant has represented to the Decision Makers that:

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

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

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

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

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

"Kathryn Daniels"
Deputy Director, Corporate Finance
Ontario Securities Commission

2.1.3 Tarku Resources Ltd. (formerly Clear Creek Resources Ltd.) – s. 1(10)(a)(ii)

Headnote

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

Applicable Legislative Provisions

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

Citation: Re Tarku Resources Ltd., 2014 ABASC 248

June 26, 2014

McLeod Law LLP
Centennial Place, West Tower
2110, 250 - 5th Street SW
Calgary, AB T2P 0R4

Attention: Darren Fach

Dear Sir:

Re: Tarku Resources Ltd. (formerly Clear Creek Resources Ltd.) (the Applicant) - Application for a decision under the securities legislation of Alberta, Saskatchewan and Ontario (the Jurisdictions) that the Applicant is not a reporting issuer

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

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

The Applicant has represented to the Decision Makers that:

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

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

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

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

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

“Denise Weeres”
Manager, Legal
Corporate Finance

2.1.4 IBV Capital Ltd. and IBV Capital Global Value Canadian Feeder LP

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from the mutual fund conflict of interest restrictions in the Securities Act (Ontario) to allow pooled funds to invest in securities of underlying funds under common management – relief subject to certain conditions.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(2)(c), 111(3), 113.

June 2, 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
IBV CAPITAL LTD.
(the "Filer")

AND

IN THE MATTER OF
IBV CAPITAL GLOBAL VALUE CANADIAN FEEDER LP
(the "Initial Top Fund")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of each of the Filer, the Initial Top Fund, and any other mutual fund which is not a reporting issuer under the *Securities Act* (Ontario) (the "**Act**"), that is established, advised or managed by the Filer, or its affiliate, after the date hereof (the "**Future Top Funds**" and together with the Initial Top Fund, the "**Top Funds**"), which invests its assets in IBV Capital Value Fund LP (the "**Initial Underlying Fund**") or any other investment fund which is not a reporting issuer under the Act and may be established, advised or managed by the Filer, or its affiliate, in the future (the "**Future Underlying Funds**" and together with the Initial Underlying Fund, the "**Underlying Funds**"), for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") exempting the Filer and the Top Funds from:

(a) the restriction in the Legislation which prohibits a mutual fund in Ontario from knowingly making an investment in a person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial security holder;

(b) the restriction in the Legislation which prohibits a mutual fund in Ontario from knowingly making an investment in an issuer in which:

(i) any officer or director of the mutual fund, its management company or distribution company or an associate of any of them, or

(ii) any person or company who is a substantial securityholder of the mutual fund, its management company or its distribution company,

has a significant interest; and

(c) the restriction in the Legislation which prohibits a mutual fund in Ontario, its management company or its distribution company, from knowingly holding an investment described in paragraph (a) or (b) above.

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

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

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

(b) the 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 Quebec.

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation existing under the laws of Canada with its head office in Toronto, Ontario.

2. The Filer is registered in the categories of investment fund manager, portfolio manager and exempt market dealer in Ontario and Québec.

3. The Filer is not a reporting issuer in any jurisdiction in Canada and is not in default of securities legislation of any jurisdiction in Canada.

4. The Filer is the investment fund manager and portfolio adviser of the Initial Top Fund and the Initial Underlying Fund. The Filer, or an affiliate of the Filer, will be the investment fund manager and portfolio adviser of the Future Top Funds and Future Underlying Funds.

5. The officers and directors of the Filer are personally, or through their holding companies, the limited partners of a limited partnership organized under the laws of Ontario ("**Incentive LP**"). Incentive LP will be the initial securityholder in the Initial Underlying Fund.

6. As the limited partners of Incentive LP, directly or indirectly, the officers and directors of the Filer have a significant interest in the Initial Underlying Fund.

7. The officers and directors of the Filer are, directly or indirectly, substantial securityholders of the Filer and, as described in representation 6 above, have a significant interest in the Initial Underlying Fund.

8. In the future, officers and directors of the Filer may also be, directly or indirectly, limited partners of other limited partnerships that will be the initial securityholders in Future Underlying Funds. As limited partners of such limited partnerships, the officers and directors of the Filer will have a significant interest in Future Underlying Funds.

Top Funds

9. Each of the Top Funds is, or will be, a mutual fund for the purposes of the Act.

10. The Initial Top Fund is a limited partnership established under the laws of the Province of Ontario and governed by a limited partnership agreement.

11. The Future Top Funds will be structured as limited partnerships, trusts or corporations under the laws of Ontario or another jurisdiction of Canada.

12. The general partner of the Initial Top Fund is IBV Capital Global Value Fund GP Inc., an affiliate of the Filer. The general partner of each Future Top Fund that is structured as a limited partnership will be an affiliate of the Filer.

13. Securities of each of the Top Funds, are, or will be, sold pursuant to available prospectus exemptions in accordance with National Instrument 45-106 *Prospectus and Registration Exemptions* ("**NI 45-106**").

14. The investment objective of the Initial Top Fund is to invest substantially all of its assets in the Initial Underlying Fund, which will provide consistent and attractive rates of return over a long-term time horizon and throughout various market environments by investing in equity, fixed income, and related instruments. The primary geographic focus will be developed markets and, to a lesser extent, developing markets.

15. The investment objectives of the Future Top Funds will be to invest substantially all of their assets in one or more Future Underlying Funds.

16. The Initial Top Fund is not a reporting issuer under the Act nor is it in default of securities legislation of any jurisdiction of Canada. None of the Future Top Funds will be a reporting issuer under the Act.

Underlying Funds

17. Each of the Underlying Funds is, or will be, a mutual fund for purposes of the Act.

18. The Initial Underlying Fund is an exempted limited partnership formed and organized under the laws of the Cayman Islands. An exempted limited partnership is established under the Cayman Islands *Exempted Limited Partnership Law* (2007 Revision). This form of partnership is exempted from the restrictions, filing and gazetting requirements that are applicable to ordinary limited partnerships in the Cayman Islands. This is the form of limited partnership that is used to establish a mutual fund in the Cayman Islands.

19. The Future Underlying Funds will be structured as limited partnerships, trusts or corporations under the laws of Ontario, another jurisdiction of Canada or a foreign jurisdiction.

20. IBV Capital Global Value Fund GP Inc. is also the general partner of the Initial Underlying Fund. The general partner of each Future Underlying Fund that is structured as a limited partnership will be an affiliate of the Filer.

21. The Initial Underlying Fund will not be a reporting issuer under the Act. None of the Future Underlying Funds will be a reporting issuer under the Act.

22. The Initial Underlying Fund is not in default of securities legislation of any jurisdiction of Canada.

23. Each of the Underlying Funds has, or will have, separate investment objectives, strategies and/or restrictions.

24. The Initial Underlying Fund's investment objectives are to provide consistent and attractive rates of return over a long-term time horizon and throughout various market environments by investing in equity, fixed income, and related instruments. The primary geographic focus will be developed markets and, to a lesser extent, developing markets.

25. Each of the Underlying Funds and their investments are considered to be liquid. While the Underlying Funds are not restricted from purchasing and holding "illiquid assets" (as defined in National Instrument 81-102 *Mutual Funds* (**NI 81-102**)), the Filer, or its affiliate, manages or will manage the portfolios of each Underlying Fund to ensure there is sufficient liquidity to provide for redemptions of securities by securityholders of the Top Funds.

Fund-on-Fund Structure

26. The custodian of the assets of each Top Fund and each Underlying Fund is, or will be, one or more financial institutions and/or their affiliates, or such third party or parties as may be appointed by the Filer or its affiliate. The custodian of each Top Fund and each Underlying Fund meets, or will meet, the qualifications set out in subsection 6.2 of NI 81-102.

27. The Top Funds allow investors to obtain exposure to the investment portfolios of the Underlying Funds and their respective investment strategies through direct investments by the Top Funds in securities of the Underlying Funds (the "**Fund-on-Fund Structure**").

28. Investing in the Underlying Funds will allow the Top Funds to achieve their investment objectives in a cost efficient manner and will not be detrimental to the interests of other securityholders of the Underlying Funds.

29. Non-U.S. tax-exempt investors and U.S. tax-exempt investors may invest directly in the Initial Underlying Fund in the Cayman Islands and Canadian investors, who are subject to Canadian tax, can invest indirectly through the Initial Top Fund.

30. An investment by a Top Fund in an Underlying Fund can provide greater diversification for a Top Fund in particular asset classes on a basis that is not materially more expensive than investing directly in the securities held by the applicable Underlying Fund.

31. An investment by a Top Fund in an Underlying Fund is, or will be, compatible with the investment objectives of the Top Fund. Any investment made by a Top Fund in an Underlying Fund will be aligned with the investment objectives, investment strategy, risk profile and other principal terms of the Top Fund.

32. The Filer, or its affiliate, will ensure that the arrangements between or in respect of a Top Fund and an Underlying Fund in respect of an investment pursuant to the Fund-on-Fund Structure avoid the duplication of management fees and incentive fees. The Filer currently does not charge any management fee or incentive fee to the Initial Top Funds.

33. There will be no sales fees or redemption fees payable by a Top Fund in respect of an acquisition, disposition or redemption of securities of an Underlying Fund by the Top Fund.

34. Prior to the time of purchase of securities of a Top Fund, an investor will be provided with an offering memorandum of the Top Fund that contains disclosure about the relationships and potential conflicts of interest between the Top Fund and the Underlying Funds.

35. The offering memorandum of each Top Fund will describe the Top Funds' intent, or ability, to invest in securities of the Underlying Funds and that the Underlying Funds are also managed and advised by the Filer or its affiliate.

36. Each of the Top Funds and the Underlying Funds will prepare annual audited financial statements and interim unaudited financial statements in accordance with National Instrument 81-106 – *Investment Funds Continuous Disclosure* ("**NI 81-106**") and will otherwise comply with the requirements of NI 81-106, as applicable.

37. Securityholders of a Top Fund will receive, on request, a copy of such Top Fund's audited annual financial statements and interim unaudited financial statements. The financial statements of each Top Fund will disclose its holdings of securities of the applicable Underlying Funds.

38. Securityholders of a Top Fund will receive, on request, a copy of the offering memorandum of an Underlying Fund, or other similar document, if available, and the annual and interim financial statements of any Underlying Fund in which the Top Fund invests.

39. The Filer, or its affiliate, will not cause the securities of an Underlying Fund held by a Top Fund to be voted at any meeting of the securityholders of any Underlying Fund, except that the Filer, or its affiliate, may arrange for the securities of the Underlying Fund held by a Top Fund to be voted by the beneficial holders of securities of the Top Fund.

40. The Initial Top Fund and the Initial Underlying Fund have matching valuation dates and are valued as of the last business day of each month.

41. The securities of Initial Top Fund may be redeemed on the last business day of each fiscal quarter, provided the Fund has received 60 days' prior written notice of a unitholder's redemption request. The fiscal year of the Initial Top Fund is December 31 of each calendar year.

42. An Underlying Fund will be valued no less frequently than a Top Fund.

43. An Underlying Fund will be redeemable no less frequently than a Top Fund.

44. No Underlying Fund will be a Top Fund.

45. The Filer is entitled to receive management fees with respect to certain classes of securities of the Initial Underlying Fund that have a management fee. The Incentive LP, an affiliate of the Filer, is also entitled to receive performance fees with respect to certain classes of securities of the Initial Underlying Fund. The General Partner is entitled to receive a nominal general partner allocation in respect of each of the Initial Top Fund and Initial Underlying Fund.

46. The amounts invested from time to time in an Underlying Fund by a Top Fund may exceed 20% of the outstanding voting securities of the Underlying Fund. As a result, each Top Fund could, either alone or together with other Top Funds, become a substantial security holder of an Underlying Fund. The Top Funds are, or will be, related mutual funds by virtue of the common management by the Filer or its affiliate.

Generally

47. Since the Top Funds and the Underlying Funds do not offer their securities under a simplified prospectus, they are not subject to NI 81-102 and therefore the Top Funds and the Underlying Funds are unable to rely upon the exemption codified under subsection 2.5(7) of NI 81-102.

48. In the absence of the Requested Relief, a Top Fund would be precluded from purchasing and holding securities of an Underlying Fund due to the investment restrictions contained in the Legislation.

49. Each investment by a Top Fund in an Underlying Fund represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Top Fund.

Decision

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

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

(a) securities of the Top Funds are distributed in Canada solely pursuant to exemptions from the prospectus requirements in NI 45-106;

(b) the investment by a Top Fund in an Underlying Fund is compatible with the fundamental investment objectives of the Top Fund;

(c) no Top Fund will purchase or hold securities of an Underlying Fund unless, at the time of the purchase of securities of the Underlying Fund, the Underlying Fund holds no more than 10% of its net assets in securities of other mutual funds unless the Underlying Fund:

  (i) purchases or holds securities of a “money market fund” (as defined by NI 81-102), or

  (ii) purchases or holds securities that are “index participation units” (as defined by NI 81-102) issued by a mutual fund;

(d) no management fees or incentive fees are payable by a Top Fund that, to a reasonable person, would duplicate a fee payable by an Underlying Fund for the same service;

(e) no sales fees or redemption fees are payable by a Top Fund in relation to its purchases or redemptions of securities of an Underlying Fund;

(f) the Filer, or its affiliate, does not cause the securities of the Underlying Fund held by a Top Fund to be voted at any meeting of holders of such securities, except that the Filer, or its affiliate, may arrange for the securities the Top Fund holds of the Underlying Fund to be voted by the beneficial holders of securities of the Top Fund; and

(g) the offering memorandum, where available, or other similar document of a Top Fund, will be provided to investors in a Top Fund and will disclose:

  (i) that the Top Fund may purchase securities of the Underlying Funds;

  (ii) the fact that the Filer is the investment fund manager and portfolio adviser of both the Top Funds and the Underlying Funds;

  (iii) the approximate or maximum percentage of net assets of the Top Fund that the Top Fund intends to invest in securities of the Underlying Funds;

  (iv) the process or criteria used to select the Underlying Funds;

(h) investors in each Top Fund will be informed that they are entitled to receive from the Filer, or its affiliates, on request and free of charge, a copy of the offering memorandum or other disclosure documents, if available, and the annual or semi-annual financial statements relating to all Underlying Funds in which the Top Fund may invest its assets; and

(i) prior to the time of investment, securityholders of a Top Fund will be provided with disclosure with respect to each officer and director of the Filer, if any, that has a significant interest in the Underlying Fund through investments made

in securities of such Underlying Fund and that such officer and/or director of the Filer is also a substantial securityholder of the Filer. Securityholders in a Top Fund will also be advised of the potential conflicts of interest which may arise from such relationships. The foregoing disclosure will be contained in any offering memorandum prepared in connection with a distribution of securities of the Top Fund, or if no offering memorandum is prepared, in another document provided to investors of the Top Fund.

"Edward P. Kerwin"
Commissioner
Ontario Securities Commission

"Deborah Leckman"
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 Sino-Forest Corporation et al.

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

AND

IN THE MATTER OF
SINO-FOREST CORPORATION, ALLEN CHAN, ALBERT IP, ALFRED C.T. HUNG,
GEORGE HO, SIMON YEUNG and DAVID HORSLEY

ORDER

WHEREAS the Ontario Securities Commission ("the Commission") issued a Notice of Hearing (the "Notice of Hearing") and Statement of Allegations in this matter dated May 22, 2012 pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990 c. S.5, as amended in respect of Sino-Forest Corporation ("Sino-Forest"), Allen Chan ("Chan"), Albert Ip ("Ip"), Alfred C.T. Hung ("Hung"), George Ho ("Ho"), Simon Yeung ("Yeung") and David Horsley ("Horsley");

AND WHEREAS on May 22, 2012, the Notice of Hearing gave notice that a hearing would be held on July 12, 2012 at 10:00 a.m. before the Commission;

AND WHEREAS on July 12, 2012, counsel for Staff, counsel for Sino-Forest, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared before the Commission and consented to the hearing being adjourned to October 10, 2012;

AND WHEREAS on July 12, 2012 the hearing in this matter was adjourned to October 10, 2012 at 10:00 a.m.;

AND WHEREAS on October 10, 2012 the hearing in this matter was adjourned to January 17, 2013;

AND WHEREAS on January 17, 2013 counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared before the Commission and requested that the hearing be adjourned to May 13, 2013 for the purpose of conducting a pre-hearing conference;

AND WHEREAS on January 17, 2013 the Commission ordered that a pre-hearing conference be held on May 13, 2013;

AND WHEREAS on May 13, 2013 a pre-hearing conference was commenced before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and no one appeared on behalf of Sino-Forest;

AND WHEREAS the Commission was satisfied that Sino-Forest was provided with notice of the May 13, 2013 pre-hearing conference;

AND WHEREAS on May 13, 2013 the Commission ordered that the pre-hearing conference in this matter continue on July 19, 2013;

AND WHEREAS on July 19, 2013 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and no one appeared on behalf of Sino-Forest;

AND WHEREAS the Commission was satisfied that Sino-Forest was provided with notice of the July 19, 2013 pre-hearing conference;

AND WHEREAS on July 19, 2013 the Commission ordered that the pre-hearing conference in this matter continue on August 13, 2013;

AND WHEREAS on August 13, 2013 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and no one appeared on behalf of Sino-Forest;

AND WHEREAS the Commission was satisfied that Sino-Forest was provided with notice of the August 13, 2013 pre-hearing conference;

AND WHEREAS on August 13, 2013 counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley all made submissions regarding the scheduling of the hearing on the merits (the "Merits Hearing");

AND WHEREAS on August 13, 2013 counsel for Ip, Hung, Ho and Yeung requested that a motion for particulars and further disclosure be scheduled (the "Particulars Motion");

AND WHEREAS on August 13, 2013 the Commission ordered that:

1. the Merits Hearing shall commence on June 2, 2014 at 10:00 a.m., and continue as follows:

   a) Staff's case in the Merits Hearing shall be held on the following dates: June 2, 2014; June 4 to June 6, 2014; June 10 to June 13, 2014; June 16, 2014; June 18 to June 20, 2014; June 24 to June 27, 2014; June 30, 2014; July 3 to 4, 2014; July 8 to 11, 2014; July 14, 2014; July 16 to 18, 2014; July 22 to 25, 2014; August 11, 2014; August 13 to 15, 2014; August 19 to 22, 2014; August 25, 2014; August 27 to 29, 2014; September 2 to 5, 2014; September 8, 2014; September 10 to 12, 2014, and September 15, 2014 or on such other dates as ordered by the Commission;

   b) the Respondents' case in the Merits Hearing be held October 15 to 17, 2014; October 20, 2014; October 22 to 24, 2014; October 28 to 31, 2014; November 3, 2014; November 5 to 7, 2014; November 11, 2014; November 19 to 21, 2014; November 25 to 28, 2014; December 1, 2014; December 3 to 5, 2014; December 9 to 12, 2014; December 15, 2014; December 17 to 19, 2014; January 7 to 9, 2015; January 12, 2015; January 14 to 16, 2015; January 20 to 23, 2015; January 26, 2015; January 28 to 30, 2015; February 3 to 6, 2015; February 9, 2015; and February 11 to 13, 2015 or on such other dates as ordered by the Commission;

2. the Particulars Motion be held on October 16, 2013 commencing at 10:00 a.m., or such other date and time as ordered by the Commission; and

3. the pre-hearing conference in this matter be continued on September 10, 2013, at 2:00 p.m., or such other date and time as ordered by the Commission.

AND WHEREAS on September 10, 2013 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and no one appeared on behalf of Sino-Forest;

AND WHEREAS on September 10, 2013 counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley all made submissions with respect to the timetable for service of Staff's hearing briefs in connection with the Merits Hearing;

AND WHEREAS on September 10, 2013 the Commission ordered that (i) Staff shall serve its hearing briefs in connection with the Merits Hearing on the Respondents on or before February 3, 2014; and (ii) the pre-hearing conference in this matter be continued on October 10, 2013 at 10:00 a.m. (the "September 10 Order");

AND WHEREAS on October 10, 2013 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and no one appeared on behalf of Sino-Forest;

AND WHEREAS on October 10, 2013 counsel for Ip, Hung, Ho and Yeung requested that the hearing date scheduled for the Particulars Motion be vacated;

AND WHEREAS on October 10, 2013 counsel for Ip, Hung, Ho and Yeung further requested that the Commission vacate the dates scheduled for the Merits Hearing on October 20 and 22 to 24, 2014 to accommodate a scheduling conflict;

AND WHEREAS on October 10, 2013 the Commission ordered that:

1. the hearing date scheduled for the Particulars Motion, namely October 16, 2013, is vacated;

2. the hearing dates scheduled for October 20 and 22 to 24, 2014 for the Respondents' case in the Merits Hearing are vacated and further hearing dates are hereby scheduled for February 17 to 20, 2015; and

3. the pre-hearing conference in this matter be continued on November 21, 2013 at 11:00 a.m. or such other date and time as agreed to by the parties and set by the Office of the Secretary.

AND WHEREAS on November 21, 2013 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and no one appeared on behalf of Sino-Forest;

AND WHEREAS on November 21, 2013, the Commission ordered that the pre-hearing conference in this matter be continued on December 2, 2013 at 10:00 a.m.;

AND WHEREAS on December 2, 2013 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and no one appeared on behalf of Sino-Forest;

AND WHEREAS on December 2, 2013, counsel for Chan requested that a motion in connection with certain translated documents be scheduled (the "Translation Motion");

AND WHEREAS on December 2, 2013 counsel for Ip, Hung, Ho and Yeung requested that certain dates scheduled for the Merits Hearing be vacated and counsel for Chan and counsel for Horsley joined in the request;

AND WHEREAS Staff opposed the request to vacate the hearing dates;

AND WHEREAS on December 2, 2103 the Commission ordered that:

1. the hearing dates scheduled for June 2, 2014; June 4 to June 6, 2014; June 10 to June 13, 2014; June 16, 2014; June 18 to June 20, 2014; June 24 to June 27, 2014; June 30, 2014; July 3 to 4, 2014; July 8 to 11, 2014; July 14, 2014; July 16 to 18, 2014; July 22 to 25, 2014; August 11, 2014; August 13 to 15, 2014; August 19 to 22, 2014; August 25, 2014; August 27 to 29, 2014 are vacated;

2. the Merits Hearing shall commence on September 2, 2014 and continue on the dates previously agreed to by the parties and ordered by the Commission;

3. the parties shall discuss their availability for further hearing dates in advance of the next pre-hearing conference and further dates for the Merits Hearing shall be set at the next pre-hearing conference;

4. the September 10 Order is varied such that Staff shall serve its hearing briefs in connection with the Merits Hearing on the Respondents on or before April 1, 2014;

5. the Translation Motion shall be held on January 31, 2014 commencing at 10:00 a.m., or such other date and time as ordered by the Commission; and

6. the pre-hearing conference in this matter be continued on January 31, 2014 at 10:00 a.m. or such other date and time as agreed to by the parties and set by the Office of the Secretary;

AND WHEREAS by email to the Secretary's Office on January 24, 2014, counsel for Chan requested that the date scheduled for the Translation Motion be vacated;

AND WHEREAS on January 31, 2014 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and no one appeared on behalf of Sino-Forest;

AND WHEREAS on January 31, 2014, the parties requested that a further Translation Motion be scheduled (the "Revised Translation Motion");

AND WHEREAS on January 31, 2014, the parties provided the Panel with their availability for further hearing dates for the Merits Hearing;

AND WHEREAS on January 31, 2014, the Commission ordered that:

1. additional hearing dates for the Merits Hearing are hereby added on September 16-19, 2014; September 22 , 2014; September 24-26, 2014; September 30; 2014; October 1-3, 2014; October 6, 2014; October 8-10, 2014; October 14, 2014; November 12-14, 2014; November 17, 2014; February 23, 2015; February 25 to 27, 2015; March 3 to 6, 2015; March 9, 2015; March 11 to 13, 2015; March 17 to 20, 2015; March 23, 2015; March 25 to

27, 2015; March 31, 2015; April 1 to 2, 2015; April 8 to 10, 2015; April 14 to 17, 2015; April 20, 2015; April 22 to 24, 2015; April 28 to 30, 2015; May 1, 2015; May 4, 2015; May 6 to 8, 2015; May 12 to 15, 2015; May 20 to 22, 2015; May 26 to 29, 2015; June 3 to 5, 2015; and June 9, 2015;

2. the hearing dates scheduled for January 7 to 9, 2015; January 12, 2015; January 14 to 16, 2015; January 20 to 23, 2015; January 26, 2015; January 28 to 30, 2015; February 3 to 6, 2015; February 9, 2015; February 11 to 13, 2015; and February 17 to 20, 2015 are hereby vacated;

3. for clarity, Staff's case shall commence on September 2, 2014 and continue on all scheduled Merits Hearing dates up to and including December 19, 2014 and the Respondents' case shall commence on February 23, 2015 and continue on all scheduled Merits Hearing dates up to and including June 9, 2015;

4. the Revised Translations Motion shall be held on June 23, 2014 commencing at 10:00 a.m. and shall continue on June 24 and 25, 2014, or such other dates and times as ordered by the Commission; and

5. the pre-hearing conference in this matter be continued on February 18, 2014 at 10:00 a.m. or such other date and time as agreed to by the parties and set by the Office of the Secretary.

AND WHEREAS on February 18, 2014 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung, counsel for Horsley and counsel for Sino-Forest appeared and made submissions;

AND WHEREAS on February 18, 2014, the Commission ordered that:

1. Staff shall serve its witness statements on the Respondents in compliance with the following schedule:

   a) for witnesses who are members of Staff, Staff shall serve its witness statements on the Respondents on or before May 1, 2014;

   b) for witnesses who are not members of Staff, Staff shall serve its witness statements on the Respondents on or before June 2, 2014;

2. the Respondents shall each serve their respective hearing briefs in connection with the Merits Hearing on Staff on or before July 2, 2014;

3. the Respondents shall each serve their respective witness lists and witness statements on Staff on or before August 1, 2014; and

4. the pre-hearing conference in this matter be continued on March 18, 2014 at 10:00 a.m.;

AND WHEREAS on March 18, 2014 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and made submissions;

AND WHEREAS on April 1, 2014, the Commission ordered that the pre-hearing conference in this matter be continued on April 22, 2014 at 3:00 p.m.;

AND WHEREAS on April 22, 2014 the pre-hearing conference continued before the Commission, at which counsel for Staff, counsel for Chan, counsel for Ip, Hung, Ho and Yeung and counsel for Horsley appeared and made submissions and no one appeared on behalf of Sino-Forest;

AND WHEREAS on April 22, 2014 counsel for Chan and counsel for Ip, Hung, Ho and Yeung requested that the dates scheduled for the Revised Translation Motion be vacated;

AND WHEREAS on April 22, 2014, counsel for Chan requested that certain dates scheduled for the Merits Hearing be vacated;

AND WHEREAS on May 2, 2014, the Commission ordered that:

1. the pre-hearing conference in this matter be continued on June 23, 2014 at 10:00 a.m.;

2. the dates scheduled for the Revised Translation Motion, namely June 23, 24 and 25, 2014, are vacated;

3. the hearing dates scheduled for February 23, 2015, February 25 to 27, 2015, March 3 to 6, 2015, March 9, 2015 and March 11 to 13, 2015 are vacated; and

4. additional hearing dates for the Merits Hearing are added on June 10 to 12, 2015, June 17 to 19, 2015, June 22 to 26, 2015 and June 29, 2015.

AND WHEREAS on June 23, 2014 the pre-hearing conference continued before the Commission, at which counsel for Staff and counsel for Ip, Hung, Ho and Yeung appeared in person and counsel for Chan appeared by telephone and made submissions and no one appeared on behalf of Horsley or Sino-Forest;

IT IS HEREBY ORDERED that the pre-hearing conference in this matter be continued on August 20, 2014 at 10:00 a.m. or such other date and time as agreed to by the parties and set by the Office of the Secretary.

DATED at Toronto this 23rd day of June, 2014.

"Mary G. Condon"

2.2.2 Portfolio Capital Inc. et al.

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

AND

IN THE MATTER OF
PORTFOLIO CAPITAL INC., DAVID ROGERSON
and AMY HANNA-ROGERSON

ORDER

WHEREAS on March 25, 2013, the Ontario Securities Commission (the "**Commission**") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990 c. S.5, as amended (the "**Act**") in connection with a Statement of Allegations filed by Staff of the Commission ("**Staff**") on March 25, 2013 with respect to Portfolio Capital Inc. ("**Portfolio Capital**"), David Rogerson ("**Rogerson**") and Amy Hanna-Rogerson ("**Hanna-Rogerson**") (collectively, the "**Respondents**");

AND WHEREAS the Notice of Hearing set a hearing in this matter for April 17, 2013;

AND WHEREAS on April 17, 2013, Staff and counsel to Rogerson appeared before the Commission and no one appeared on behalf of Hanna-Rogerson or Portfolio Capital;

AND WHEREAS on April 17, 2013, the Commission ordered that a pre-hearing conference take place on May 27, 2013 at 9:00 a.m.;

AND WHEREAS on May 27, 2013, Staff and counsel to the Respondents appeared and made submissions before the Commission;

AND WHEREAS on May 27, 2013, the Commission ordered that a pre-hearing conference take place on June 24, 2013 at 9:00 a.m.;

AND WHEREAS on May 27, 2013, the parties agreed that at the pre-hearing conference scheduled for June 24, 2013 at 9:00 a.m., the parties would be prepared to set the following dates:

(a) a date in September 2013 for a pre-hearing conference, by which time the Respondents and Staff will have provided witness lists and disclosure to the other parties;

(b) a date in October 2013 for a further pre-hearing conference to prepare for the hearing on the merits; and

(c) dates in November 2013 for the hearing on the merits;

AND WHEREAS on June 4, 2013, Staff filed an Amended Statement of Allegations with respect to the Respondents;

AND WHEREAS on June 24, 2013, Staff appeared and made submissions and counsel to Rogerson appeared and made submissions on behalf of his client and on behalf of counsel to Hanna-Rogerson and Portfolio Capital;

AND WHEREAS on June 24, 2013, the Commission ordered that:

(a) Staff shall provide any additional disclosure to the Respondents by July 12, 2013;

(b) Staff shall provide its witness list and hearing briefs to the Respondents by September 12, 2013;

(c) the Respondents shall provide their witness lists and hearing briefs to Staff by September 25, 2013;

(d) the hearing be adjourned to a further pre-hearing conference to be held on September 27, 2013 at 10:00 a.m. to prepare for the hearing on the merits; and

(e) the hearing on the merits in this matter shall commence on November 4, 2013 at 10:00 a.m. and shall continue on November 6, 7, 8 and 11, 2013;

AND WHEREAS on June 26, 2013, Staff filed an Amended Amended Statement of Allegations with respect to the Respondents;

AND WHEREAS on September 27, 2013, Staff appeared and made submissions and counsel to Rogerson and Portfolio Capital appeared and made submissions on behalf of his clients and on behalf of counsel to Hanna-Rogerson;

AND WHEREAS on September 27, 2013, the Commission ordered that the hearing be adjourned to a further pre-hearing conference to be held on October 9, 2013 at 2:00 p.m.;

AND WHEREAS on October 9, 2013, Staff and counsel to the Respondents appeared and made submissions before the Commission;

AND WHEREAS on October 9, 2013, the Commission ordered that:

(a) the hearing dates of November 4, 6, 7 and 8, 2013 be vacated;

(b) the hearing on the merits in this matter shall commence on November 11, 2013

at 10:00 a.m. and shall continue on November 13, 14 and 15, 2013;

(c) the hearing be adjourned to a further pre-hearing conference to be held on October 17, 2013 at 2:00 p.m.;

(d) the motion brought by counsel to Rogerson and Portfolio Capital to adjourn the commencement date of November 11, 2013 for the hearing on the merits (the "**Motion**") would be heard immediately following the pre-hearing conference scheduled for October 17, 2013; and

(e) the Respondents shall be granted one last indulgence and shall provide their hearing briefs, will-say statements and witness list to Staff by October 29, 2013;

AND WHEREAS counsel to Rogerson and Portfolio Capital filed a Notice of Motion, dated October 15, 2013, and Staff filed the Affidavit of Stephanie Collins, sworn October 16, 2013, in relation to the Motion;

AND WHEREAS on October 17, 2013, Staff and counsel to the Respondents appeared and made submissions for a pre-hearing conference;

AND WHEREAS on October 17, 2013, following the pre-hearing conference, the Commission held a hearing with respect to the Motion, which Staff opposed and counsel to Hanna-Rogerson supported;

AND WHEREAS the Commission considered the factors to grant an adjournment set out in Rule 9.2 of the Commission's *Rules of Procedure* (2012), 35 O.S.C.B. 10071, along with the motion materials and submissions of the parties, and ordered that:

(a) the hearing on the merits scheduled to commence on November 11, 2013 will commence on February 10, 2014 and shall continue on February 12, 13, 14 and 18, 2014; and

(b) the hearing be adjourned to a further pre-hearing conference to be held on December 18, 2013 at 10:00 a.m.;

AND WHEREAS the Respondents failed to provide their hearing briefs, will-say statements and witness list to Staff by October 29, 2013, as ordered by the Commission on October 9, 2013;

AND WHEREAS on November 29, 2013, Staff and counsel to Rogerson, who also appeared as a representative for Hanna-Rogerson and Portfolio Capital, appeared and made submissions before the Commission at a confidential pre-hearing conference;

AND WHEREAS the Panel informed the parties that any documents that the Respondents wish to rely on at the hearing on the merits must be submitted by January 3, 2014, and that the Respondents would be precluded from submitting any further documents for the hearing on the merits after that date;

AND WHEREAS on November 29, 2013, the Commission ordered that:

(a) the Respondents shall provide their hearing briefs, will-say statements and witness list to Staff by 4:30 p.m. on January 3, 2014;

(b) the pre-hearing conference scheduled for December 18, 2013 at 10:00 a.m. be vacated; and

(c) the hearing be adjourned to a further pre-hearing conference to be held on January 10, 2014 at 10:00 a.m.;

AND WHEREAS on January 3, 2014, the Respondents served their hearing brief on Staff (the "**Respondents' Hearing Brief**");

AND WHEREAS on January 10, 2014, Staff and counsel to the Respondents appeared and made submissions before the Commission;

AND WHEREAS Staff and counsel to the Respondents consented to submit an agreed statement of facts by January 17, 2014, and the parties agreed that Staff would provide the Respondents with the particulars of its allegations in relation to subsection 126.1(b) of the Act by January 29, 2014;

AND WHEREAS on January 10, 2014, the Commission ordered that:

(a) an agreed statement of facts shall be submitted by the parties in this matter by January 17, 2014, and, in the event that an agreed statement of facts was not reached, the parties will communicate with the Registrar of the Office of the Secretary to schedule a further appearance in this matter; and

(b) Staff shall provide to the Respondents the particulars of its allegations in relation to subsection 126.1(b) of the Act by January 29, 2014;

AND WHEREAS Staff and the Respondents entered into an agreed statement of facts;

AND WHEREAS on January 28, 2014, the Commission received notice that the Respondents discharged their counsel and that the Respondents elected to act in person in respect of this matter;

AND WHEREAS on January 29, 2014, Staff served and filed the particulars of its allegations of securities fraud made against the Respondents;

AND WHEREAS the hearing on the merits commenced on February 10, 2014 and continued on February 12, 13, and 14, 2014;

AND WHEREAS on February 14, 2014, the Commission ordered that:

(a) the hearing date of February 18, 2014 be vacated;

(b) Staff shall serve and file its written closing submissions by March 14, 2014;

(c) the Respondents shall serve and file any written closing submissions by March 28, 2014; and

(d) if the Respondents serve and file written closing submissions, the hearing on the merits shall continue for the purpose of hearing oral closing submissions on a date and time to be set by the Office of the Secretary;

AND WHEREAS on March 13, 2014, Staff served and filed its written closing submissions;

AND WHEREAS on March 28, 2014, the Respondents served and filed their written closing submissions and attached several documents that they wished to rely on at the hearing on the merits (the "**March 2014 Documents**");

AND WHEREAS on April 14, 2014, Rogerson requested that he be permitted to introduce documentary and oral evidence before the Panel at the hearing on the merits (the "**Evidence Motion**");

AND WHEREAS on April 22, 2014, the Commission informed the parties that a hearing would be held on May 1, 2014 at 10:00 a.m. for the sole purpose of hearing the Respondents' Evidence Motion and any other matters related to the completion of the hearing on the merits;

AND WHEREAS on April 29, 2014, Staff served and filed a Memorandum of Fact and Law, a Brief of Authorities and the Affidavit of Julia Ho, sworn April 23, 2014;

AND WHEREAS on May 1, 2014, Rogerson served and filed responding materials, including copies of certain documents that he wished to introduce, which included all or substantially all of the documents included in the Respondents' Hearing Brief, several of the March 2014 Documents and certain additional documents (the "**Additional Documents**");

AND WHEREAS on May 1, 2014, Staff attended in person, Rogerson and Hanna-Rogerson attended by telephone conference and the parties made submissions with respect to the Evidence Motion;

AND WHEREAS on May 14, 2014, the Commission ordered that, in order to make a determination on the Evidence Motion, a further appearance would be held at 10:00 a.m. on May 29, 2014 to discuss the conduct of the hearing, including the use, if any, of videoconferencing;

AND WHEREAS on May 29, 2014, Staff attended in person, and Rogerson and Hanna-Rogerson attended by telephone conference;

AND WHEREAS the Respondents identified three witnesses located in British Columbia, including Rogerson and Hanna-Rogerson, whose evidence they wish to introduce at the hearing on the merits (the "**British Columbia Witnesses**");

AND WHEREAS the Respondents identified a fourth potential witness located in Alberta (the "**Alberta Witness**"), whose availability to participate in the hearing on the merits was unknown as of the May 29, 2014 hearing;

AND WHEREAS the Commission directed the Respondents to notify the Office of the Secretary of the Alberta Witness's availability to participate in the hearing on the merits by June 5, 2014 so that testimony by video link from Alberta could be facilitated;

AND WHEREAS the Respondents did not provide confirmation that the Alberta Witness was available to participate in the hearing on the merits;

AND WHEREAS on June, 6, 2014, the Commission ordered that the hearing on the merits would continue on June 24 and 25, 2014, beginning at 1:00 p.m. both days, on which dates the Respondents would be permitted to introduce evidence, as follows;

(a) the three British Columbia Witnesses would be permitted to testify by video link from Vancouver, British Columbia, as arranged by the Office of the Secretary;

(b) the Alberta Witness would be permitted to testify by video link from Vancouver, British Columbia, as arranged by the Office of the Secretary, or to testify at the offices of the Commission in Toronto; and

(c) the Respondents may introduce documentary evidence from the March 2014 Documents and the Additional Documents;

AND WHEREAS the hearing on the merits continued on June 24 and 25, 2014, with Staff attending in

person, Rogerson and Hanna-Rogerson attending by video conference and the British Columbia Witnesses testifying by video conference;

AND WHEREAS the Alberta Witness did not appear before the Commission or testify at the hearing on the merits;

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

IT IS HEREBY ORDERED that:

(a) Staff shall serve and file its supplementary or restated written closing submissions by 5 p.m. E.D.T. on July 24, 2014;

(b) the Respondents shall serve and file any supplementary or restated written closing submissions by 5 p.m. E.D.T. on August 7, 2014; and

(c) Staff shall serve and file any reply written closing submissions, if necessary, by 5 p.m. E.D.T. on August 28, 2014.

DATED at Toronto this 25th day of June, 2014.

"Christopher Portner"

2.2.3 Powerwater Systems, Inc. et al. – ss. 127(1), 127(10)

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

AND

IN THE MATTER OF
POWERWATER SYSTEMS, INC., DUNCAN CLEWORTH and POWERWATER USA LTD.

ORDER
(Subsections 127(1) and 127(10) of the Securities Act)

WHEREAS on May 14, 2014, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of Powerwater Systems, Inc., ("PSI"), Duncan Cleworth ("Cleworth") and Powerwater USA Ltd. ("PUL") (together, the "Respondents");

AND WHEREAS on May 14, 2014, Staff of the Commission ("Staff") filed a Statement of Allegations in respect of the same matter;

AND WHEREAS on June 26, 2014, the Commission heard an application by Staff to convert the matter to a written hearing (the "Application"), in accordance with Rule 11.5 of the Commission's *Rules of Procedure* (2014), 37 OSCB 4095, and subsection 5.1(2) of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended;

AND WHEREAS the Respondents have consented to the Application as indicated by their filed written consent;

AND WHEREAS Staff and the Respondents have agreed upon a timetable, subject to the Commission's approval, as set forth below;

AND WHEREAS Staff and the Respondents are content that the order below be made on June 26, 2014, without the necessity of the attendance of the Respondents;

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

IT IS HEREBY ORDERED THAT:

(a) Staff's application to proceed by way of written hearing is granted;

(b) Staff's materials in respect of the written hearing shall be served and filed no later than July 7, 2014;

(c) the Respondents' responding materials, if any, shall be served and filed no later than September 15, 2014; and

(d) Staff's reply materials, if any, shall be served and filed no later than September 22, 2014.

DATED at Toronto this 26th day of June, 2014.

"James E. A. Turner"

2.2.4 Capital Markets Technologies, Inc. – ss. 127(1), 127(10)

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

AND

IN THE MATTER OF
CAPITAL MARKETS TECHNOLOGIES, INC.

ORDER
(Subsections 127(1) and 127(10) of the Securities Act)

WHEREAS on June 3, 2014, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to subsections 127(1) and 127(10) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") in respect of Capital Markets Technologies, Inc. ("CMT");

AND WHEREAS on June 2, 2014, Staff of the Commission ("Staff") filed a Statement of Allegations in respect of the same matter;

AND WHEREAS CMT entered into a settlement agreement with the Prince Edward Island Superintendent of Securities ("PEI Superintendent") dated May 31, 2013 (the "Settlement Agreement");

AND WHEREAS in the Settlement Agreement, CMT agreed to an order of the PEI Superintendent imposing sanctions, conditions, restrictions or requirements upon CMT;

AND WHEREAS CMT is subject to an order dated June 5, 2013 made by the PEI Superintendent (the "PEI Order") that imposes sanctions, conditions, restrictions or requirements upon CMT within the meaning of paragraph 4 of subsection 127(10) of the Act;

AND WHEREAS Staff: (i) appeared before the Commission on June 26, 2014 and made submissions; and (ii) filed a hearing brief, and a consent from CMT consenting to the making of this order, which reciprocates the PEI Order;

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

IT IS HEREBY ORDERED THAT pursuant to paragraph 3 of subsection 127(1) of the Act, except for the securities to be issued on the conversion of the Convertible Loan Agreements, as defined in the Settlement Agreement, the exemptions set out in National Instrument 45-106 do not apply to CMT in Ontario until June 5, 2018.

DATED at Toronto this 26th day of June, 2014.

"James E. A. Turner"

2.2.5 Bluestream Capital Corporation et al. – s. 127

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

AND

IN THE MATTER OF
BLUESTREAM CAPITAL CORPORATION,
BLUESTREAM INTERNATIONAL INVESTMENTS INC.,
KROWN CONSULTING CORP.,
1859585 ONTARIO LTD. (operating as
SOVEREIGN INTERNATIONAL INVESTMENTS)
and PETER BALAZS

ORDER
(Section 127)

WHEREAS on March 12, 2014, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), in relation to a Statement of Allegations filed by Staff of the Commission ("Staff") on March 11, 2014, to consider whether it is in the public interest to make certain orders against Bluestream Capital Corporation ("Bluestream Capital"), Bluestream International Investment Inc. ("Bluestream International"), Krown Consulting Corp. ("Krown"), 1859585 Ontario Ltd. (operating as Sovereign International Investments) ("Sovereign") (together, the "Corporate Respondents") and Peter Balazs ("Balazs") (together with the Corporate Respondents, the "Respondents");

AND WHEREAS the Notice of Hearing set a hearing in this matter for April 2, 2014 at 10:00 a.m.;

AND WHEREAS on April 2, 2014, Staff attended the hearing and Balazs attended on his own behalf and on behalf of Bluestream International, Krown, and Sovereign;

AND WHEREAS on April 2, 2014 the Commission ordered that this matter be adjourned to a confidential pre-hearing conference on June 26, 2014 at 10:00 a.m.;

AND WHEREAS on June 26, 2014, Staff attended the confidential pre-hearing conference while no one appeared on behalf of Balazs or the Corporate Respondents, although the Respondents were properly served with notice of the hearing;

AND WHEREAS the Panel considered the submissions of Staff and the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED that the hearing on the merits in this matter will commence on January 12, 2015 at 10:00 a.m and will continue through January 21, 2015, except for January 13, 2015, or such other dates as are agreed to by the parties and fixed by the Office of the Secretary.

DATED at Toronto this 26th day of June, 2014.

"James E. A. Turner"

2.2.6 2196768 Ontario Ltd carrying on business as RARE Investments et al. – ss. 127, 127(1)

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

AND

IN THE MATTER OF
2196768 ONTARIO LTD carrying on business as
RARE INVESTMENTS, RAMADHAR DOOKHIE,
ADIL SUNDERJI and EVGUENI TODOROV

ORDER
(Sections 127 and 127(1) of the Securities Act)

WHEREAS on November 22, 2011, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing in relation to a Statement of Allegations filed by Staff of the Commission ("Staff") on that date pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended, in respect of 2196768 Ontario Ltd carrying on business as RARE Investments ("RARE"), Ramadhar Dookhie ("Dookhie"), Adil Sunderji ("Sunderji") and Evgueni Todorov ("Todorov");

AND WHEREAS on March 15, 2013, the Commission approved a Settlement Agreement, dated March 13, 2013, between Staff and Sunderji;

AND WHEREAS the Commission conducted a hearing on the merits with respect to the remaining respondents RARE, Dookhie and Todorov (collectively, the "Respondents") on May 22, 23, 24 and 27, 2013 and September 5, 2013 (the "Merits Hearing");

AND WHEREAS following the Merits Hearing, the Commission issued its Reasons and Decision with respect to the Respondents on June 27, 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. Staff shall serve and file its written submissions on sanctions and costs by July 23, 2014;

2. The Respondents shall serve and file their written submissions on sanctions and costs by August 15, 2014;

3. Staff shall serve and file any reply submissions on sanctions and costs by August 25, 2014;

4. The hearing to determine sanctions and costs against the Respondents will be held at the offices of the Commission at 20 Queen Street West, Toronto, ON, on Thursday, August 28, 2014 at 10:00

a.m., or such further or other dates as agreed by the parties and set by the Office of the Secretary; and

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

DATED at Toronto this 27th day of June, 2014.

"Edward P. Kerwin"

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions, Orders and Rulings

3.1.1 2196768 Ontario Ltd carrying on business as RARE Investments et al. – s. 127

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

AND

IN THE MATTER OF
2196768 ONTARIO LTD Carrying on business as
RARE INVESTMENTS, RAMADHAR DOOKHIE, ADIL SUNDERJI and EVGUENI TODOROV

REASONS AND DECISION
(Section 127 of the Securities Act)

Hearing:	May 22, 23, 24 and 27, 2013 September 5, 2013		
Decision:	June 27, 2014		
Panel:	Edward P. Kerwin	–	Commissioner and Chair of the Panel
Appearances:	Donna Campbell	–	For Staff of the Commission
	Behdad Hosseini	–	For 2196768 Ontario Ltd, carrying on business as RARE Investments, and Ramadhar Dookhie
	Evgueni Todorov	–	Self-represented

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REASONS AND DECISION

I. OVERVIEW

A. Background

[1] This was a hearing before the Ontario Securities Commission (the "**Commission**"), pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**"), to consider whether 2196768 Ontario Ltd, carrying on business as RARE Investments ("**RARE**"), Ramadhar Dookhie ("**Dookhie**") and Evgueni Todorov ("**Todorov**") (collectively, the "**Respondents**") breached the Act and acted contrary to the public interest.

[2] This proceeding was commenced by a Statement of Allegations, which was filed by Staff of the Commission ("**Staff**") on November 22, 2011, and a Notice of Hearing, which was issued by the Commission on the same date. The Statement of Allegations and the Notice of Hearing list the following respondents: RARE, Dookhie, Todorov and Adil Sunderji ("**Sunderji**"). Prior to the hearing on the merits in this matter, on March 15, 2013, the Commission approved a settlement agreement between Staff and Sunderji (*Re 2196768 Ontario Ltd et al.* (2013), 36 O.S.C.B. 2909).

[3] This case involves allegations by Staff of unregistered trading and illegal distribution of securities that span a period of time between January 1, 2009 and March 31, 2010 (the "**Material Time**"). Staff alleges that during the Material Time, the Respondents solicited investment funds for the purpose of trading in foreign currencies ("**Forex**" or "**FX**") for profit and raised approximately $1.15 million from 15 investors ("**RARE Investors**"). Staff alleges that the RARE Investors advanced funds to the Respondents, who issued promissory notes for investor loans and subsequently lost the money in Forex trading or used the funds to repay previous debts unrelated to RARE, and thereby engaged in fraudulent conduct in breach of the Act and acted contrary to the public interest.

[4] Staff alleges that the Respondents' conduct breached the following sections of the Act: subsection 25(1)(a) of the Act (between January 1, 2009 and September 27, 2009) and subsection 25(1) of the Act (between September 28, 2009 and March 31, 2010) (unregistered trading); subsection 53(1) of the Act (illegal distribution of securities); and subsection 126.1(b) of the Act (fraud). In addition, Staff alleges that Dookhie and Todorov, as directors and officers of RARE, authorized, permitted or acquiesced in breaches by RARE of sections 25, 53 and 126.1(b) of the Act by RARE and are therefore deemed to also have not complied with Ontario securities law, pursuant to section 129.2 of the Act. Staff also alleges that the Respondents have engaged in conduct contrary to the public interest.

B. History of the Proceeding

[5] The first appearance in this matter was held on December 5, 2011. Subsequent to that hearing, three pre-hearing conferences were held on May 2, July 19 and September 14, 2012.

[6] At the first appearance held on December 5, 2011, a pre-hearing conference was scheduled for March 5, 2012. On March 1, 2012, at the request of counsel for RARE, Dookhie, Todorov and Sunderji, the Commission adjourned the pre-hearing conference to May 2, 2012 to allow Sunderji and Todorov to retain legal counsel. The pre-hearing conference held on July 19, 2012 was also adjourned to a later date, in order to allow again these respondents to obtain legal counsel.

[7] At the pre-hearing conference held on September 14, 2012, the hearing on the merits was set down to commence on March 18, 2013 and continue on March 19, 20, 21, 22, 25, 27 and 28, 2013 (the "**Merits Hearing**").

[8] On March 13, 2013, Todorov requested an adjournment of the Merits Hearing to retain counsel. The Commission granted the adjournment request, vacated the dates scheduled in March 2013 and scheduled the Merits Hearing to begin on May 22, 2013 and continue on May 23, 24, 27, 28, 29, 30 and 31, 2013. The Commission also ordered that the Merits Hearing be adjourned on a peremptory basis as against Todorov.

[9] As mentioned in paragraph 2 above, on March 15, 2013, the Commission approved a settlement agreement entered into by Staff and Sunderji.

[10] The Merits Hearing commenced on May 22, 2013. Evidence was heard on May 22, 23, 24 and 27, 2013. On May 27, 2013, upon the completion of the submission of evidence by Staff and the Respondents, the Commission vacated the remaining dates of the Merits Hearing, set the timing for the parties to file written closing submissions and set the date of September 5, 2014 for the Panel to hear oral closing submissions. Staff was ordered to serve and file written closing submissions by June 28, 2013, the Respondents were ordered to serve and file written closing submissions by August 9, 2013 and Staff was ordered to serve and file any written reply by August 20, 2013.

[11] On June 26, 2013, Staff served and filed its written closing submissions, a brief of authorities and the Affidavit of Laura Filice, sworn on June 26, 2013. On August 8, 2013, counsel for Dookhie and RARE, Behdad Hosseini ("**Hosseini**"), informed Staff that he would not be able to serve and file the written closing submissions of Dookhie and RARE by August 9, 2013, and indicated that he expected to do so in the week of August 12, 2013. On August 12, 2013, I ordered that:

> 1. the [Respondents] shall serve and file any written closing submissions on or by Friday, August 16, 2013 at 4:30 p.m., which date will not be subject to further extension;
>
> 2. Staff shall serve and file their written reply, if any, on or by Tuesday, September 3, 2013 at 4:30 p.m.; and
>
> 3. the hearing on the merits shall continue on Thursday, September 5, 2013 at 10:00 a.m. for the purpose of hearing oral closing submissions from the parties.
>
> (*Re 2196768 Ontario Ltd et al.* (2013), 36 O.S.C.B. 8379)

[12] On August 16, 2013, Todorov filed his written closing submissions. No written closing submissions were filed by Dookhie or RARE.

[13] The Merits Hearing continued on September 5, 2013 for the purpose of hearing oral closing submissions from the parties. During the Merits Hearing, Dookhie and RARE were represented by Hosseini and Todorov was self-represented. Dookhie also attended the Merits Hearing in person throughout.

C. The Respondents

1. RARE

[14] The corporate profile report of RARE lists the corporation name as "2196768 Ontario Ltd." The evidence established that 2196768 Ontario Ltd. and RARE were the same company. There was no record that either 2196768 Ontario Ltd. or RARE has ever been registered with the Commission in any capacity.

[15] RARE is a private Ontario corporation, which was incorporated by Dookhie on January 30, 2009. The corporate filings for RARE list Dookhie and Sunderji as the company's directors and officers; Dookhie is listed as the president of RARE and Sunderji is listed as its treasurer. In its corporation profile report, the registered address of RARE is listed as a unit located at 1 Yorkgate Boulevard, North York, Ontario (the "**Yorkgate Mall Address**").

[16] The Shareholders Agreement of RARE made June 2, 2009 (the "**Shareholders Agreement**") was signed by Dookhie, Sunderji, Todorov and RARE, and listed the following individuals as the directors and officers of RARE: Dookhie (as a director and President), Sunderji (as a director Secretary/Treasurer) and Todorov (as a director). The Shareholders Agreement also

listed the shareholders of RARE as follows: Dookhie (with 40 common shares), Sunderji (with 30 common shares) and Todorov (with 30 common shares).

2. Ramadhar Dookhie

[17] Dookhie is a resident of Brampton, Ontario and served as a director and the President of RARE throughout the Material Time. During the Material Time, Dookhie was registered with the Commission as a Dealing Representative in the category of "Scholarship Plan Dealer" with a company called Children's Education Funds Inc. Dookhie was registered as a Dealing Representative until December 20, 2010.

[18] Dookhie also owned 6322239 Canada Limited ("**632 Company**"), operating as RANN Financial Services ("**RANN**"). The registered address for RANN is listed as the same address of another business operated by Dookhie, Liberty Tax Services ("**Liberty Services**"). RANN, Liberty Services and RARE were all located at the Yorkgate Mall Address.

3. Evgueni Todorov

[19] Todorov is a resident of Toronto, Ontario. He is an engineer by profession and was trained in Europe. Todorov has no training in securities, is not a registrant and has never worked in the securities industry. Staff alleges that Todorov was one of the directing minds of RARE, together with Dookhie and Sunderji. As mentioned at paragraph 16 above, Todorov was listed as a director and a shareholder of RARE in the Shareholders Agreement.

[20] The evidence showed that during the Material Time, a cheque was written by RARE on its first bank account to a business named Setenterprice and some cheques were received by RARE from Setenterprice by deposit to the same bank account. On January 23, 2006, Todorov's wife registered Setenterprice as a sole proprietorship under the *Business Names Act*, R.S.O. 1990, c. B.17, as amended. Although the business was registered by Todorov's wife, the evidence showed that Setenterprice was jointly owned by Todorov and his wife. There was no record that Setenterprice has ever been registered with the Commission in any capacity.

4. Adil Sunderji

[21] Sunderji was listed as a director and officer of RARE in the corporate filings for RARE and in the Shareholders Agreement. Sunderji was also a shareholder of a company named Grey Tech Computing Inc. ("**Grey Tech Computing**").

[22] Sunderji was never registered in any capacity with the Commission. As mentioned in paragraph 2 above, on March 15, 2013, the Commission approved a settlement agreement entered into by Staff and Sunderji. Sunderji did not participate in the Merits Hearing.

II. PRELIMINARY ISSUES

A. Hearsay

[23] Staff tendered bank account statements obtained by way of summons, corporate filings, emails and other written communications between Dookhie, Todorov and other third parties. Staff submits that although these documents are hearsay evidence, taken as a whole, the totality of the evidence is corroborative and consistent.

[24] The Commission has the discretion to admit hearsay evidence, subject to the weight given to such evidence, pursuant to subsection 15(1) of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, as amended (the "SPPA"), which provides as follows:

> **15. (1) What is admissible in evidence at a hearing** – Subject to subsections (2) and (3), a tribunal may admit as evidence at a hearing, whether or not given or proven under oath or affirmation or admissible as evidence in a court,
>
> (a) any oral testimony; and
>
> (b) any document or other thing,
>
> relevant to the subject-matter of the proceeding and may act on such evidence, but the tribunal may exclude anything unduly repetitious.

[25] Pursuant to subsection 15(1) of the SPPA, I am entitled to admit and rely on relevant documents, which constitute hearsay, as evidence. I have exercised my discretion as to the weight to be accorded to such documents in my analysis and findings in this decision.

III. THE POSITION OF THE PARTIES

A. Staff

[26] Staff alleges that during the Material Time the Respondents:

(a) traded and engaged in or held themselves out as engaging in the business of trading in securities without registration or an appropriate exemption from the registration requirements, contrary to subsection 25(1)(a) of the Act as that section existed at the time the conduct commenced in January 2009, and contrary to subsection 25(1) of the Act as subsequently amended on September 28, 2009 and contrary to the public interest;

(b) traded in securities when a preliminary prospectus and a prospectus had not been filed and receipts had not been issued for them by the Director to qualify the sale of the investment contracts, contrary to subsection 53(1) of the Act;

(c) made misleading or fraudulent misrepresentations to investors and misappropriated investors funds knowing or having reasonably ought to have known that they would result in a fraud on a person, contrary to section 126.1 of the Act and contrary to the public interest; and

(d) the course of conduct engaged in by the Respondents compromised the integrity of Ontario's capital markets, was abusive to Ontario's capital markets and was contrary to the public interest.

B. Dookhie and RARE

[27] On May 27, 2013, I ordered the Respondents to submit their written closing submissions by August 9, 2013. As discussed in paragraph 11 above, on August 8, 2013, one day prior to the filing date prescribed in the order, Hosseini, counsel for Dookhie and RARE, faxed a letter to Staff indicating that he was unable to send the written submissions for Dookhie and RARE until the week of August 12, 2013. On August 12, 2013, I granted an extension for the Respondents to provide their written closing submissions by August 16, 2013, which was seven days following the originally scheduled deadline of August 9, 2013. Despite having been granted with an extension, Dookhie and RARE did not provide any written closing submissions.

[28] At the Merits Hearing, Dookhie and RARE did not make an opening statement or make any oral closing submissions. Dookhie and RARE were represented by Hosseini throughout the Merits Hearing and Dookhie attended the hearing in person.

[29] Dookhie testified at the Merits Hearing on May 27, 2013. Dookhie's testimony touched on several issues, including: his personal and business relationships with Todorov and Sunderji, his cooperation with Staff during its investigation and his involvement in the incorporation and operations of RARE. He also discussed his remorse regarding his activities with RARE and the resulting loss of investor funds.

[30] At the Merits Hearing on September 5, 2013, Hosseini informed the Panel and the other parties that he did not have any oral submissions ready because he had limited access to Dookhie due to health issues that Dookhie had been experiencing. Hosseini requested extra time to provide written submissions. Staff, in reply, stated that this was the first time that Staff had heard that Dookhie's health has prevented his counsel from meeting with him to put together submissions. Staff's position was that if a request for additional time is to be made, it should be properly constituted by a notice of motion together with an affidavit outlining the medical issues and accompanied by medical evidence. The Panel declined to grant additional time in view of the ample time that had been provided in the order of May 27, 2013 and the extension that had already been granted on August 12, 2013 for the late filing of written submissions.

C. Todorov

[31] Todorov attended the Merits Hearing in person and was self-represented. Todorov testified at the Merits Hearing on May 27, 2013. Todorov's testimony covered his submission that he was hired to trade in Forex. He acknowledged that he was a shareholder of RARE, he signed the Shareholders Agreement and he signed promissory notes for money that he and RARE borrowed. He denied, however, that he was part of the directorship of RARE or that he signed any documents of RARE as a director.

[32] Todorov filed written closing submissions, dated August 15, 2013. In his written submissions, Todorov states that he firmly believes that he did not contravene the Act, since he never acted as a director of RARE. He submits that he never authorized or permitted any issuance of any documents as a director of RARE.

[33] Todorov submits that his only function with RARE was to place trading orders in the Forex market in the Euro-U.S. dollar pair. He submits that he was not engaged in the incorporation of RARE or any of the company's banking or trading

accounts, and adds that he did not have any banking or signing authority on any of these accounts. He submits that for most of the time he was deprived of access to the trading accounts of RARE and he was not the person executing the trade orders. He further submits that he was acting as an employee of the company, which he believed was in full compliance with the existing laws in Ontario.

[34] Todorov submits that Sunderji was supervising the trading activities of RARE to ensure that the Forex trading was done according to the "rules". He further submits that he was confident that everything was filed correctly and done in compliance with the law, given that Dookhie was an accountant who ran an accounting business, Liberty Services. He never suspected that there was any wrongdoing.

[35] He submits that he did not obtain any personal financial gain from his trading activity with RARE. He states that he tried to help the company by contributing approximately $59,500. He submits that he currently suffers a hardship from the consequences of the events tied to RARE. He further submits that with all his actions, he tried to ensure that the company preserved its capital and complied with its obligations.

IV. ISSUES

[36] Staff's allegations raise the following issues for consideration:

1. Did the Respondents trade in securities without registration in breach of subsection 25(1)(a) of the Act (for the time period from January 1, 2009 to September 27, 2009) and subsection 25(1) of the Act (for the time period from September 28, 2009 to March 31, 2010) and contrary to the public interest?

2. Did the Respondents engage in a distribution of securities without a prospectus in breach of subsection 53(1) of the Act and contrary to the public interest?

3. Did the Respondents engage in fraud in breach of subsection 126.1(b) of the Act and contrary to the public interest?

4. Did Dookhie and Todorov (the "**Individual Respondents**") authorize, permit or acquiesce in breaches of subsection 25(1)(a) (for the time period from January 1, 2009 to September 27, 2009), subsection 25(1) (for the time period from September 28, 2009 to March 31, 2010), subsection 53(1) and subsection 126.1(b) of the Act by RARE, such that they are deemed to also have not complied with Ontario securities law pursuant to section 129.2 of the Act?

[37] The standard of proof in administrative proceedings is the civil standard of proof on a balance of probabilities. The balance of probabilities standard of proof requires that the trier of fact assess each of these issues by examining the evidence in this matter and determining whether on a balance of probabilities "… it is more likely than not that the event occurred" (*F.H. v. McDougall*, [2008] 3 S.C.R. 41 at para. 44 ("***McDougall***")). As stated by the Supreme Court of Canada, "… evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test" (*McDougall*, *supra* at para. 46).

V. OVERVIEW OF THE EVIDENCE

A. Evidence Presented

[38] Staff submitted to the Panel documentary evidence electronically, totalling 81 exhibits. Staff called four witnesses: Staff's senior forensic accountant, Mike de Verteuil ("**De Verteuil**") and three investor witnesses, M.A., R.E. and V.M. (the "**Investor Witnesses**").

[39] Staff also relied on the transcripts of the compelled examinations of Dookhie held before Enforcement Staff on April 26, 2010 and August 25, 2010, as well as the compelled examinations of Todorov held on April 27, 2010 and May 28, 2010 (the "**Compelled Examinations**"). Staff tendered the transcripts and key admissions contained in the Compelled Examinations as evidence at the Merits Hearing.

[40] Dookhie and Todorov testified on their own behalf at the Merits Hearing. The Respondents did not call any additional witnesses. No evidence was tendered through Dookhie at the hearing. Todorov tendered two exhibits. These exhibits included a summary statement and the trading statements of an account set up with GCI Financial Ltd. ("**GCI Financial**") in the name of Todorov, spanning a time period from January 7 to March 25, 2013.

[41] In order to protect the privacy of investors, including the Investor Witnesses, I have referred to them anonymously by initials, rather than using their respective names. Staff also provided a redacted version of the record in accordance with the Commission's *Practice Guideline – April 24, 2012 – Use and Disclosure of Personal Information in Ontario Securities Commission's Adjudicative Proceedings*.

B. Overview of the Investment Scheme

[42] The investment scheme in this matter involved the solicitation of funds from the public for the purpose of engaging in Forex trading. In the Statement of Allegations dated November 22, 2011, Staff alleged that the Respondents solicited investment funds for the purpose of trading in foreign currencies for profit and raised approximately $1.15 million from 15 investors in Ontario. However, the evidence presented at the Merits Hearing demonstrated that, during the Material Time, the Respondents actually raised $1,226,832 from 16 RARE Investors (the "**RARE Investor Funds**"). I note that the Respondents were present throughout the Merits Hearing and did not present any evidence to dispute or refute the truth or accuracy of the evidence that established that $1,226,832 was raised from 16 investors.

[43] In return for their investment in RARE, RARE Investors received promissory notes that carried a monthly interest rate of approximately 1% to 3%. Staff submitted that these promissory notes were securities that were sold to the public and had not been previously issued.

[44] RARE Investors were led to believe that the Respondents developed a leveraged Forex trading strategy that could produce an attractive potential return on investment, and that half of their investment would be secured in guaranteed investment certificates ("**GICs**"). These investors were not informed by the Individual Respondents of the extent of the trading losses suffered by RARE, or that their investments would be used to make payments and loans to third parties, who were not investors with RARE.

[45] In his testimony, De Verteuil explained that Forex trading involves the simultaneous buying of one currency and the selling of another. It is an over-the-counter market, or interdealer market, meaning that transactions are not centralized on an exchange but conducted over the telephone or an electronic network. Dealers will offer to retail speculators the opportunity to trade currency in pairs, and, depending on how the currencies move in relation to each other, profits or losses are incurred. De Verteuil described Forex trading to be highly leveraged and stated that such trading was therefore "really only for experienced investors" (Transcript, May 23, 2013, Testimony of De Verteuil, p. 77, ll. 9-15).

[46] Dookhie was a director, the president and the directing mind of RARE throughout the Material Time. He was the only respondent that was registered with the Commission. He was registered as a Dealing Representative in the category of "Scholarship Plan Dealer" with a company called Children's Education Funds Inc. Todorov and RARE were not registered in any capacity with the Commission. As discussed in my finding set forth below in paragraph 207, Todorov was an actual and *de facto* director of RARE during the Material Time.

1. Prior to the Incorporation of RARE

[47] Dookhie met Todorov for the first time in the spring of 2008 through Sunderji, the latter of whom Dookhie characterized to be a good friend of his. Dookhie testified that Sunderji had set up a meeting at the office of Grey Tech Computing to see if Dookhie would be interested in some investment opportunities. At the meeting, Sunderji introduced Dookhie to Todorov who was going to use funds to trade in the FX market. Following the meeting, Dookhie decided to get involved in Forex trading with Todorov and Dookhie began to solicit individuals to invest in this opportunity ("**Pre-RARE Investors**"). In total, there were six Pre-RARE Investors who invested a sum of $450,000 with Dookhie and 632 Company (the "**Pre-RARE Investor Funds**"). In return for their investments, most Pre-RARE Investors received debenture certificates that were issued by 632 Company and signed by Dookhie. As part of his investigation in this matter, De Verteuil testified that he did not investigate the accounts of 632 Company, which is not a respondent in this matter.

[48] Prior to the incorporation of RARE, the entire amount of $450,000 of Pre-RARE Investor Funds was turned over by Dookhie in 2008 and January 2009 to Todorov, who used the funds in Forex trading. For the investors that received debenture certificates, Dookhie testified that he did not tell any of these Pre-RARE Investors that their funds would be given to Todorov. Dookhie also confirmed that there was no documentation between him and Todorov regarding the $450,000.

[49] Dookhie testified that he had an arrangement with Todorov, in which Dookhie paid Pre-RARE Investors a 2% monthly interest rate for the funds they invested, while Dookhie loaned the same funds to Todorov at a 4% monthly interest rate. Despite the fact that Dookhie was making money on the 2% spread on the Pre-RARE Investor Funds, he did not inform Pre-RARE Investors that he was lending out the money to an unknown third party, Todorov, at a monthly interest rate at 4%.

[50] De Verteuil testified that the only documentation between Dookhie and Todorov, regarding the loan of the Pre-RARE Investor Funds, was a promissory note, dated February 25, 2009, that was issued by Todorov as borrower to RARE for $135,000 in respect of two amounts: an amount of $50,000 for investor R.R. and an amount of $85,000 for investor S.G., representing funds turned over to Todorov by Dookhie prior to the formation of RARE. Dookhie did not receive an account statement from Todorov regarding the funds.

[51] In January 2009, Todorov began to miss his interest payments on his loan of $450,000 from Dookhie's Pre-RARE Investors. Dookhie did not inform the Pre-RARE Investors that he could not repay their principal investments. Despite the unpaid and outstanding loan, Dookhie continued to do business with Todorov and formed a new company, RARE.

[52] In total, three of the six Pre-RARE Investors invested additional funds in RARE. During the Material Time, all six Pre-RARE Investors, including three investors who did not invest any funds in RARE, received interest payments from the funds in the main bank account of RARE. Moreover, one Pre-RARE Investor, who was related to Dookhie's wife and had not invested in RARE, was paid back his full principal of $50,000 using the funds contained in the same bank account.

2. Incorporation and Operation of RARE

[53] Dookhie incorporated RARE on January 30, 2009. During the Material Time, Dookhie opened a total of three bank accounts at the Bank of Montreal on behalf of RARE. On February 4, 2009, Dookhie opened the first bank account of RARE, being the account ending in 752 ("**Account 752**"). Dookhie testified that Account 752 was main operating account for RARE. Dookhie was listed as the president and sole authorized signatory in the opening bank account documents of Account 752. De Verteuil testified, and Dookhie confirmed in his testimony, that every cheque that was drawn on Account 752 had Dookhie's signature on it. Dookhie also testified that he signed all cheques associated with Account 752. There was no evidence that indicated that Sunderji or Todorov were involved in any of the banking transactions related to Account 752.

[54] Among the 16 RARE Investors, the funds of 13 investors were deposited into Account 752. Dookhie explained that Account 752 had an overdraft against the GICs obtained by RARE.

[55] On April 3, 2009, Dookhie opened the second bank account of RARE at the Bank of Montreal ("**Account 214**"). Similar to Account 752, Dookhie was listed as the president and sole authorized signatory of Account 214. This account was the U.S. dollar bank account for RARE. The account was opened primarily to receive the deposit of one investor and to make transfers to and from the U.S. dollar trading account of RARE. This investor was Dookhie's brother-in-law, and he invested a total of USD$70,000 in RARE. As of March 31, 2010, the account balance of Account 214 was USD$150.67, or CAD$148.82.

[56] On July 8, 2009, Dookhie opened the third bank account of RARE at the Bank of Montreal ("**Account 736**"). Account 736 was a U.S. dollar account that was opened solely to receive the funds of two RARE Investors, N.M. and M.R. A total of $175,000 was deposited into Account 736 by these two investors.

[57] There were four authorized signatories in the account opening documents for Account 736: Dookhie (as president of RARE), Sunderji (as treasurer of RARE), Rouzbeh Vatanchi (as general manager of RARE, "**Vatanchi**") and Kitty Ho (as secretary of RARE, "**Ho**"). Dookhie met Vatanchi through Todorov in the spring of 2009. Vatanchi was a friend of Todorov's, and was the boyfriend of Ho when the two investors deposited funds into the account in July 2009.

[58] De Verteuil testified that before N.M. and M.R. deposited their funds into Account 736, they expressed concern over the safety of their funds. Vatanchi was added as a signatory to Account 736 to provide comfort to these investors that their investment in RARE was safe. De Verteuil testified that Vatanchi was not a general manager of RARE, nor was Ho the secretary of RARE.

[59] Starting in February 2009, shortly after the formation of RARE, Dookhie met with potential investors to solicit them to invest in RARE. He represented that their money would be used in Forex trading, a monthly return would be paid and they would receive their principal back at the end of the year.

[60] RARE Investors, as lenders, received promissory notes (the "**2009 Promissory Notes**") for their investments in the company. Dookhie drafted the 2009 Promissory Notes, based on a template that was provided to him by Todorov.

[61] All the 2009 Promissory Notes contained the same substantive language and only varied in the amount of the principal investment, the date of the promissory note, the maturity date and the signatories of RARE, who were described as the "borrowers". The promissory notes provided that the borrowers named in the promissory note "shall be jointly and severally liable for any debts secured" and the borrowers would pay the lender a specified sum, together with a 2% monthly interest, and with the repayment of the principal one year from the date of the promissory note. The majority of the 2009 Promissory Notes guaranteed a 2% monthly interest payment.

[62] On February 18, 2009, Dookhie opened a Canadian-dollar Forex trading account ("**Account 32508**") at ODL Securities Limited ("**ODL**"). Dookhie was listed as the sole contact for the account. Dookhie, Todorov and Sunderji all had access to the account through usernames and passwords that were provided by ODL. Nonetheless, Todorov was the primary trader in the account until May 2009. Dookhie testified that he did not trade in the account. Account 32508 was RARE's only trading account until July 2009.

[63] As a result of an aggressive trade made by Todorov on April 22, 2009, ODL closed all of RARE's open positions in Account 32508 on May 13, 2009. The aggregate closed positions for Account 32508 amounted to a cumulative loss of $473,437.61 and the closing account balance was $13.80. Dookhie testified that he takes ownership and is accountable for this loss.

[64] In July 2009, subsequent to the closing of Account 32508, RARE began to trade in a second Canadian dollar ODL account ("**Account 84500**"). After a few months, Account 84500 was closed at a negative balance of $569,379.81.

[65] In April 2009, RARE opened a third ODL account that was first used in August 2009 ("**Account 81216**"). Account 81216 was a U.S. dollar account. In March 2010, Account 81216 was closed and had a cumulative loss of $114,271.78.

[66] In March 2010, Dookhie met with all RARE Investors and renegotiated the terms of their 2009 Promissory Notes, which were due to mature in various months in 2010. Following their discussions with Dookhie, the majority of RARE Investors were persuaded to enter into new promissory notes, which guaranteed lower monthly interest rates at 1% or 1.5% (the "**2010 Promissory Notes**").

[67] One difference between the 2009 Promissory Notes and the 2010 Promissory Notes was that the latter bound the company – RARE – and not its principals, being Dookhie, Todorov and Sunderji (the "**RARE Principals**"). In his Compelled Examination on August 25, 2010, Dookhie stated that he informed all RARE Investors that the RARE Principals were still personally responsible for the renewed loans.

[68] By March 2010, RARE was out of money, all of its ODL trading accounts were closed and the company consequently could not complete any trades in the Forex market. When he discussed the renewals of the 2009 Promissory Notes, Dookhie did not inform investors of the true financial and trading status of RARE.

3. Flow of the RARE Investor Funds

[69] As part of his investigation in this matter, De Verteuil created a source and allocation of funds spreadsheet, summarizing the use and flows of funds of the bank accounts and trading accounts of RARE (Exhibit 37). Dookhie confirmed that he had an opportunity to examine this spreadsheet.

[70] Staff also tendered several supporting spreadsheets through the testimony of De Verteuil (Exhibit 37). These supporting spreadsheets were created by De Verteuil in his analysis of the bank statements of Account 752, Account 214 and Account 736, along with the trading statements of Account 32508, Account 84500 and Account 81216. Dookhie also confirmed the accuracy of these supporting spreadsheets.

[71] De Verteuil's source and application of funds analysis was based on RARE's banking documentation, including bank statements and cheques, as well as its ODL trading statements. De Verteuil's analysis was not based on any financial statements, since no such statements were provided to him. When making his calculations to convert U.S. dollar amounts to Canadian dollar amounts, De Verteuil used an average exchange rate for the date of each respective transaction.

[72] The Respondents did not tender any evidence to refute the truth or accuracy of De Verteuil's analysis in this matter. I therefore accept De Verteuil's analysis of the banking and trading accounts of RARE to be true and accurate.

[73] The evidence showed that the total source of funds for RARE amounted to $1,226,846.47, which was comprised of the RARE Investor Funds ($1,226,832) and approximately $14 that was attributed to income that was received from a mutual fund investment account at the Bank of Montreal.

[74] The total use of funds of RARE amounted to $1,372,339.49. The uses of funds throughout the Material Time were as follows:

- net trading investments with ODL amounted to a loss of $688,757.73 , based on a 1.06310 average exchange rate of U.S. to Canadian dollars;
- total funds placed into term deposits, being GICs, amounted to $275,000;
- net payments made to Dookhie totalled $172,200.30, which was calculated by subtracting the funds paid to Dookhie ($182,200.30) and the funds Dookhie paid to a Pre-RARE Investor who did not invest in RARE ($50,000) from the funds RARE received from Dookhie through 632 Company ($60,000);
- net payments made by Todorov and Setenterprice totalled $31,928.03, which were calculated by subtracting the funds paid to Setenterprice directly ($16,000) and the funds paid to a third party at Todorov's direction ($11,221.97) from the funds RARE received from Todorov and Setenterprice ($59,150);

- net payments made to Sunderji and Grey Tech Computing totalled $6,000, which were calculated by subtracting the funds paid to Sunderji ($16,000) from the funds RARE received from Sunderji ($10,000);
- third party payments consisted of a loan to Vatanchi ($5,712.50), a referral fee to Viet Hoang ("**Hoang**") ($8,400) and legal fees to the company's lawyer ($3,500);
- identified monthly interest payments made to Pre-RARE and RARE Investors amounted to $226,611.80;
- an unidentified amount that was presumed to be a monthly interest payment ($1,000); and
- other unidentified amounts and balancing adjustments that totalled a negative value of $17,085.18.

[75] Staff presented evidence that payments were made to and from Account 752 after the Material Time in May to August 2010. Specifically, Dookhie made two payments totalling $25,000 to one RARE Investor, one payment of $20,000 to another RARE Investor and he made a direct deposit of $25,000 from his personal funds into Account 752. During his testimony, Dookhie stated that he took extreme steps to refinance his personal property to add funds into the bank accounts of RARE. There was no evidence presented before me to support this statement.

[76] The evidence has shown that only two RARE Investors received partial payments of their principal investments. Aside from several interest payments, most RARE Investors have not been repaid any of their principal investments. Moreover, through its trading activities with ODL, RARE lost a net total of $688,757.73. Dookhie admitted that the funds that were transferred to the trading accounts at ODL were traded and lost.

VI. ANALYSIS

A. Did the Respondents trade in securities without registration in breach of subsection 25(1)(a) of the Act (for the time period from January 1, 2009 to September 27, 2009) and subsection 25(1) of the Act (for the time period from September 28, 2009 to March 31, 2010) and contrary to the public interest?

1. The Law

[77] Staff alleges that the Respondents breached subsections 25(1)(a) and 25(1) of the Act during the Material Time. The Act was amended on September 28, 2009, which falls within the Material Time. It is therefore important to consider the wording of the Act both before and after the amendment came into effect.

[78] As stated in *Re Limelight Entertainment Inc.* (2008), 31 O.S.C.B. 1727 ("***Re Limelight***"):

> The requirement that an individual be registered in order to trade in securities is an essential element of the regulatory framework with the purpose of achieving the regulatory objectives of the Act. Registration serves an important gatekeeping mechanism ensuring that only properly qualified and suitable individuals are permitted to be registrants and to trade with or on behalf of the public. Through the registration process, the Commission attempts to ensure that those who trade in securities meet the applicable proficiency requirements, are of good character, satisfy the appropriate ethical standards and comply with the Act.
>
> (*Re Limelight*, *supra* at para. 135)

[79] Prior to September 28, 2009, subsection 25(1)(a) of the Act read as follows:

> **25. (1) Registration for trading** – No person or company shall,
>
> (a) trade in a security or act as an underwriter unless the person or company is registered as a dealer, or is registered as a salesperson or as a partner or as an officer of a registered dealer and is acting on behalf of the dealer;
>
> [...]
>
> and the registration has been made in accordance with Ontario securities law and the person or company has received written notice of the registration from the Director and, where the registration is subject to terms and conditions, the person or company complies with such terms and conditions.

[80] As of September 28, 2009, subsection 25(1) of the Act came into force and provides as follows:

> **25. Registration – (1) Dealers** – Unless a person or company is exempt under Ontario securities law from the requirement to comply with this subsection, the person or company shall not engage in or hold himself, herself or itself out as engaging in the business of trading in securities unless the person or company,
>
> (a) is registered in accordance with Ontario securities law as a dealer; or
>
> (b) is a representative registered in accordance with Ontario securities law as a dealing representative of a registered dealer and is acting on behalf of the registered dealer.

[81] The language of subsection 25(1) of the Act has become broader as a result of the September 2009 amendments. Accordingly, if the Panel determines that the evidence indicates that a respondent's actions prior to September 28, 2009 were contrary to the predecessor provision, then the same behaviour post-September 28, 2009 must also be in violation of the broader wording of the Act. The same does not hold true in reverse; namely, acts that are found to be in contravention of the amended subsection 25(1) of the Act post-September 28, 2009 are not necessarily in contravention of subsection 25(1)(a) pre-September 28, 2009. In this case, Staff has alleged that the Respondents' behaviour and activities were the same throughout the Material Time and contravened the applicable provisions both before and after September 28, 2009.

[82] The phrase "engaging in the business of trading" indicates that the Commission must find that the activity of trading in securities is carried out for a business purpose in determining whether a person or company needs to be registered pursuant to subsection 25(1) of the Act, as amended. Section 1.3 of Companion Policy 31-103CP enumerates a non-exhaustive list of factors that are considered relevant in determining whether an individual or firm is trading or advising in securities for a business purpose and subject to the dealer or advisor registration requirement, including:

(a) engaging in activities similar to a registrant;

(b) intermediating trades or acting as a market maker;

(c) directly or indirectly carrying on the activity with repetition, regularity or continuity;

(d) being, or expecting to be, remunerated or compensated; and

(e) directly or indirectly soliciting.

[83] The policy notes that the enumerated factors listed above are not exhaustive and that no one factor on its own will determine whether an individual or firm is in the business of trading or advising in securities.

[84] Both the predecessor provision subsection 25(1)(a) and the successor provision subsection 25(1) of the Act refer to a trade or trading in a security. The terms "trade" and "trading" are broadly defined in subsection 1(1) of the Act, and include, in clauses (a) and (e) of the definition:

> "trade" or "trading" includes,
>
> (a) any sale or disposition of a security for valuable consideration, whether the terms of payment be on margin, instalment or otherwise, but does not include a purchase of a security or, except as provided in clause (d), a transfer, pledge or encumbrance of securities for the purpose of giving collateral for a debt made in good faith,
>
> […]
>
> (e) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of any of the foregoing;

[85] Cases considering the issue of acts in furtherance of trading reflect a contextual approach that examines the totality of the conduct and the setting in which the acts have occurred, and the "primary consideration of which is the effects the acts had on those to whom they were directed" (*Re Momentas Corp.* (2006), 29 O.S.C.B. 7408 ("***Re Momentas***") at para. 77).

[86] Examples of activities that have constituted acts in furtherance of trading, include:

- providing potential investors with subscription agreements to execute;
- distributing promotional materials concerning potential investments;
- issuing and signing share certificates;
- preparing and disseminating of materials describing investment programs;
- conducting information sessions with groups of investors;
- meeting with individuals investors; and
- accepting money from investors and depositing investor cheques for the purchase of shares in a bank account.

(*Re Limelight*, *supra* at para. 133; *Re Momentas*, *supra* at para. 80)

[87] The definition of "security" is also found in subsection 1(1) of the Act:

> "security" includes,
>
> […]
>
> (e) a bond, debenture, note or other evidence of indebtedness…
>
> […]
>
> (n) any investment contract,
>
> […]

[88] The term "investment contract" is not a term defined in the Act, but its interpretation has been the subject of a long line of established jurisprudence. The Supreme Court of Canada established what constitutes an "investment contract":

> (a) an investment of money;
>
> (b) with an intention or expectation of profit;
>
> (c) in a common enterprise, in which the fortunes of the investor are interwoven with and dependent upon the efforts and success of those seeking the investment or of third parties; and
>
> (d) where the efforts made by those other than the investor are the undeniably significant ones, those essential managerial efforts which affect the failure or success of the enterprise.
>
> (*Pacific Coast Coin Exchange of Canada Ltd. v. Ontario (Securities Commission)*, [1978] 2 S.C.R. 112 ("***Pacific Coast Coin***") at pp. 128-129)

[89] The Supreme Court of Canada considered the third and fourth parts together and accepted that a common enterprise "exists when it is undertaken for the benefit of the supplier of capital (the investor) and of those who solicit the capital (the promoter)" (*Pacific Coast Coin*, *supra* at p. 129). The court further held that the "commonality" necessary for an investment contract is between the investor and the promoter (*Pacific Coast Coin*, *supra* at p. 129).

[90] Once Staff has proven that the Respondents traded without registration and distributed shares without qualifying those shares under a prospectus, the onus shifts to the Respondents to prove an exemption from those requirements is available in the circumstances (*Re Limelight*, *supra* at para. 142, citing *Re Euston Capital Corp.*, 2007 ABASC 75, *Re Lydia Diamond Exploration of Canada Ltd.* (2003), 26 O.S.C.B. 2511, and *Re Ochnik* (2006), 29 O.S.C.B. 3929).

[91] Exemptions are provided for in National Instrument 45-106 – *Prospectus and Registration Exemptions* ("**NI 45-106**") and in Part 8 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (which came into force on September 28, 2009) ("**NI 31-103**"). In this case, there was some indication that the Respondents may

have relied upon the "accredited investor" exemption and the "private issuer" exemption, pursuant to sections 2.3 and 2.4 of NI 45-106, respectively.

[92] The definition of "accredited investor" is found at section 1.1 of NI 45-106 and includes:

> "accredited investor" means
>
> [...]
>
> (j) an individual who, either alone or with a spouse, beneficially owns financial assets having an aggregate realizable value that before taxes, but net of any related liabilities, exceeds $1 000 000,
>
> (k) an individual whose net income before taxes exceeded $200 000 in each of the 2 most recent calendar years or whose net income before taxes combined with that of a spouse exceeded $300 000 in each of the 2 most recent calendar years and who, in either case, reasonably expects to exceed that net income level in the current calendar year,
>
> (l) an individual who, either alone or with a spouse, has net assets of at least $5 000 000, [...]

[93] The definition of a "private issuer" is found at subsection 2.4(1) of NI 45-106, which provides as follows:

> "private issuer" means an issuer
>
> (a) that is not a reporting issuer or an investment fund,
>
> (b) the securities of which, other than non-convertible debt securities,
>
> (i) are subject to restrictions on transfer that are contained in the issuer's constating documents or security holders' agreements, and
>
> (ii) are beneficially owned by not more than 50 persons, not including employees and former employees of the issuer or its affiliates, provided that each person is counted as one beneficial owner unless the person is created or used solely to purchase or hold securities of the issuer in which case each beneficial owner or each beneficiary of the person, as the case may be, must be counted as a separate beneficial owner, and
>
> (c) that
>
> (i) has distributed its securities only to persons described in subsection (2), or
>
> (ii) has completed a transaction and immediately following the completion of the transaction, its securities were beneficially owned only by persons described in subsection (2) and since the completion of the transaction has distributed its securities only to persons described in subsection (2).

2. Analysis

[94] I find that the 2009 Promissory Notes and the 2010 Promissory Notes (together, the "**Promissory Notes**") are notes, "other evidence of indebtedness" and investment contracts, and therefore constitute securities as defined under subsections 1(1)(e) and 1(1)(n) of the Act, respectively.

[95] In his cross-examination of V.M., Todorov alluded to the fact that the Promissory Notes were loans and he was therefore not involved in any trading or investment of securities. Although the language set forth in the Promissory Notes characterized RARE and its principals as "borrowers" and investors as "lenders", suggesting the monies advanced were loans and not investments, the inclusion of these terms do not detract from the true nature of the Promissory Notes as investment contracts. As stated by the Supreme Court of Canada, "form should be disregarded for substance and the emphasis should be on economic reality" (*Pacific Coast Coin*, *supra* at p. 127, citing *Tcherepnin v. Knight* (1967), 389 U.S. 332 at 336).

[96] The Investor Witnesses, M.A., R.E. and V.M., all testified that they believed that they were investing funds in RARE and that the Promissory Notes they received described the terms of their investment. Investors understood that they were signing agreements to provide RARE with money to engage in Forex trading and, as a result, investors would be entitled to

receive monthly interest payments on their investments. Hence, RARE Investors made their investments with the expectation of profit, in which the returns were entirely dependent upon the efforts and success of RARE and its principals. It is clear from investor documents and the oral testimonies of the Investor Witnesses that the role of RARE Investors was limited to the advancement of money into the bank accounts of RARE. Upon the transfer of funds, RARE Investors relinquished all control over their funds to RARE. They did not contribute to the profit generation of the company.

[97] Once the RARE Investor Funds were transferred to the bank accounts of RARE, the RARE Principals maintained full control over the success of the investment. The success of the Forex investments was dependent upon the managerial efforts of the RARE Principals alone, but the benefits accrued to both RARE and RARE Investors. The test of an investment contract is clearly met in this case.

[98] Having determined that the Promissory Notes constitute notes, evidence of indebtedness and investment contracts, and are therefore securities pursuant to the Act, I also find, as discussed below, that the Respondents acted contrary to subsection 25(1)(a) of the Act, for conduct prior to September 28, 2009, and contrary to subsection 25(1) of the Act for conduct on and after September 28, 2009, and contrary to the public interest.

(a) RARE

[99] Staff filed certified statements pursuant to section 139 of the Act (the "**Section 139 Certificates**"), with respect to the registration status of the Respondents. Based on Staff's Section 139 Certificates, which were uncontroverted, I find that RARE has never been registered with the Commission in any capacity.

[100] I find that during the Material Time, RARE engaged in trades or acts in furtherance of trades in securities. Examples of these acts include, but are not limited to the following:

- RARE obtained a total of $1,226,832 from 16 RARE Investors for the purpose of investing with RARE;
- RARE Investors were provided with and signed the Promissory Notes in exchange for advancing funds that were meant to be used to generate profits in the Forex trading accounts of RARE;
- RARE Investors provided cheques or bank drafts made out to RARE for their investments;
- as the 2009 Promissory Notes matured, RARE issued the 2010 Promissory Notes at lower interest rates to 13 RARE Investors;
- promotional materials were distributed to potential investors concerning the opportunity to invest in RARE; and
- the Respondents regularly represented to investors that their funds were safe, without disclosing the unfavourable financial situation of RARE, with a view to inducing further investments and/or to maintain investor confidence.

[101] At the Merits Hearing, the Investor Witnesses described their investments with RARE as follows:

- M.A., who was both a Pre-RARE and a RARE Investor, testified that when it came to RARE, Dookhie informed him that he had a team: "Mr. Todorov was on his team. Mr. Sunderji was on his team. These were FX people and understood currency trading and that this would be the basis of the income on [his two promissory notes] that totalled [$100,000]" (Transcript, May 22, 2013, Testimony of M.A., p. 47, ll. 3-7).
- R.E., who was a RARE Investor, signed a 2009 Promissory Note for $50,000 with RARE. R.E. testified that when he met with Dookhie to learn about the investment opportunity with RARE, "[he] was promised 24 percent per year, 2 per month. The monies [would be] invested in foreign exchange which [sic] 50 percent of that amount of monies were going into a GIC" (Transcript, May 22, 2013, Testimony of R.E., p. 84, ll. 19-24). A friend of R.E.'s also attended the meeting, but this individual ultimately did not invest in RARE.
- Prior to his investment with RARE, V.M. and his brother invested funds with Todorov. Todorov used Global Trader Canada ("**Global Trader**") as his online platform to conduct his trades at the time. Global Trader eventually went bankrupt, causing the complete loss of the funds invested by V.M. and his brother. V.M. testified that Todorov informed him "about a fellow, Roy Dookhie, who had a company, [Liberty Services]. He was a financial planner/tax consultant that had clients that were invested or going to invest in a company called RARE, and it was an opportunity for [V.M.] to recoup [his] monies" (Transcript, May 22, 2013, Testimony of V.M., p. 136, ll. 4-10). V.M. and his brother contributed a total of $200,000 into a 2009 Promissory Note with RARE. V.M. testified that his understanding of the $200,000 investment was that "[he] was going to receive 50 percent of the profits on a daily basis. [He] was also to receive an additional 3 percent

per month, $6,000 every month" (Transcript, May 22, 2013, Testimony of V.M., p. 156, ll. 3-5). He stated that Dookhie informed him that the profits were "going to come out of RARE" (Transcript, May 22, 2013, Testimony of V.M., p. 156, ll. 13-18).

[102] As a result of RARE's solicitations, a total of 16 RARE Investors invested a total of $1,226,832 in RARE securities.

[103] I conclude that RARE engaged in trades and acts in furtherance of trades in its securities in Ontario within the meaning of the Act. RARE was not registered in any capacity with the Commission and RARE and its principals were actively engaged in the business of trading RARE securities. RARE contravened subsection 25(1)(a) of the Act during the time period from January 1, 2009 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to March 31, 2010, and there were no registration exemptions available to it, as discussed below. I find this conduct to be contrary to the public interest.

(b) Dookhie

[104] According to Staff's Section 139 Certificates, Dookhie was registered as a Dealing Representative in the category of "Scholarship Plan Dealer" with Children's Education Funds Inc. from September 23, 2003 to July 30, 2004. His registration was reinstated as a Dealing Representative under the same category from September 24, 2004 to December 20, 2010.

[105] Dookhie's registration during the Material Time only extended to his activities as a Dealing Representative with Children's Education Funds Inc. There was no evidence to show that Dookhie was registered as a dealer or as a dealing representative of a registered dealer authorized to trade in the securities of RARE, as required under subsection 25(1)(a) of the Act (as it existed prior to September 28, 2009) and subsection 25(1) of the Act (as it existed on and after September 28, 2009).

[106] I find that, during the Material Time, Dookhie, as the President and directing mind of RARE, engaged in trades or acts in furtherance of trades in securities without being registered, thereby breaching subsections 25(1)(a) and 25(1) of the Act, as these sections existed during the Material Time. Examples of these acts include, but are not limited to the following:

- Dookhie incorporated RARE and established the bank accounts and trading accounts of the company;
- Dookhie was responsible for all the banking activity of RARE;
- Dookhie received the RARE Investor Funds, made the deposits of RARE Investors and wrote all the cheques drawn from the bank accounts of RARE;
- Dookhie was the sole signatory of Account 752 and Account 214, into which the majority of the RARE Investor Funds were deposited;
- Dookhie was one of four authorized signatories of Account 736, into which funds of two investors were deposited;
- Dookhie brought in 13 RARE Investors, whose invested funds represented approximately $851,800, or approximately 69%, of the total funds invested in RARE;
- Dookhie had primary communication with all RARE Investors;
- Dookhie drafted and distributed the promotional documents of RARE;
- Dookhie drafted and distributed the Promissory Notes of RARE and signed all but one of the Promissory Notes as President, Director, CEO and/or accountant of RARE;
- in March 2010, Dookhie met with all RARE Investors and renegotiated the terms of their 2009 Promissory Notes, and 13 RARE Investors subsequently entered the 2010 Promissory Notes with RARE;
- Dookhie was the only signatory of RARE on the 2010 Promissory Notes; and
- all RARE Principals had the ability to trade in the trading accounts of RARE, but from March 2010 onwards, Dookhie was solely responsible for the trading activity of RARE.

[107] In his testimony, Dookhie stated that in hindsight, "… if I had known better [that there could be very serious requirements and regulations with respect to solicitation of funds, issuance of securities, etc.] … I would have done everything to prevent this from happening. Perhaps would have spent my energy and effort to ensure that, you know … we were to follow the

rules and get registered … this is a very expensive lesson for me" (Transcript, May 27, 2013, Testimony of Dookhie, p. 34, ll. 16-21).

[108] I conclude that Dookhie engaged in trades and acts in furtherance of trades in securities of RARE in Ontario within the meaning of the Act without being registered. Accordingly, I find that Dookhie contravened subsection 25(1)(a) of the Act during the time period from January 1, 2009 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to March 31, 2010, and there were no registration exemptions available to him, as discussed below. I find this conduct to be contrary to the public interest.

(c) Todorov

[109] Based on Staff's Section 139 Certificates, I find that Todorov has never been registered with the Commission in any capacity. I also find that during the Material Time, Todorov, a *de facto* director of RARE, engaged in trades or acts in furtherance of trades in the 2009 Promissory Notes, which constitute securities. Examples of these acts include, but are not limited to the following:

- Todorov solicited three RARE Investors, directly and indirectly, whose invested funds represented $375,000, or approximately 31%, of the total funds invested in RARE;
- the 2009 Promissory Notes were drafted by Dookhie, using a template provided by Todorov;
- Todorov signed 3 of the 2009 Promissory Notes as Trading Strategist of RARE; and
- Todorov was the chief trading strategist of RARE and was the primary trader of RARE until May 2009.

[110] I conclude that Todorov engaged in trades and acts in furtherance of trades in securities of RARE in Ontario within the meaning of the Act without being registered. Accordingly, I find that Todorov contravened subsection 25(1)(a) of the Act during the time period from January 1, 2009 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to March 31, 2010, and there were no registration exemptions available to him, as discussed below. I find this conduct to be contrary to the public interest.

(d) Exemptions

[111] The Respondents did not lead any formal submissions on the availability of any exemptions at the Merits Hearing. However, there was some indication that the Respondents may have relied upon the accredited investor exemption and the private issuer exemption.

[112] Based on the evidence before me, I find that neither of the two exemptions was available to the Respondents during the Material Time. The Respondents also did not establish that they qualified for any other exemption under Ontario securities law.

The Private Issuer Exemption

[113] There was some evidence that the Respondents may have relied upon the private issuer exemption. Specifically, there was a footnote in a promotional document of RARE that read: "This is a private placement investment and not for public solicitation" (Exhibit 5, Vol. 2, Tab C, pp. 18-21 at p. 20; Exhibit 9, Vol. 2, Tab G, pp. 41A; Exhibit 16, Vol. 2, Tab L, pp. 79-105 at p. 102).

[114] Under section 2.4 of NI 45-106, there is a private issuer exemption available for an issuer that is limited to not more than 50 beneficial shareholders, excluding current and former employees of the issuer or its affiliates, who fall into certain categories, such as accredited investors, directors and officers of the issuer and certain relatives, close personal friends or close business associates of a control person of the issuer.

[115] The types of investors that qualify to be permitted private issuer security purchasers are investors that are generally thought to have a relationship to the issuer that allows them to, at least partially, mitigate the risks of the investment because of the closeness of the relationship or the fact that they have access to information from the issuer.

[116] Although I heard submissions that RARE Investors were family, friends and clients of Dookhie and Todorov, the Respondents did not present any evidence that provided details of the relationships they held with these investors. As such, I find that the private issuer exemption was not available to any of the Respondents during the Material Time.

The Accredited Investor Exemption

[117] The accredited investor exemption is premised on an investor being an institution or sophisticated organization, or an individual having the ability to withstand financial loss or the resources to obtain expert financial advice.

[118] In his Compelled Examination on May 28, 2010, Todorov stated that he was familiar with the term "accredited investor". Todorov believed that Dookhie created a document for the purpose of dealing with accredited investors and to limit the number of investors RARE could raise capital from. Staff submits that the document Todorov referred to in his Compelled Examination was a promotional document that was given to the three Investor Witnesses, M.A., R.E. and V.M.

[119] Additionally, during Todorov's cross-examination of V.M., there was some discussion about whether or not V.M. was an accredited investor. After I clarified the definition of an "accredited investor" to V.M., he stated that he was probably an accredited investor, after considering the value of his family trust, his holding company and his personal assets. However, V.M. also testified that he did not recall having a discussion about whether or not he was an accredited investor during his dealings with either Dookhie or Todorov.

[120] In Staff's cross-examination of Dookhie, Staff took Dookhie to the ODL account opening documents for RARE (Exhibit 48, Vol. 1, Tab C, pp. 39-49). The documents contained a section entitled "Where Securities May be Offered", that states the following:

> The contracts for differences in spread trades (the "**Securities**") that are described in the offering memorandum you are about to access are only being offered to potential investors who are resident in the Canadian provinces of **ONTARIO, BRITISH COLUMBIA ALBERTA AND QUEBEC** (the "**Offering Jurisdictions**") and in such Offering Jurisdictions, the Securities are only being issued in reliance upon certain exemptions from the prospectus and registration requirements prescribed under the applicable securities laws of the Offering Jurisdictions. Only potential investors who qualify as "*accredited investors*" … and who are resident in one of the four Offering Jurisdictions will be permitted to trade the Securities offered under the offering memorandum.
>
> [emphasis in original]
>
> (Exhibit 48, Vol. 1, Tab C, pp. 39-49 at p. 44)

[121] The documents also contained a section entitled "Who Securities May be Offered To", that states the following:

> The offering of Securities under this offering memorandum is being made on a prospectus-exempt basis under the applicable securities laws of the Offering Jurisdictions and only to potential investors who are trading in the Securities as principal and who qualify under National Instrument 45-106 *Prospectus and Registration Exemptions* ("NI 45-106") as an "*accredited investor*" …
>
> [emphasis in original]
>
> (Exhibit 48, Vol. 1, Tab C, pp. 39-49 at p. 44)

[122] Dookhie testified that there was perhaps one RARE Investor who was an accredited investor. However, he testified that neither he nor RARE were accredited investors, and further testified that he did not make any inquiries to determine if RARE Investors were accredited or not. I note that the Dookhie had primary communication with all RARE Investors during the Material Time.

[123] I find that the Respondents did not satisfy the requirements for the accredited investor exemption or the private issuer exemption, and therefore neither of the two exemptions was available to the Respondents during the Material Time. There was also no evidence presented before me that any other exemption from the registration requirements under Ontario securities law was available to the Respondents.

[124] In light of all of the forgoing, I find that during the Material Time, RARE, Dookhie and Todorov engaged in or held themselves out as engaging in the business of trading in securities without being registered to do so in circumstances in which no exemption was available to them, contrary to subsection 25(1)(a) of the Act during the time period from January 1, 2009 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to March 31, 2010, and contrary to the public interest.

B. Did the Respondents engage in a distribution of securities without a prospectus in breach of subsection 53(1) of the Act and contrary to the public interest?

1. The Law

[125] Subsection 53(1) of the Act sets out the prospectus requirement for trades that comprise a distribution:

> **53. (1) Prospectus required** – No person or company shall trade in a security on his, her or its own account or on behalf of any other person or company if the trade would be a distribution of the security, unless a preliminary prospectus and a prospectus have been filed and receipts have been issued for them by the Director.

[126] The definition of "distribution" is set forth in subsection 1(1) of the Act and states that:

> "distribution", where used in relation to trading in securities, means,
>
> (a) a trade in securities of an issuer that have not been previously issued,
>
> […]

[127] As the Commission held in Re Limelight:

> The requirement to comply with section 53 of the *Securities Act* is important because a prospectus ensures that prospective investors have full, true and plain disclosure of information to properly assess the risks of an investment and make an informed investment decision. The prospectus requirements of the Act play a significant role in the overall scheme of investor protection. As stated by the court in *Jones v. F.H. Deacon Hodgson Inc.* (1986), 9 O.S.C.B. 5579 (Ont. H.C.) (at p. 5590), "there can be no question but that the filing of a prospectus and its acceptance by the Commission is fundamental to the protection of the investing public who are contemplating purchase of the shares."
>
> (*Re Limelight*, *supra* at para. 139)

[128] As stated in paragraph 90, once Staff has proven that the Respondents distributed shares without qualifying those shares under a prospectus, the onus shifts to the Respondents to prove an exemption from those requirements is available in the circumstances. Exemptions from the prospectus requirement are provided in NI 45-106 and include, among others, exemptions for a trade in a security if the purchaser is an accredited investor or if the distribution in question relates to securities of a private issuer to certain purchasers. As previously discussed, there was some indication that the Respondents relied upon the accredited investor and private issuer exemptions from prospectus requirements that existed during the Material Time, as provided in sections 2.3 and 2.4 of NI 45-106, respectively, which are articulated at paragraphs 91 and 93 above.

2. Analysis

[129] As established above in my discussion of subsections 25(1)(a) and 25(1) of the Act, the Respondents all engaged in trades and/or acts in furtherance of a trade, as defined in the Act. The Respondents have therefore met, and are caught by, the trading element under the definition of "distribution" under the Act.

[130] The second element of the definition of "distribution" under the Act is that the securities in question have not been previously issued. I find that at the time the Respondents engaged in trades and/or acts in furtherance of trades, the Promissory Notes that were being traded had not previously been issued. I therefore find that the trades constitute a distribution.

[131] De Verteuil testified that in the Compelled Examinations of Dookhie, Dookhie referred to the fact that he was aware of the requirements to file prospectuses and he indicated that RARE was not engaged in activities that would require the filing of a prospectus. Furthermore, in his Compelled Examination on May 28, 2010, Todorov stated that it was illegal for a private corporation to "advertise for capital, unless you have a prospectus or something" (Exhibit 77, Transcripts of Compelled Examinations of Todorov, May 28, 2010, Qs. 191-193, pp. 39-40). Dookhie and Todorov therefore understood that a prospectus was required to be filed with the Commission when engaging in certain trading activities.

[132] De Verteuil testified that there was neither a prospectus filed with the Commission nor a receipt issued from the Director regarding the Promissory Notes issued by RARE to its investors. Staff further informed the Panel that there was no prospectus included in the documents disclosed by Dookhie to Staff. RARE was also not a reporting issuer during the Material Time.

[133] As discussed above, there was some indication that the Respondents relied on the accredited investor and private issuer exemptions. For the same reasons set forth in in paragraphs 111 to 123, neither the accredited investor nor the private issuer exemptions from the prospectus requirement of subsection 53(1) of the Act were available to the Respondents during the Material Time. There was also no evidence that any other exemption from the prospectus requirement was available to the Respondents in respect of the distribution of the previously unissued Promissory Notes.

[134] I conclude that the Respondents engaged in trades or acts in furtherance of trades. At the time of these trades, the Promissory Notes issued by RARE had not previously been issued, and I therefore conclude that the trades constitute a distribution. Since no prospectus was filed for these trades, I find that the Respondents have contravened subsection 53(1) of the Act, as there were no valid exemptions available to the Respondents. I further find that such contraventions were contrary to the public interest.

C. Did the Respondents engage in fraud in breach of subsection 126.1(b) of the Act and contrary to the public interest?

1. The Law

[135] Staff alleges that each of the Respondents engaged or participated in securities fraud, contrary to section 126.1(b) of the Act and contrary to the public interest.

[136] Section 126.1(b) of the Act provides as follows:

> **126.1 Fraud and market manipulation** – A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities, derivatives or the underlying interest of a derivative that the person or company knows or reasonably ought to know,
>
> [. . .]
>
> (b) perpetrates a fraud on any person or company.

[137] The Commission first considered subsection 126.1(b) of the in *Re Al-Tar Energy Corp.* (2010), 33 O.S.C.B. 5535 ("***Re Al-Tar***"), and the Commission set out the following statement of the law at paragraphs 214 to 221 of that decision:

> Fraud is "one of the most egregious securities regulatory violations" and is both "an affront to the individual investors directly targeted" and something that "decreases confidence in the fairness and efficiency of the entire capital market system" (*Re Capital Alternatives Inc.* (2007), A.B.A.S.C. 79 at para. 308 citing D. Johnston & K. D. Rockwell, *Canadian Securities Regulation*, 4th ed., Markham: LexisNexis, 2007 at 420).
>
> The term fraud is not defined in the Act. Due to the recent introduction of the fraud provision in the Act, there are no decisions from the Commission interpreting this provision. However, we can draw out guidance and principles from criminal and administrative law jurisprudence and decisions from other securities commissions.
>
> The British Columbia Court of Appeal addressed the application of the substantially identical fraud provision in the British Columbia *Securities Act*, R.S.B.C. 1996, c. 418, as amended (the "BC Act") in *Anderson v. British Columbia (Securities Commission),* 2004 BCCA 7 (B.C. C.A.) ("*Anderson*"). The Supreme Court of Canada denied leave to appeal the *Anderson v. British Columbia (Securities Commission)* decision ((S.C.C.)).
>
> In *Anderson*, the British Columbia Court of Appeal reviewed the legal test for fraud and relied on *R. v. Théroux*, [1993] 2 S.C.R. 5 (S.C.C.) ("*Théroux*"). In *Théroux*, Justice McLachlin (as she then was) summarized the elements of fraud as follows at paragraph 27:
>
> … the *actus reus* of the offence of fraud will be established by proof of:
>
> 1. the prohibited act, be it an act of deceit, a falsehood or some other fraudulent means; and
>
> 2. deprivation caused by the prohibited act, which may consist in actual loss or the placing of the victim's pecuniary interests at risk.

> Correspondingly, the *mens rea* of fraud is established by proof of:
>
> 1. subjective knowledge of the prohibited act; and
>
> 2. subjective knowledge that the prohibited act could have as a consequence the deprivation of another (which deprivation may consist in knowledge that the victim's pecuniary interests are put at risk).
>
> Section 126.1 of the Act has the identical operative language as the fraud provision in the British Columbia Act. In interpreting the fraud provision in the British Columbia Act and with respect to the mental element, the British Columbia Court of Appeal in *Anderson* stated at paragraph 26 that:
>
> > ... [the fraud provision of the BC Act] does not dispense with proof of fraud, including proof of a guilty mind ... Section 57(b) simply widens the prohibition against participation in transactions to include participants who know or ought to know that a fraud is being perpetrated *by others*, as well as those who participate in perpetrating the fraud. It does not eliminate proof of fraud, including proof of subjective knowledge of the facts constituting the dishonest act, by someone involved in the transactions.
> >
> > [emphasis in original]
>
> The British Columbia Court of Appeal in Anderson further explained at paragraph 29 that:
>
> > Fraud is a very serious allegation which carries a stigma and requires a high standard of proof. While proof in a civil or regulatory case does not have to meet the criminal law standard of proof beyond a reasonable doubt, it does require evidence that is clear and convincing proof of the elements of fraud, including the mental element.
>
> The British Columbia Court of Appeal approach to the legal test in the context of securities fraud as set out in *Anderson* was adopted in *Re Capital Alternatives Inc.*, 2007 ABASC 79, which was affirmed in *Alberta (Securities Commission) v. Brost*, [2008] A.J. No. 1071 (Alta. C.A.).
>
> For a corporation, it is sufficient to show that its directing minds knew or reasonably ought to have known that the corporation perpetrated a fraud to prove a breach of section 126.1(b) of the Act.

[138] The category of "other fraudulent means" captures all other situations in which dishonest acts are involved that cannot be simply characterized as "deceit" or "falsehood". The courts have defined the sort of conduct that may fall under the category of "other fraudulent means", which include the use of corporate funds for personal purposes, non-disclosure of important facts, exploiting the weakness of another, unauthorized diversion of funds and unauthorized arrogation of funds or property (*Théroux*, *supra* at para. 18). The existence of conduct that constitutes "other fraudulent means" is determined by what a reasonable person considers to be dishonest dealing. On the other hand, in instances of fraud by deceit or falsehood, it will not be necessary to undertake such an inquiry, since all that needs to be determined is whether, as a matter of fact, the respondent represented that "a situation was of a certain character, when, in reality, it was not" (*Théroux*, *supra* at para. 18).

[139] The element of "deprivation" does not require that the respondent profited by the fraud (*Théroux*, *supra* at para. 19). Moreover, where the conduct and knowledge required by the definitions in *Théroux* are established, the respondent is found to have engaged in fraud, "whether he actually intended the prohibited consequence or was reckless as to whether it would occur" (*Théroux*, *supra* at para. 25).

2. Analysis

[140] For the following reasons, I find that during the Material Time, RARE, Dookhie and Todorov breached subsection 126.1(b) of the Act and acted contrary to the public interest.

(a) RARE

[141] Based on the evidence before me, including De Verteuil's source and allocation of funds analysis, it is clear that RARE engaged in many acts of deceit, falsehood and other fraudulent means that deprived RARE Investors of their funds. The investment scheme arranged by RARE was an underhanded design that placed a substantial amount of risk on the financial situation of its investors, most of whom suffered a complete loss of their principal investments.

[142] Despite their knowledge to the contrary, the Respondents continually made representations that: investor funds would be used in Forex trading, their funds would be secured in GICs and RARE was a successful business that was active in the Forex market. None of these representations was true.

Promotional Materials of RARE

[143] Dookhie, the directing mind of RARE, drafted and prepared the promotional materials of RARE. These documents were provided to investors to encourage them to invest in RARE. Several RARE Investors received a document entitled "How the program works!" (the "**How the Program Works Document**"), which stated, among other things, that 50% of an investor's funds would be invested into the Forex market, while the other 50% would be placed in a GIC that would be locked in for one year with the Bank of Montreal.

[144] In their testimonies, Staff's Investor Witnesses, E.A., R.E. and V.M., all confirmed that they received this document in relation to their investments with RARE. R.E. testified that he was comfortable investing $50,000 in RARE because half of his funds would be secured in a GIC, meaning that in the worst case scenario he would lose half of his investment. He stated that the How the Program Works Document described what he understood would be done with his investment and how it would be kept.

[145] Although the How the Program Works Document represented to investors that 50% of their deposits in RARE would be placed into GICs, RARE only purchased three GICs totalling $275,000 during the Material Time. I note that the investments of RARE Investors amounted to $1,226,832.

[146] The three GICs were purchased using the funds in Account 752 and Account 736. With regards to Account 752, which received the deposits of 13 RARE Investors, only a single GIC of $100,000 was purchased with its funds. With regards to Account 736, two RARE Investors deposited a total amount of $175,000 into the account. Rather than using 50% of the funds to purchase GICs, the entirety of these investor funds was used to purchase two GICs at a total amount of $175,000.

[147] In relation to investor funds that were used to purchase GICs, the evidence indicated that the purpose of these GICs was not to guarantee the security of investors' principal investments. As admitted by Dookhie, the GICs were used to keep the overdraft running on RARE's main operating account, Account 752, in order to fund RARE's trading activities at ODL. In his testimony, Dookhie admitted that when the GICs matured, the funds were deposited back into Account 752 and used to reduce the overdraft in the account. Dookhie further admitted that investors were not informed that their funds would be used to keep a line of credit operating or to satisfy the overdraft obligations of RARE's bank accounts at the Bank of Montreal.

[148] A second promotional document entitled "RARE Investments" (the "**RARE Investments Document**") was also provided to the Investor Witnesses, E.A., R.E. and V.M. Among other things, this document stated the following:

- "RARE Investments, a division of 2196768 Ontario Ltd., is offering individuals a *rare opportunity* to earn up to 24% a year on privately placed investment of Canadian $50K." [emphasis in original]
- "RARE's Investment main strategy is to trade in the FOREX Market."
- "With average daily turnover of US$3.2 trillion, forex is the most traded market in the world."
- "Based on our success over the past 18 months, we are able to offer 24% yearly rate of interest on funds borrowed from clients and also provide a security against 50% of your initial investment."

(Exhibit 5, Vol. 2, Tab C, pp. 18-21; Exhibit 9, Vol. 2, Tab G, pp. 41A; Exhibit 16, Vol. 2, Tab L, pp. 79-105)

[149] I note that during the Material Time, the source of funds of RARE came solely from the deposits of RARE Investors. The evidence showed that RARE was unsuccessful in generating any profits from its trading activities, given that its trading activities resulted in a net loss of $688,757.73.

[150] In his testimony, Dookhie acknowledged that the RARE Investments Document was incorrect in describing RARE's past success. He explained that RARE had just been formed when this document was distributed to investors, and therefore did not have 18 months of experience. Dookhie admitted that he presented this document to investors at a time when the main trading account of RARE was comprised, meaning that RARE was inactive in its trading activities. He also admitted that the statement in the document, regarding RARE's success "over the past 18 months", was a misrepresentation and anyone who thought RARE had been a success at that point were mistaken.

[151] The RARE Investment Document was also misleading since it described RARE as a "division of 2196768 Ontario Ltd.". This language suggested that RARE was part of a larger company, when in fact RARE and 2196768 Ontario Ltd. were one and

the same corporate entity that was owned by Dookhie, Sunderji and Todorov and operated out of the same address, the Yorkgate Mall Address.

[152] Using the How the Program Works Document and the RARE Investments Document, RARE represented itself as a company whose success allowed its investors to receive a guaranteed return on investment of 24% per annum, using half of the capital provided by investors. In reality, no such success had ever been achieved by RARE.

[153] Apart from the How the Program Works and the RARE Investments Document, the Individual Respondents provided investors with other promotional materials, such as ODL trading statements. Investors were also shown computer screens of trading activities in their discussions and meetings with Dookhie prior to making their investments with RARE. For example, at his first meeting with Dookhie, R.E. was shown some trading activities of RARE and was assured that there were more gains than losses, which convinced R.E. that Dookhie was making money with RARE. Dookhie promised R.E. an annual rate of return of 24%. Dookhie informed him that that the return could be better, but his lawyer advised him to be more conservative by offering a rate at 24%. Additionally, V.M. testified that Dookhie showed him some screens and trades that were happening with other accounts of his clients. Based on their discussions with Dookhie and the promotional materials provided, both R.E. and V.M. decided to invest a total of $250,000 in RARE.

[154] The promotional materials of RARE, most notably the How the Program Works and the RARE Investments Document, were intended to create an impression of the company's success, based on the knowledge, experience and expertise of the RARE Principals. The supposed guarantee of a 50% security in GICs for each investment, coupled with what appeared to be a history of high returns, added to the attractiveness of investing in RARE. Many statements contained in the promotional materials of RARE were proven to be false by the evidence before me. I therefore find the representations made in the promotional materials, as discussed above, constitute acts of deceit, falsehood and fraud.

Misuse of the RARE Investor Funds

[155] RARE was represented as a company that engaged in Forex trading. The evidence showed that investors were under the belief that their funds would be used as capital to allow RARE to perform its trading activities in the Forex market and that half of their investments would be safely placed in GICs. In reality, RARE was formed to make interest payments to individuals who were not RARE Investors and to service the past financial obligations of the Respondents. These unauthorized uses of investor funds were not disclosed to RARE Investors.

[156] When asked about the formation of RARE, Dookhie testified that RARE was formed to service and pay off debts that were incurred prior to the incorporation of RARE. In his testimony, De Verteuil confirmed that money was transferred from RARE's main bank account, Account 752, to Pre-RARE Investors and to 632 Company, a company owned by Dookhie. The following funds were withdrawn from Account 752 in relation to interest payments made to Pre-RARE Investors:

- on March 11, 2009, the cheque of Account 752 was drawn and was made out to a Pre-RARE Investor who did not invest in RARE;
- on June 24, 2009, M.A. deposited $50,000 in RARE and on the same day, a Pre-RARE Investor, who never deposited funds in RARE, received a payment for the principal amount he invested with 632 Company, being $50,000; and
- throughout the Material Time, all Pre-RARE Investors, including three investors who did not invest any funds in RARE, received interest payments from Account 752.

[157] There was also evidence to show that some obligations that were incurred by the Respondents prior to the formation of RARE subsequently became the liability of RARE and its investors. For instance, two Pre-RARE Investors entered into a $50,000 debenture certificate with 632 Company on October 6, 2008. There was no evidence that either of these investors ever invested in RARE. However, on April 8, 2009, a promissory note of $50,000 was issued by RARE to these two investors.

[158] The evidence also demonstrated that RARE made payments to third parties, i.e. non-investors of RARE:

- In his Compelled Examination on August 25, 2010, Dookhie admitted to facilitating a loan of $11,221.97 by RARE on behalf of Todorov to an individual who was neither a Pre-RARE Investor nor a RARE Investor. Dookhie made the loan to the individual at Todorov's direction, despite not knowing who this individual was or why Todorov wanted RARE to pay her money.
- A total of $8,400 in referral fees was paid to Hoang, who assisted in soliciting one investor to RARE with Vatanchi. Hoang was the only individual who received a referral fee from RARE.

- On August 7, 2009, a transfer of $70,000 was drawn from Account 752 to a company owned by Vatanchi, who was a friend of Todorov and solicited two RARE Investors. The funds were connected to a loan that was provided to Vatanchi with some bridge financing for a real estate transaction. There was no interest payable in respect of this loan, nor was there any documentation evidencing that this loan was made between RARE and Vatanchi's company.

[159] Looking at the investment scheme as a whole, I find that the main indicators of fraud were as follows: false statements in the company's promotional materials; misrepresentations about the financial viability and trading success of the company; and the undisclosed use of the RARE Investor funds to satisfy pre-RARE debt obligations of the Respondents, to pay Pre-RARE Investors with their interest payments and principal sums and to provide referral fees and interest-free loans to third parties.

[160] For the reasons above, I find that the evidence has established that the conduct of RARE during the Material Time was dishonest and was objectively deceitful and false. I also find that any reasonable person would conclude that the actions of RARE were aimed to represent to RARE Investors that their investments were safe when, in reality, their funds were put at risk and most of the principal amounts invested by these investors were ultimately lost.

[161] With regards to a corporate respondent, the Commission has determined that it is "sufficient to show that its directing minds knew or reasonably ought to have known that the corporation perpetrated a fraud to prove a breach of subsection 126.1(b) of the Act" (*Re Al-Tar*, *supra* at para. 221).

[162] As discussed below, Dookhie controlled RARE and was its directing mind. The evidence before me demonstrated that Dookhie knowingly interacted with investors in a deceitful manner that perpetrated the fraud of RARE. I therefore conclude that RARE engaged or participated in acts, practices or courses of conduct relating to securities that it knew or reasonably ought to have known perpetrated a fraud on RARE Investors, contrary to subsection 126.1(b) of the Act and contrary to the public interest.

(b) Dookhie

[163] I find that Dookhie engaged in many acts of deceit, falsehood and other fraudulent means that deprived investors of their funds.

[164] Dookhie stated that he was naïve to put his trust in Todorov and Sunderji and takes full responsibility of the consequences of his misconduct. I do not find that Dookhie played a passive role in perpetrating the investment scheme of RARE; he was not naïve. On the contrary, I find that he was an active player in soliciting funds from RARE Investors. It was through his representations, both oral and written, on which RARE Investors based their decisions to invest.

[165] Moreover, although Dookhie expressed his remorse regarding his misconduct in his testimony at the Merits Hearing, this does not excuse his active engagement in RARE's investment scheme during the Material Time.

Dookhie's Dealings with RARE Investors

[166] In his Compelled Examination on August 25, 2010, Dookhie stated that RARE Investors knew Dookhie well, they were confident in his abilities and they invested in RARE based on the strength of their relationships with him (Exhibit 78, Compelled Examinations of Dookhie, August 25, 2010, Q. 785, p. 159, ll. 1-6). Dookhie used these relationships of trust and confidence to his advantage and placed investors' funds at risk by doing so.

[167] During the Material Time, Dookhie had relationships with all three of the Investor Witnesses. Their relationships with Dookhie are described below:

- M.A. invested a total of $100,000 with RARE. He has no knowledge of securities or the capital markets and he characterizes himself as a naïve investor. M.A. first met Dookhie around 2003. Dookhie had provided M.A.'s father with services for his income taxes through Liberty Services. When M.A. retired, he asked Dookhie to complete his income taxes as When M.A. made his investments with RARE, Dookhie informed M.A. that he had a team that included Todorov and Sunderji, who were "FX people and understood currency trading" (Transcript, May 22, 2013, Testimony of M.A., p. 47, ll. 1-5). From his discussions with Dookhie, M.A. thought that Todorov was an "FX specialist", an "ethical financial investor" and an "honest financial investor" (Transcript, May 22, 2013, Testimony of M.A., p. 50, ll. 24-25; p. 51, l. 1). M.A. further testified that he was under the impression that his money would "grow through [Todorov's] work with currency trading" (Transcript, May 22, 2013, Testimony of M.A., p. 51, ll. 2-3). M.A. testified that he has not received any of his principal of $100,000 from RARE or its principals. M.A. stated that he had "misplaced confidence" when he decided to invest in RARE. M.A. has hired a lawyer to recover his funds.

- R.E. invested $50,000 in RARE, using funds obtained through a line of credit. At the time of the Merits Hearing, R.E. had known Dookhie for over 20 years. When describing Todorov, Dookhie informed R.E. that Todorov would be in charge of carrying out the trading of RARE and that he was a "mathematical whiz" who could make R.E. "some serious money" (Transcript, May 22, 2013, Testimony of R.E., p. 86, ll. 14-18). Until the day of his testimony, R.E. has not received the return of his $50,000 from RARE or its principals. R.E. testified that when he is reminded of his experience with RARE, he stated that "my blood boils. It is a tremendous dollar amount. It is a major financial setback and it is just affecting me…mentally, physically, emotionally…and I am diagnosed with high blood pressure because of all this" (Transcript, May 22, 2013, Testimony of R.E., p. 96, ll. 23-25; p. 97, ll. 1-3). As of the date of his testimony, the line of credit from which R.E. borrowed the $50,000 for his investment with RARE was still outstanding, and he was uncertain when he would be able to pay off this balance.

- V.M. collaborated with his brother as an equal investment partner and invested a total of $200,000 in RARE. Todorov solicited V.M. and his brother to invest in RARE; however, both Dookhie and Todorov were actively engaged in discussions with V.M. during the Material Time. When asked why he invested in RARE, V.M. stated that one reason he invested was because he was comfortable with Dookhie, who seemed to be "very knowledgeable on what he was doing" (Transcript, May 22, 2013, Testimony of V.M., p. 148, ll. 13-20). V.M. thought Dookhie was doing a good job, he showed V.M. good returns on his trades and V.M. trusted him. From November 2009 to June 2010, Dookhie sent emails to V.M. promising favourable investment opportunities and the possibility to secure V.M.'s investments through collateral. V.M. ultimately decided not to secure his investments with collateral. V.M. also did not invest additional funds in RARE. As of the date of his examination-in-chief on May 22, 2013, V.M. had not received any interest payments or any of his principal investment back from RARE.

[168] Dookhie was also responsible for drafting the How the Program Works and the RARE Investments Document, which included statements that he admitted to be false, as previously discussed.

[169] Dookhie also made representations to RARE Investors that he knew were untrue. For instance, Dookhie sent an email to V.M. on February 8, 2010 that stated, "There is an opportunity to take advantage of the falling or strengthening of the Euro. Our account is well positioned and I doubled the funds I started with last August" (Exhibit 32, Vol. 2, Tab L, pp. 159-160 at p. 159). On February 27, 2010, Dookhie sent another email to V.M. attaching several documents, including a profit and loss statement of the U.S. dollar trading account, Account 81216. The statement showed a monthly rate of return of 274% for February 2010. De Verteuil testified that the rate of return was inaccurate, given that there was an unrealized loss of approximately $369,000 at the end of February 2010. Around March 10, 2010, approximately two weeks following the February 27, 2010 email from Dookhie, Account 81216 was closed and showed a cumulative loss of $114,271.78.

[170] I find that Dookhie was the directing mind and the main orchestrator of the investment scheme of RARE. He exploited the trust, which RARE Investors placed on him, in order to advance his own desire to make money in the Forex market. I find that this conduct constituted acts of deceit, falsehood and dishonesty that deprived RARE Investors of their funds.

Not Disclosing Risks

[171] Dookhie was intimately aware of the dire financial situation of RARE during the Material Time. He was the director, president and accountant of RARE, and he was responsible for all the banking matters of the company. Dookhie admitted that he reviewed the company's accounts on a "regular basis" (Transcript, May 27, 2013, Testimony of Dookhie, p. 111, ll. 20-23).

[172] As previously discussed, RARE suffered a substantial loss that caused ODL to close Account 32508 in May 2009. Dookhie did not inform RARE Investors or the Bank of Montreal of this loss. Furthermore, as of July 17, 2009, the main bank account of RARE, Account 752, was in an overdraft position, from which it never recovered. Nonetheless, investor funds continued to flow to RARE until December 2009. Dookhie admitted the he never told RARE Investors that the company was in "terrible shape" when he accepted their funds (Transcript, May 27, 2013, Testimony of Dookhie, p. 111, ll. 2-5).

[173] By March 2010, RARE was completely out of money and no longer had an open trading account at ODL. However, at this time, Dookhie engaged in discussions with RARE Investors to enter into the 2010 Promissory Notes. Dookhie admitted that during these discussions he did not inform RARE Investors that there was no money left in the trading account of the company.

[174] In his Compelled Examination on August 25, 2010, Dookhie admitted that he did not disclose the risk of Forex trading with RARE Investors:

> A. … When you are trading, there's a spread between buy and sells, okay … We had the safety to stay in the trading account and this is one of the problems we had with ODL and these are some of the risks that are inherent in the market …

> […]
>
> Q. Was that risk or can you tell us how that risk was communicated to the lenders?
>
> A. It was not communicated to the lenders.
>
> Q. So even though they were aware that you were taking the money for the most part and trading in the foreign exchange, they were not made aware of what risks existed?
>
> A. Absolutely not.
>
> Q. Okay. And tell me why not.
>
> A. I didn't think they had to know. I mean, this is something that I was going through and it was evolving and I didn't think I had to worry them about the risk involved. My worry was to ensure that the accounts stayed in good standing order and that the funds are being made to pay -- to make the interest payments in a timely manner and to ensure that the capital at some point in time is going to still be in the account based on the trading methodology that I had been trying to preach to you.
>
> […]
>
> Q. Okay. So what went wrong?
>
> A. What went wrong? I guess gambling instincts.
>
> (Exhibit 78, Transcripts of Compelled Examinations of Dookhie, August 25, 2010, Qs. 138-142 and 181, pp. 33-34 and 45)

[175] The actions of Dookhie discussed above showed a callous disregard of the trust that was bestowed on Dookhie by RARE Investors. By withholding significant information about the financial status of RARE and the risks inherent in its trading activities, Dookhie deprived RARE Investors with the ability to make informed decisions before investing with RARE.

Misuse of the RARE Investor Funds

[176] In his Compelled Examination on August 25, 2010, Dookhie admitted that he was responsible for negotiating the investments with RARE Investors. When he was asked what investors were told about their investments, Dookhie replied:

> Well, I had said to most of my lenders that I'm trading in the foreign exchange market and I will be borrowing the funds to use for that purpose, and some of them didn't care what I used it for that purpose or, you know, what I did with it, once I made the monthly interest payment which they were happy to receive, yeah. So that was the gist of that.
>
> (Exhibit 78, Transcripts of Compelled Examinations of Dookhie, August 25, 2010, Q. 37, p. 12, ll. 17-24)

[177] Investors were never told that their funds would be used to satisfy the interest payments to other investors, including Pre-RARE Investors, nor were they told that their funds would be transferred to third parties for referral fees and interest-free loans. As the individual in charge of all of the banking matters of RARE, Dookhie was solely responsible for the unauthorized uses of the RARE Investor Funds.

[178] It is clear that Dookhie had the subjective awareness that his conduct would put the economic expectations of RARE Investors at risk. In Dookhie's testimony, when asked about the entire events of RARE during the Material Time, including his solicitation of RARE Investors, Dookhie stated that in hindsight, he realized that "it was wrong what we did, it is wrong what I did. I take full responsibility" (Transcript, May 27, 2013, Testimony of Dookhie, p. 49, ll. 8-14). In his testimony, Dookhie admitted that he used other people's money to make money for himself (Transcript, May 27, 2013, Testimony of Dookhie, p. 73, ll. 5-8).

[179] Dookhie's dishonest acts allowed RARE to raise $1,226,832 from 16 RARE Investors. De Verteuil calculated the net payments made to Dookhie from RARE amounted to $172,200.30, as discussed in paragraph 74 above.

[180] I therefore conclude that Dookhie engaged or participated in acts, practices or courses of conduct relating to securities that he knew or reasonably ought to have known perpetrated a fraud on RARE Investors, contrary to subsection 126.1(b) of the Act. I further find that such conduct was contrary to the public interest.

(c) Todorov

[181] As part of his testimony, Todorov tendered a summary statement and trading statements of an account that was set up with GCI Financial, in his own name, spanning a time period from January 7, 2013 to March 25, 2013 (Exhibits 82 and 83). Todorov created the summary statement (Exhibit 83) by using the information contained in the trading statements of his GCI Financial account (Exhibit 82).

[182] Todorov argued that he was impeded in trading in the accounts of RARE, which led to the substantial trading loss in May 2009. Todorov wished to enter the summary statement and trading statements of his account with GCI Financial as evidence to demonstrate his ability to raise funds based on a formula, rather than a random act, in order to illustrate that his role in connection to the substantial loss was misinterpreted and was a misrepresentation of his abilities. Todorov also argued that the mathematical formula that is applied in his trading can only work if it is not meddled with. Todorov submits that through Exhibits 82 and 83, he is able to prove that his trading is profitable and successful over a continuous period of time.

[183] Todorov submits that the documents in Exhibits 82 and 83 were also tendered to demonstrate that he is able to rectify his obligations towards RARE Investors. At the Merits Hearing, Todorov testified that the summary statement (Exhibit 83) showed that his GCI Financial account obtained a gross profit of $247,740.28 and a net profit of $126,686.06, as of March 25, 2013. Todorov intends to use the funds generated from this account to return the funds owed by him to investors. Todorov testified that there are five RARE Investors that he is responsible for returning funds to: V.M., M.A., N.M. M.R. and A.A.

[184] In Staff's cross-examination of Todorov, Staff raised the issue that the account Todorov established with GCI Financial had positions that were not closed. Todorov confirmed that the final profit/loss value in the GCI trading statements (Exhibit 82 at p. 293) was a floating value and could therefore fluctuate, as was seen with Account 32508 when Todorov made an aggressive trade on April 22, 2009.

[185] The evidence demonstrated that trading in the Forex market can be very volatile. As Todorov explained, "You can damage an account in two minutes and...in less than two minutes you can totally wipe out an account" (Transcript, May 27, 2013, Testimony of Todorov, p. 194, ll. 21-23). Therefore, despite Todorov's stated intention to repay investors with their lost funds, it is not certain whether or not the GCI Financial account will continue to grow a profit and be used to repay investors.

[186] Additionally, although Todorov has stated intentions to rectify the consequences of his misconduct, this does not afford him with a defence against a finding of fraud (Théroux, supra at paras. 31 to 35). However, these efforts may be of assistance in the consideration of any sanctions that may apply to Todorov in this matter.

Todorov's Dealings with RARE Investors

[187] Similar to Dookhie, Todorov submits that he relied upon the representations of others. He submits that he relied on the representations of RARE's lawyer, who assured Todorov that the operations of RARE were conducted in compliance with Ontario securities law. He states that he was confident that RARE was complying with the law, given that Dookhie is an accountant. He further submits that Sunderji supervised the trading activities of RARE. I do not agree with these submissions.

[188] Though on a lesser scale than that of Dookhie, I find that Todorov actively made misrepresentations, both oral and written, to RARE Investors. As the company's chief trading strategist, Todorov was aware of the detrimental effect that the closing of Account 32508 had on RARE in May 2009. And yet, Todorov continued to solicit funds from investors throughout the Material Time.

[189] Todorov was involved in soliciting three individuals to invest with RARE. V.M. was the only investor whom Todorov directly solicited to invest in RARE. The other two investors were solicited by Vatanchi. There was also evidence showing that Todorov communicated with at least one additional RARE Investor, R.E.

[190] V.M. began investing with Todorov after V.M. spoke with his neighbour, who had invested with Todorov. V.M. and his brother decided to jointly invest a total amount of $200,000 in October 2007, which was later renewed in January 2008. V.M. testified that his entire investment of $200,000 with Todorov was completely lost after the bankruptcy of Global Trader, the online trading platform used by Todorov at the time. In order to recover his lost funds, Todorov suggested that V.M. meet with Dookhie and invest in RARE.

[191] On approximately April 8, 2009, V.M. had his first meeting with Dookhie at the office of Liberty Services. Todorov was also in attendance. On April 22, 2009, V.M. and his brother deposited a total of $200,000 into Account 752. V.M. testified that when he invested with RARE, he trusted both Dookhie and Todorov with his investment. V.M. understood that his funds would be directly invested with RARE. He did not know that Todorov intended to use his investment in partial satisfaction of Todorov's pre-RARE obligations to Dookhie.

[192] As of his examination-in-chief on May 22, 2013, V.M. had not received any return of his principal investment, nor had he received any interest payments. V.M. testified that he communicated with Todorov to inquire about his overdue interest payments. In response to V.M.'s inquiries, Todorov promised him, or led V.M. to believe, that funds were on their way on several occasions. V.M. testified that every time he called or sent emails to Todorov regarding his interest payments, he would receive a response that they were coming, and he stated that they were "always coming, coming, but [they] never came" (Transcript, May 22, 2013, Testimony of V.M., p. 168, ll. 1-2). For example, on August 10, 2009, V.M. wrote an email to Todorov asking when his first interest payment would be provided to him. Todorov replied by stating, "we're getting extra funds plus we've a meeting with HSBC on Thursday for big money (keep yor [sic] fingers crossed)" (Exhibit 28, Vol. 2, Tab L, p. 143). V.M. testified that no money materialized.

[193] Although the evidence established that $59,150 was received by RARE from Todorov and his company, Setenterprice, the evidence also showed that $16,000 was paid to Setenterprice directly from Account 752. Todorov also directed Dookhie to make a payment to a third party for $11,221.97, in order to satisfy a personal debt that Todorov owed to that individual. The net payments to RARE by Todorov and Setenterprice during the Material Time therefore amounted to $31,928.03.

[194] As discussed above, Todorov solicited individuals to invest funds in RARE and he led RARE Investors to believe that their funds would be returned to them, despite knowing the dire financial circumstances of the company. Todorov also held himself out to investors as a trading specialist, despite never having obtained any formal trading in securities or ever worked in the securities industry in any formal capacity.

[195] I find that Todorov knew, or reasonably ought to have known, that his actions would cause deprivation to the pecuniary interests of RARE Investors. I therefore conclude that Todorov engaged or participated in acts, practices or courses of conduct relating to securities that he knew or reasonably ought to have known perpetrated a fraud on RARE Investors, contrary to subsection 126.1(b) of the Act and contrary to the public interest.

D. Did the Individual Respondents authorize, permit or acquiesce in the breaches of the Act by RARE, such that they are deemed to also have not complied with Ontario securities law, pursuant to section 129.2 of the Act?

1. The Law

[196] Pursuant to section 129.2 of the Act, a director or officer of a company is deemed to be liable for a breach of Ontario securities law by the company if the director or officer authorized, permitted or acquiesced in the company's non-compliance with the Act. Specifically, section 129.2 states:

> **129.2 Directors and officers** – For the purposes of this Act, if a company or a person other than an individual has not complied with Ontario securities law, a director or officer of the company or person who authorized, permitted or acquiesced in the non-compliance shall be deemed to also have not complied with Ontario securities law, whether or not any proceeding has been commenced against the company or person under Ontario securities law or any order has been made against the company or person under section 127.

[197] In subsection 1(1) of the Act, a "director" is defined as "a director of a company or an individual performing a similar function or occupying a similar position for any person" and an "officer" is defined as:

> (a) a chair or vice-chair of the board of directors, a chief executive officer, a chief operating officer, a chief financial officer, a president, a vice-president, a secretary, an assistant secretary, a treasurer, an assistant treasurer and a general manager;
>
> (b) every individual who is designated as an officer under a by-law or similar authority of the registrant or issuer; and
>
> (c) every individual who performs functions similar to those normally performed by an individual referred to in clause (a) or (b).

[198] Therefore, a respondent who performs similar functions to a director or officer is considered a *de facto* director or officer and may be captured by the language of section 129.2 of the Act as a person who authorized, permitted or acquiesced in the non-compliance of Ontario securities law by the relevant company.

[199] Relevant factors, which have been identified for the determination of whether a representative is a *de facto* director or officer, include:

> (a) responsible for the supervision, direction, control and operation of the company;

(b) negotiated on behalf of the company; or

(c) made all significant business decisions

(*Re Momentas*, *supra* at para. 102, citing *Re World Stock Exchange* (2000), 9 A.S.C.S. 658)

[200] In *Re Momentas*, the Commission described the meaning of "authorized, permitted or acquiesced in":

> Although these terms have been interpreted to include some form of knowledge or intention, the threshold for liability under section 122 and 129.2 is a low one, as merely acquiescing [in] the conduct or activity in question will satisfy the requirement of liability. The degree of knowledge of intention found in each of the terms "authorize", "permit", and "acquiesce" varies significantly. "Acquiesce" means to agree or consent quietly without protest. "Permit" means to allow, consent, tolerate, give permission, particularly in writing. "Authorize" means to give official approval or permission, to give power or authority or to give justification.
>
> (*Re Momentas*, *supra* at para. 118)

2. Analysis

[201] For the reasons discussed below, I find that Dookhie was a director and officer of RARE during the Material Time. I also find that Todorov was an actual director of RARE as of June 2, 2009 and was a *de facto* director of RARE before that time. As directors and/or officers of RARE, Dookhie and Todorov are accountable for RARE's breaches of Ontario securities law, pursuant to section 129.2 of the Act.

(a) Dookhie

[202] Throughout his testimony, Dookhie suggested that he relied on the directions and expertise of others, including Todorov and Sunderji. I do not find his arguments persuasive. There is no doubt that Dookhie was a director and officer of RARE. Dookhie is listed as a director and the president of RARE in the company's corporation profile report, Shareholders Agreement, "Directors Register" and "List of Corporate Officers" (Exhibit 38, Vol. 1, Tab A, pp. 2-6; Exhibit 39, Vol. 1, Tab A, pp. 7-16; Exhibit 48, Vol. 1, Tab C, pp. 39-49).

[203] Dookhie was also the directing mind of the company and was the architect of the fraudulent investment scheme of RARE. He made all significant business decisions of the company, including the use of the RARE Investor Funds. In his Compelled Examination on August 25, 2010, Dookhie described himself as "the head guy … to ensure that the funds were trading responsibly and funds were added and withdrawn in a timely manner, [he] had to keep control" (Exhibit 78, Transcripts of Compelled Examinations of Dookhie, August 25, 2010, Q. 95, pp. 22-23). Dookhie further described his role in RARE as follows:

> … I figured, well, I can probably have an upper hand in this. So that's why I elected to stay in control of everything, you know, ensure that the account is always active, trades are being placed properly, trades are being closed properly, funds are being transferred back and forth properly. You know, the whole administrative thing. You keep your pulse on the business. And I figure, well, if I'm in total control, you know, I would pull this off …
>
> (Exhibit 78, Transcripts of Compelled Examinations of Dookhie, August 25, 2010, Q. 154, p. 40, ll. 11-20)

[204] The control exerted by Dookhie demonstrated that it was his decision to use the RARE Investor Funds for unauthorized purposes, such as the payments to third parties and Pre-RARE Investors. As the individual who controlled the bank accounts of RARE, Dookhie was able to draw on the funds of RARE without constraint or oversight, which he did continually throughout the Material Time.

[205] I therefore find that Dookhie, being a director and officer of RARE, authorized, permitted or acquiesced in RARE's non-compliance with subsections subsection 25(1)(a) (for the time period from January 1, 2009 to September 27, 2009) and subsection 25(1) of the Act (for the time period from September 28, 2009 to March 31, 2010), subsection 53(1) and subsection 126.1(b) of the Act. As a result, I find that Dookhie is deemed to also have not complied with Ontario securities law.

(b) Todorov

[206] Todorov forcefully submits in his testimony and submissions that he was not a director of RARE and was never consulted to perform the duties typically assigned to a director of a company. When he was pressed by Staff to explain why he was listed as a director in the Shareholders' Agreement of RARE, Todorov stated that: the page listing the directors of RARE

may not have been included in the copy he signed; the lack of his initials on the pages indicated that he did not acknowledge the page; and he should have signed an addendum of directorship, which should have been properly registered.

[207] Despite his submissions that he was not a director of RARE during the Material Time, I find that the evidence has shown that Todorov was an actual director of RARE as of June 2, 2009 and was a directing mind and a *de facto* director of RARE before that date:

- Todorov is listed as a director of RARE in the company's Shareholders Agreement, dated June 2, 2009;
- in his testimony, De Verteuil, described Todorov's role as a director, shareholder and chief trading strategist of RARE;
- Todorov was the primary trader of RARE until May 2009;
- Todorov directly solicited V.M. and indirectly solicited two other investors through Vatanchi;
- V.M. testified that he understood that Dookhie and Todorov were the key players of RARE; and
- Todorov's signature appeared on four 2009 Promissory Notes as a signatory of RARE and he agrees that he is responsible for the funds contained in these promissory notes.

[208] Moreover, in his Compelled Examination on May 28, 2010, Todorov repeatedly referred to himself as a director of RARE:

> And [Dookhie and Sunderji] officially formed a company, but they put me as – officially, I was a director or something, but afterwards I think when they went to a lawyer, they put me as a director of the company because we wanted to share equal responsibilities and, of course, equal duties, and in order to be that – everybody should be in the same position.
>
> […]
>
> Well, Roy was saying because I wasn't a director, he said that it's better if you are a director if you want to be involved completely and if you want to have everything you should be registered as a director.
>
> So the lawyer … when they were doing the company papers, I believe he made an amendment which basically made me a director of the company.
>
> (Exhibit 77, Transcripts of Compelled Examinations of Todorov, May 28, 2010, Qs. 85-87, p. 20, ll. 4-25; p. 21, ll. 1-4)

[209] For all the reasons given, I find that Todorov, being an actual and *de facto* director of RARE, authorized, permitted or acquiesced in RARE's non-compliance with subsections subsection 25(1)(a) (for the time period from January 1, 2009 to September 27, 2009) and subsection 25(1) of the Act (for the time period from September 28, 2009 to March 31, 2010), subsection 53(1) and subsection 126.1(b) of the Act. As a result, I find that Todorov is deemed to also have not complied with Ontario securities law.

VII. CONCLUSION

[210] For the reasons stated above, I find that during the Material Time:

(a) RARE, Dookhie and Todorov breached subsection 25(1)(a) of the Act during the time period from January 1, 2009 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to March 31, 2010;

(b) RARE, Dookhie and Todorov breached subsection 53(1) of the Act;

(c) there were no exemptions available to RARE, Dookhie or Todorov from the registration or prospectus requirements of the Act;

(d) RARE, Dookhie and Todorov breached subsection 126.1(b) of the Act;

(e) pursuant to section 129.2 of the Act, each of Dookhie, as a director and officer of RARE, and Todorov, as an actual and *de facto* director of RARE, is deemed to have not complied with Ontario securities law, having authorized, permitted or acquiesced in RARE's breaches of subsections 25(1)(a) during the time period from January 1, 2009 to September 27, 2009 and subsection 25(1) of the Act during the time period from September 28, 2009 to March 31, 2010, subsection 53(1) and subsection 126.1(b) of the Act; and

(f) RARE, Dookhie and Todorov acted contrary to the public interest.

[211] An order will be issued as follows:

(a) Staff shall serve and file its written submissions on sanctions and costs by July 23, 2014;

(b) The Respondents shall serve and file their written submissions on sanctions and costs by August 15, 2014;

(c) Staff shall serve and file any reply submissions on sanctions and costs by August 25, 2014;

(d) the hearing to determine sanctions and costs against the Respondents will be held at the offices of the Commission at 20 Queen Street West, Toronto, ON, on Thursday, August 28, 2014 at 10:00 a.m., or such further or other dates as agreed by the parties and set by the Office of the Secretary; and

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

DATED at Toronto this 27th day of June, 2014.

"Edward P. Kerwin"

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Primaria Capital (Canada) Ltd.	17 June 14	30 June 14	30 June 14	
United Silver Corp.	17 June 14	30 June 14	30 June 14	
Western Plains Petroleum Ltd.	17 June 14	30 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

THERE ARE NO ITEMS TO REPORT THIS WEEK.

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
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 5

Rules and Policies

5.1.1 Amendments to Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting

1. Ontario Securities Commission Rule 91-507 Trade Repositories and Derivatives Data Reporting is amended by this Instrument.

2. Subsection 25(2) is revoked.

3. Subsection 31(4) is revoked.

4. Subsection 34(1) is replaced by the following:

Pre-existing transactions

34.(1) Despite section 31 and subject to subsection 43(5), a reporting party (as determined under subsection 25(1)) to a transaction required to be reported under subsection 26(1) is required to report only the creation data indicated in the column in Appendix A entitled "Required for Pre-existing Transactions" on or before April 30, 2015 if

(a) the reporting counterparty is a derivatives dealer or a recognized or exempt clearing agency,

(b) the transaction was entered into before October 31, 2014, and

(c) there were outstanding contractual obligations with respect to the transaction on October 31, 2014.

(1.1) Despite section 31 and subject to subsection 43(6), a reporting party (as determined under subsection 25(1)) to a transaction required to be reported under subsection 26(1) is required to report only the creation data indicated in the column in Appendix A entitled "Required for Pre-existing Transactions" on or before December 31, 2015 if

(a) the reporting counterparty is neither a derivatives dealer nor a recognized or exempt clearing agency,

(b) the transaction was entered into before June 30, 2015, and

(c) there were outstanding contractual obligations with respect to the transaction on June 30, 2015.

5. Subsections 34(2) and (3) are each amended by replacing "subsection (1)***" with "***subsection (1) or (1.1)***".***

6. Section 43 is amended

(a) in subsection (2) by replacing "December 31, 2014***" with "***April 30, 2015***"***

(b) in subsection (3) by replacing "July 2***" with "***October 31***";***

(c) in subsection (4)

(i) by adding "or a recognized or exempt clearing agency***" after "***derivatives dealer***", and***

(ii) by replacing "September 30, 2014***" with "***June 30, 2015***"; and***

(d) by replacing subsection (5) with the following:

(5) Despite subsection (3) and section 34, Part 3 does not apply to a transaction entered into before October 31, 2014 that expires or terminates on or before April 30, 2015 if the reporting counterparty to the transaction is a derivatives dealer or a recognized or exempt clearing agency.

(6) Despite subsection (3) and section 34, Part 3 does not apply to a transaction entered into before June 30, 2015 that expires or terminates on or before December 31, 2015 if the reporting counterparty to the transaction is neither a derivatives dealer nor a recognized or exempt clearing agency. .

7. This Instrument comes into force on July 2, 2014.

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:
Artis Real Estate Investment Trust
Principal Regulator - Manitoba
Type and Date:
Preliminary Base Shelf Prospectus dated June 26, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
$2,000,000,000.00
Units
Preferred Units
Debt Securities
Warrants
Subscription Receipts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2227601

Issuer Name:
AutoCanada Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated June 26, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
$200,070,000.00 Treasury Offering (2,565,000 Common Shares)
$150,150,000 Secondary Offering (1,925,000 Common Shares)
Price: $78.00 per Offered Share
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
CLARUS SECURITIES INC.
CANACCORD GENUITY CORP.
CORMARK SECURITIES INC.
GMP SECURITIES L.P.
HSBC SECURITIES (CANADA) INC.
CIBC WORLD MARKETS INC.
Promoter(s):
-
Project #2227291

Issuer Name:
Bonavista Energy Corporation
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated June 24, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
$200,860,000 - 12,100,000 Common Shares
Price: $16.60 per Common Share
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
NATIONAL BANK FINANCIAL INC.
PETERS & CO. LIMITED
ALTACORP CAPITAL INC.
FIRSTENERGY CAPITAL CORP.
Promoter(s):
-
Project #2224839

Issuer Name:
Canadian Energy Services & Technology Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated June 26, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
$70,197,500.00 - 2,150,000 Common Shares
Price: $32.65 per Common Share
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
CLARUS SECURITIES INC.
RAYMOND JAMES LTD.
RBC DOMINION SECURITIES INC.
ALTACORP CAPITAL INC.
CORMARK SECURITIES INC.
PETERS & CO. LIMITED
FIRSTENERGY CAPITAL CORP.
NATIONAL BANK FINANCIAL INC.
Promoter(s):
-
Project #2226945

Issuer Name:
Canoe Global Income Class
Principal Regulator - Alberta
Type and Date:
Preliminary Simplified Prospectus dated June 25, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
Series A and Series F Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
Canoe Financial Corp.
Project #2227481

Issuer Name:
Conservative Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated June 25, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
Class E, Class F, Class O, Class P Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
SEI Investments Canada Company
Project #2228823

Issuer Name:
Corvus Gold Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 28, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
$6,180,000.00 - 5,150,000 Shares
Price: $1.20 per Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2229120

Issuer Name:
Endeavour Silver Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Base Shelf Prospectus dated June 18, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
$200,000,000.00
Common Shares
Warrants
Subscription Receipts
Debt Securities
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2226476

Issuer Name:
Grenville Strategic Royalty Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 25, 2014
NP 11-202 Receipt dated June 25, 2014
Offering Price and Description:
$15,000,000.00 - 8% Convertible Unsecured Subordinated Debentures
Price: $1,000.00
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
Clarus Securities Inc.
Cormark Securities Inc.
GMP Securities Inc.
Haywood Securities Inc.
Raymond James Ltd
Promoter(s):
William R Tharp
Steven Parry
Project #2226184

Issuer Name:
Input Capital Corp.
Principal Regulator - Saskatchewan
Type and Date:
Preliminary Short Form Prospectus dated June 24, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
$40,250,000.00 - 17,500,000 Common Shares
Price: $2.30 per Share
Underwriter(s) or Distributor(s):
GMP SECURITIES L.P.
PARADIGM CAPITAL INC.
BEACON SECURITIES LIMITED
ACUMEN CAPITAL FINANCIAL PARTNERS LIMITED
ALTACORP CAPITAL INC.
CANACCORD GENUITY CORP.
CORMARK SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
Promoter(s):
Doug Emsley
Brad Farquhar
Gord Nystuen
Project #2226828

Issuer Name:
Lamêlée Iron Ore Ltd.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated June 26, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
Minimum Offering $2,000,000.00
Maximum Offering $6,000,000.00
Up to * Units
Price: $ *per Unit
and
Up to * Flow-Through Common Shares
Price: $ * per Flow-Through Common Share
Underwriter(s) or Distributor(s):
SECUTOR CAPITAL MANAGEMENT CORPORATION
Promoter(s):
-
Project #2227853

Issuer Name:
MAG Silver Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 26, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
C$ * - * Common Shares
Price: C$ * per Offered Share
Underwriter(s) or Distributor(s):
MACQUARIE CAPITAL MARKETS CANADA LTD.
SCOTIA CAPITAL INC.
NATIONAL BANK FINANCIAL INC.
TD SECURITIES INC.
PI FINANCIAL CORP.
Promoter(s):
-
Project #2227687

Issuer Name:
Mongolia Growth Group Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated June 20, 2014
NP 11-202 Receipt dated June 23, 2014
Offering Price and Description:
$20,000,000.00 - Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2226263

Issuer Name:
RIOCAN REAL ESTATE INVESTMENT TRUST
Principal Regulator - Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated June 27, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
$3,000,000,000.00
Debt Securities
(Senior Unsecured)
Units
Preferred Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2228736

Issuer Name:
Rodeo Capital III Corp.
Principal Regulator - Alberta
Type and Date:
Preliminary CPC Prospectus dated June 27, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
$200,000.00 - 2,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
RICHARDSON GMP LIMITED
Promoter(s):
Michael Thomson
Project #2229015

Issuer Name:
Royal Nickel Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 26, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
$5,000,000 - * Units
Price: $ * per Unit
Underwriter(s) or Distributor(s):
SCOTIA CAPITAL INC.
SALMAN PARTNERS INC.
CLARUS SECURITIES INC.
HAYWOOD SECURITIES INC.
JACOB SECURITIES INC.
MACQUARIE CAPITAL MARKETS CANADA LTD.
Promoter(s):
-
Project #2227131

Issuer Name:
The Intertain Group Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 20, 2014
NP 11-202 Receipt dated June 23, 2014
Offering Price and Description:
$90,000,000.00 - 6,500,000 Equity Subscription Receipts and 44,500 Equity-Linked Debt Subscription Receipts
Price: $7.00 per Equity Subscription Receipt and $1,000 per Equity-Linked Debt Subscription Receipt
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Mackie Research Capital Corporation
Clarus Securities Inc.
National Bank Financial Inc.
Cormark Securities Inc.
Haywood Securities Inc.
Global Maxfin Capital Inc.
Promoter(s):
-
Project #2224224

Issuer Name:
Tribute Pharmaceuticals Canada Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 24, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
$ * - * Units
Price: $ * per Unit
Underwriter(s) or Distributor(s):
DUNDEE SECURITIES LTD.
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
-
Project #2226703

Issuer Name:
Tribute Pharmaceuticals Canada Inc.
Principal Regulator - Ontario
Type and Date:
Amended and Restated Preliminary Short Form Prospectus dated June 25, 2014
NP 11-202 Receipt dated June 25, 2014
Offering Price and Description:
$26,110,000 - 37,300,000 Units
Price: $0.70 per Unit
Underwriter(s) or Distributor(s):
DUNDEE SECURITIES LTD.
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
-
Project #2226703

Issuer Name:
Tuscany Energy Ltd.
Principal Regulator - Alberta
Type and Date:
Preliminary Short Form Prospectus dated June 27, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
Up to $2,500,000.00 Up to 6,250,000 Units
Price: $0.40 per Unit
or Up to 6,250,000 CDE Flow-Through Shares or a combination of Units and CDE Flow-Through Shares to a maximum of 6,250,000 Securities, in the aggregate
Price: $0.40 per CDE Flow-Through Share
Underwriter(s) or Distributor(s):
ACUMEN CAPITAL FINANCE PARTNERS LIMITED
INDUSTRIAL ALLIANCE SECURITIES INC.
RICHARDSON GMP LIMITED
Promoter(s):
-
Project #2228878

Issuer Name:
AlphaNorth Growth Fund (Series A and F Shares)
AlphaNorth Resource Fund (Series A, B, D and F Shares)Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated June 24, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
Series A, B, D and F Shares @ Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
AlphaNorth Asset Management
Project #2211269

Issuer Name:
Arsenal Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated June 25, 2014
NP 11-202 Receipt dated June 25, 2014
Offering Price and Description:
$6,500,120.00
695,200 Flow-Through Shares
Price: $9.35 per Flow-Through Share
Underwriter(s) or Distributor(s):
ACUMEN CAPITAL FINANCE PARTNERS LIMITED
INDUSTRIAL ALLIANCE SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
PI FINANCIAL CORP.
Promoter(s):
-
Project #2224466

Issuer Name:
Bank of Nova Scotia, The
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated June 27, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
$10,000,000,000.00
Debt Securities (subordinated indebtedness)
Preferred Shares
Common Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2224013

Issuer Name:
Beutel Goodman Balanced Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Canadian Equity Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Canadian Equity Plus Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Canadian Intrinsic Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Fundamental Canadian Equity Fund (Class B Units, Class F Units and Class I Units)
Beutel Goodman Small Cap Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Canadian Dividend Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Global Dividend Fund (Class B Units, Class F Units and Class I Units)
Beutel Goodman World Focus Equity Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Global Equity Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman International Equity Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman American Equity Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Income Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Long Term Bond Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Corporate/Provincial Active Bond Fund (Class B Units, Class D Units, Class F Units and Class I Units)
Beutel Goodman Short Term Bond Fund (Class B Units, Class F Units and Class I Units)
Beutel Goodman Money Market Fund (Class D Units, Class F Units and Class I Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated June 23, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
Class B Units, Class D Units, Class F Units and Class I Units
Underwriter(s) or Distributor(s):
Goodman & Company Ltd.
Beutel, Goodman & Company Ltd.
Promoter(s):
Goodman & Company Ltd.
Project #2210097

Issuer Name:
Brand Leaders Plus Income Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated June 26, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
Maximum $100,000,000 (10,000,000 Units)
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETSINC.
BMO NESBITT BURNS INC.
SCOTIA CAPITAL INC.
NATIONAL BANK FINANCIAL INC.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
GMP SECURITIES L.P.
RAYMOND JAMES LTD.
DUNDEE SECURITIES LTD.
GLOBAL SECURITIES CORPORATION
INDUSTRIAL ALLIANCE SECURITIES INC.
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
Harvest Portfolios Group Inc.
Project #2216774

Issuer Name:
Cenovus Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated June 25, 2014
NP 11-202 Receipt dated June 25, 2014
Offering Price and Description:
$1,500,000,000.00
Medium Term Notes
(unsecured)
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Desjardins Securities Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
-
Project #2224811

Issuer Name:
CI G5|20 2039 Q3 Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated June 27, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
CI Investments Inc.
Project #2218610

Issuer Name:
Dynamic Alternative Investments Private Pool Class
(Series F, FH and O shares)
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated June 19, 2014 to the Annual Information Form dated May 28, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
Series F, FH and O shares
Underwriter(s) or Distributor(s):
1832 Asset Management L.P.
Promoter(s):
1832 Asset Management L.P.
Project #2192635

Issuer Name:
Eastwood Bio-Medical Canada Inc.
Principal Regulator - British Columbia
Type and Date:
Final Long Form Prospectus dated June 24, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
Minimum Offering: 2,000,000 Common Shares
Maximum Offering: 10,000,000 Common Shares
and
16,220,569 Common Shares Issuable Upon Conversion of 16,220,569 Outstanding Special Warrants
Price: $0.25 per Share
Underwriter(s) or Distributor(s):
Jordan Capital Markets Inc.
Promoter(s):
-
Project #2190029

Issuer Name:
Encana Corporation
Principal Regulator - Alberta
Type and Date:
Final Base Shelf Prospectus dated June 27, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
US$6,000,000,000.00
Debt Securities
Common Shares
Preferred Shares
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2225664

Issuer Name:
Equitable Group Inc.
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated June 24, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
$500,000,000.00
Common Shares
Preferred Shares
Debt Securities
Subscription Receipts
Warrants
Share Purchase Contracts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2224646

Issuer Name:
Excelsior Mining Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated June 23, 2014
NP 11-202 Receipt dated June 24, 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:
Fidelity Emerging Markets Fund
(Series A, Series B, Series F, Series T5, Series T8, Series S5, Series S8, Series F5, Series F8 and Series O units)
Principal Regulator - Ontario
Type and Date:
Amendment #4 dated June 20, 2014 to the Annual Information Form dated October 30, 2013
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
Series A, B, F, T5, T8, S5, S8, F5, F8 and O units
Underwriter(s) or Distributor(s):
Fidelity Investments Canada Limited
Fidelity Investments Canada ULC
Promoter(s):
FIDELITY INVESTMENTS CANADA ULC
Project #2112406

Issuer Name:
Franklin Global Small-Mid Cap Fund
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus dated June 24, 2014
NP 11-202 Receipt dated June 25, 2014
Offering Price and Description:
Series A, F, I, M and O Units @ Net Asset Value
Underwriter(s) or Distributor(s):
Franklin Templeton Investments Corp.
FTC Investor Services Inc.
Franklin Templeton Investments Corp.
Promoter(s):
Franklin Templeton Investments Corp.
Project #2213458

Issuer Name:
Front Street Value Class
(Series A, Series B, Series F and Series X Shares)
Principal Regulator - Ontario
Type and Date:
Amendment No. 1 dated June 25, 2014 (amendment no. 1) to the Amended and Restated Simplified Prospectus and Annual Information Form dated March 21, 2014, amending and restating the Amended and Restated Simplified Prospectus and Annual Information Form dated December 10, 2013, amending and restating the Simplified Prospectus and Annual Information Form dated July 8, 2013
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
(Series A, Series B, Series F and Series X Shares)

Underwriter(s) or Distributor(s):
-
Promoter(s):
FRONT STREET CAPITAL 2004
Project #2067903

Issuer Name:
Gold Standard Ventures Corp.
Principal Regulator - British Columbia
Type and Date:
Final Base Shelf Prospectus dated June 23, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
US$50,000,000.00
Common Shares
Warrants to Purchase Common Shares
Share Purchase Contracts
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2223595

Issuer Name:
Manulife Financial Corporation
Principal Regulator - Ontario
Type and Date:
Final Base Shelf Prospectus dated June 23, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
$10,000,000,000.00
Debt Securities
Class A Shares
Class B Shares
Class 1 Shares
Common Shares
Subscription Receipts
Warrants
Share Purchase Contracts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2223792

Issuer Name:
Manulife U.S. Regional Bank Trust
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated June 25, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
Maximum: $200,000,000
(20,000,000 Units)
Underwriter(s) or Distributor(s):
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
BMO NESBITT BURNS INC.
NATIONAL BANK FINANCIAL INC.
GMP SECURITIES L.P.
MANULIFE SECURITIES INCORPORATED
RAYMOND JAMES LIMITED
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
DUNDEE SECURITIES INC.
MACKIE RESEARCH CAPITAL CORPORATION
Promoter(s):
MANULIFE ASSET MANAGEMENT LIMITED
Project #2216277

Issuer Name:
(Series A, Series I, Series T Units unless otherwise indicated) of
MD Balanced Fund
MD Bond Fund (Series A and Series I Units)
MD Short-Term Bond Fund (Series A and Series I Units)
MD Dividend Income Fund
MD Equity Fund
MD Growth Investments Limited (Series A and Series I Units)
MD Dividend Growth Fund
MD International Growth Fund
MD International Value Fund
MD Money Fund (Series A Units)
MD Select Fund
MD American Growth Fund
MD American Value Fund
MD Strategic Yield Fund (Series A and Series I Units)
MD Strategic Opportunities Fund (Series A and Series I Units)
MD Precision Conservative Portfolio (Series A Units)
MD Precision Balanced Income Portfolio (Series A Units)
MD Precision Moderate Balanced Portfolio (Series A Units)
MD Precision Moderate Growth Portfolio (Series A Units)
MD Precision Balanced Growth Portfolio (Series A Units)
MD Precision Maximum Growth Portfolio (Series A Units)
MDPIM Canadian Equity Pool (Series A Units)
MDPIM US Equity Pool (Series A Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated June 20, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
Series A, Series I, Series T Units @ Net Asset Value
Underwriter(s) or Distributor(s):
MD Management Limited
Promoter(s):
-
Project #2211946

Issuer Name:
MDPIM Canadian Bond Pool (Series A units)
MDPIM Canadian Long Term Bond Pool (Series A units)
MDPIM Dividend Pool (Series A and Series T units)
MDPIM Strategic Yield Pool (Series A units)
MDPIM Canadian Equity Pool (Private Trust Series units and Series T units)
MDPIM US Equity Pool (Private Trust Series units and Series T units)
MDPIM International Equity Pool (Series A and Series T units)
MDPIM Strategic Opportunities Pool (Series A units)
MDPIM Emerging Markets Equity Pool (Series A and Series T units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectuses dated June 20, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
Series A and Series T units)
Underwriter(s) or Distributor(s):
MD Management Limited
MD Management Ltd.
Promoter(s):
-
Project #2211973

Issuer Name:
Partners Value Split Corp.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 26, 2014
NP 11-202 Receipt dated June 26, 2014
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Brookfield Financial Corp.
Canaccord Genuity Corp.
Desjardins Securities Inc.
Dundee Securities Corporation
Laurentian Bank Securities Inc.
Paradigm Capital Inc.
Promoter(s):
-
Project #2223984

Issuer Name:
Searchtech Ventures Inc.
Principal Regulator - Ontario
Type and Date:
Final CPC Prospectus dated June 19, 2014
NP 11-202 Receipt dated June 24, 2014
Offering Price and Description:
Minimum of $200,000 2,000,000 Common Shares
Maximum of $800,000 8,000,000 Common Shares
Price: $0.10 per Common Share
Underwriter(s) or Distributor(s):
M Partners Inc.
Promoter(s):
-
Project #2204006

Issuer Name:
Starlight U.S. Multi-Family (No. 3) Core Fund
Principal Regulator - Ontario
Type and Date:
Final Long Form Prospectus dated June 27, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
Maximum: US$60,000,000 of
Class A Units and/or Class U Units and/or Class D Units and/or Class F Units and/or Class C Units
Price: C$10.00 per Class A Unit
US$10.00 per Class U Unit
C$10.00 per Class D Unit
C$10.00 per Class F Unit
C$10.00 per Class C Unit
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
BMO NESBITT BURNS INC.
RAYMOND JAMES LTD.
DUNDEE SECURITIES LTD.
GMP SECURITIES L.P.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
Promoter(s):
STARLIGHT INVESTMENTS LTD.
Project #2217646

Issuer Name:
Timbercreek Global Real Estate Fund
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 27, 2014
NP 11-202 Receipt dated June 27, 2014
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
TIMBERCREEK ASSET MANAGEMENT LTD.
Project #2222740

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Laurus Investment Counsel Inc.	Exempt Market Dealer, Investment Fund Manager, Portfolio Manager	June 26, 2014
Change in Registration Category	Wise Capital Management Inc.	From: Exempt Market Dealer, Portfolio Manager and Investment Fund Manager To: Portfolio Manager and Investment Fund Manager	June 26, 2014

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Chapter 13

SROs, Marketplaces and Clearing Agencies

13.1 SROs

13.1.1 OSC Staff Notice of Approval – MFDA Amendments to MFDA By-law No.1 and Articles of Continuance

OSC STAFF NOTICE OF APPROVAL

MUTUAL FUNDS DEALERS ASSOCIATION OF CANADA (MFDA)

AMENDMENTS TO MFDA BY-LAW NO.1 AND ARTICLES OF CONTINUANCE

The Recognizing Regulators of the Mutual Fund Dealers Association of Canada (MFDA) have approved or not objected to amendments to the MFDA By-law No. 1 and Articles of Continuance to reflect the replacement of Part II of the *Canada Corporations Act* with the new *Canada Not-for-profit Corporations Act*.

The OSC staff notice of request for comment was published on July 25, 2013 at (2013) 36 OSCB 7595. The proposed amendments to the MFDA By-law No.1 and MFDA Articles of Continuance were published on the OSC website on the same date. No comments were received from the public.

The Ontario Securities Commission approved the amendments to MFDA By-law No. 1 as revised by the MFDA pursuant to comments from staff of the recognizing regulators and to MFDA's Articles of Continuance. A copy of the blacklined copy of the proposed amendments to By-law No.1 showing changes made to the version published for comment can be found on the OSC website.

The British Columbia Securities Commission, the Alberta Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan, the Manitoba Securities Commission, the Financial and Consumer Services Commission of New Brunswick, the Nova Scotia Securities Commission, and Prince Edward Island Office of the Superintendent of Securities also approved or did not object to the revised amendments to MFDA By-law No. 1 and Articles of Continuance.

July 3, 2014

13.2 Marketplaces

13.2.1 Application for Recognition of Aequitas Innovations Inc and Aequitas Neo Exchange Inc. as an Exchange – Notice and Request for Comment

APPLICATION FOR RECOGNITION OF
AEQUITAS INNOVATIONS INC. AND AEQUITAS NEO EXCHANGE INC.
AS AN EXCHANGE

NOTICE AND REQUEST FOR COMMENT

I. INTRODUCTION

Aequitas Innovations Inc. (Aequitas) and Aequitas Neo Exchange Inc. (Aequitas Exchange) (the Applicants) have each applied to the Ontario Securities Commission for recognition as an exchange pursuant to section 21 of the *Securities Act* (Ontario).

Aequitas is a holding company currently owned by Barclays Corporation Limited, BCE Inc., CI Investments Inc., IGM Financial Inc., ITG Canada Inc., Omers OCM Investments II Inc., PSP Public Markets Inc., RBC Dominion Securities Inc., and Brilliant Orange Holdings Ltd. The Aequitas Exchange is a wholly owned subsidiary of Aequitas. The Aequitas Exchange proposes to operate an electronic, automated exchange to trade securities of qualified issuers listed on the Aequitas Exchange as well as those listed on other recognized exchanges.

In connection with the application of Aequitas and the Aequitas Exchange for recognition as an exchange (the application), OSC staff (Staff or we) are publishing the following for a 60-day public comment period:

- Application for recognition of Aequitas and the Aequitas Exchange (Application, included at Appendix A);
- Proposed Listing Manual and Forms (Appendix B);
- Proposed Trading Policies (Appendix C);
- Proposed Member Agreement and Information Form (Appendix D);
- Proposed Market Maker Application Form and Agreement (Appendix E), and
- A draft recognition order (Appendix F).

The comment period will end on August 26, 2014. Please refer to Part IV of this notice for information on how to provide feedback.

II. APPLICATION

In the Application, both Aequitas and the Aequitas Exchange made representations to the Commission regarding how they will meet each of the exchange recognition criteria related to: governance, fees, access, regulation of members and listed issuers, due process, systems and technology, financial viability and reporting, clearing and settlement, transparency, outsourcing, information sharing and regulatory cooperation. The specific criteria can be found in Schedule 1 of the draft recognition order attached at Appendix F.

The market structure of the Aequitas Exchange includes four separate trading books: Lit Book, Dark Book, Neo Book and the Crossing Book. The Lit Book is a conventionally transparent market that offers both pre-trade and post-trade transparency and has a maker/taker fee model. The Dark Book offers only post-trade transparency and has a taker/taker fee model. The Neo Book is a modified transparent market that displays the aggregate size of resting orders at each price level, has post-trade transparency and offers a taker/taker fee model. The Neo Book has a feature that imposes a randomized speed bump and higher fees for active orders of certain types of participants, and in particular Latency Sensitive Traders (LSTs). Staff are currently considering the need for additional disclosure regarding the types of marketplace participants that provide liquidity in the Neo Book. The Crossing Book is available for intentional crosses between 8 am and 5 pm.

III. REQUEST FOR COMMENTS

Staff are seeking comment on all aspects of the application, but request specific comment on the issues highlighted below.

(i) Benefits and obligations of market makers

The Aequitas Exchange proposes that the market maker benefits apply to the Lit, Dark and Neo books; however, market makers' obligations would only apply to the Lit and Neo books (please see sections 1(d)(ii), 1(d)(iii) and 1(d)(iv) of the Application for a description of the market makers' benefits and obligations in the Lit, Dark and Neo books, respectively). Staff request specific comment on whether it is appropriate to have obligations with respect to the Dark Book and dark pools generally and whether it is appropriate to have benefits in the Dark Book but no obligations.

(ii) Market makers' commitment (MMC)

The Aequitas Exchange proposes to allow designated market makers to commit additional dark liquidity at multiple price levels and in varying quantities within the Lit and Neo Books for securities listed on the Aequitas Exchange only (please see sections 1(d)(ii) and 1(d)(iv) of the Application for additional detail). Staff request specific feedback on whether the MMC feature provides too great an incentive to the market maker at the expense of the existing orders in the book.

(iii) Listings and Cross-Listings of Investment Products

The Aequitas Exchange has indicated that a particular focus of the Aequitas Exchange's operations will be the listing of investment funds and other exchange traded products (collectively, Investment Products). One of the ways an issuer can become a reporting issuer in Ontario is to have its securities listed and posted for trading on an exchange. This raises the concern that an Investment Product may become available to the public in Ontario through an exchange listing or cross-listing. In OSC Staff Notice 81-715 *Cross-Listings by Foreign Exchange-Traded Funds* Staff articulated our view that a cross-listing of a foreign exchange traded fund or other Investment Product securities that are in continuous distribution would generally be considered a distribution in Ontario, requiring a prospectus to be filed. To minimize opportunities for regulatory arbitrage, it is our view that there should be a specific process or protocol put in place to inform Staff of listing or cross-listing applications. The purpose of this protocol would be to allow Staff to assess whether we have in the past recommended or would recommend a receipt for a similar investment fund product offered by prospectus in Ontario. Staff request specific feedback on the listing requirements for Investment Products.

(iv) Emerging Market Issuers - Gatekeeper Concerns

In OSC Staff Notice 51-719 *Emerging Markets Issuer Review* (the EM Issuer Review), Staff highlighted the important gatekeeper function to our Canadian markets played by Canadian exchanges. The EM Issuer Review recommended that Canadian exchanges assess whether additional listing requirements are needed to address the risks associated with emerging market issuers (EM Issuers) or whether additional exchange review procedures are required to evaluate whether significant risks are present and how they can be addressed. In response, TSX and TSXV are each currently developing an approach to the listing of EM Issuers. It is our view that Aequitas Exchange should develop its own targeted response to the listing of EM Issuers. The purpose of this exercise is for Aequitas Exchange to develop transparent procedures to identify and address the risks to Canadian markets associated with the listing of these issuers. Aequitas Exchange has agreed not to accept applications to list securities of EM Issuers until it has adopted listing requirements or procedures applicable to EM Issuers. Staff request specific feedback on the elements that should be included in Aequitas Exchange's requirements or procedures for EM Issuers.

(v) Application of the Order Protection Rule

The issue of the application of the Order Protection Rule (OPR) arises in two ways in the context of the Application. We are soliciting feedback on each issue described below.

(a) Application of OPR to the Neo Book

The Aequitas Neo Book, as proposed, would be considered a transparent market and therefore OPR would apply to the Neo Book at launch. This would mean that all market participants, including LSTs, would be required to direct their orders to the Neo Book if it displayed the best bid or offer. As proposed, the Neo Book will impose a speed bump and higher trading fees on LSTs. It is staff's view that the different treatment of the LST orders in the Neo Book does not unreasonably prohibit, condition or limit access to the Neo Book and Staff request comment on this matter.

However, concerns have been raised whether it is appropriate to require LSTs to route orders to a marketplace that that does not treat these orders in the same manner as all others. Consequently, Staff request comments on whether it is appropriate for a market to be protected where it systematically treats one class of participant differently than another; that is, whether OPR should apply to the Neo Book in these circumstances.

(b) Application of OPR to new marketplaces

Staff note that, on May 15, 2014, the Canadian Securities Administrators (CSA) published for comment *Proposed Amendments to National Instrument 23-101 Trading Rules* (Proposed Amendments), including proposed amendments to OPR. In particular, the CSA is proposing to introduce a market share threshold at or above which the displayed orders on a marketplace will be protected. What this means is that the OPR obligations will only protect orders on a marketplace, or its market or facility, that has a market share at or above the threshold. In this context, and with consideration to timing, Staff are considering whether the current OPR (without regard to market share) should apply to protect orders on the Aequitas Lit Book and Neo Book (if applicable) at launch, as the launch is anticipated to occur prior to the implementation of the Proposed Amendments. More generally, Staff would like to solicit feedback on whether to interpret and apply OPR such that it does not apply to any new marketplace that launches in the time period between the publication for comment and implementation of the Proposed Amendments. Further, staff request comments on specific benefits to the market or costs and complexities that this approach would introduce.

IV. COMMENT PROCESS

Comments should be in writing and submitted by August 26, 2014 to:

Market Regulation Branch
Ontario Securities Commission
20 Queen Street West, 20th Floor
Toronto, ON, M5H 3S8
Fax: 416.595.8940
Email: marketregulation@osc.gov.on.ca

Comments received will be made public on the OSC website.

Questions on the content of this notice and the draft recognition order should be referred to:

Tracey Stern
Manager, Market Regulation
tstern@osc.gov.on.ca

Ruxandra Smith
Senior Accountant, Market Regulation
ruxsmith@osc.gov.on.ca

Paul Romain
Trading Specialist, Market Regulation
promain@osc.gov.on.ca

Questions on the content of the Application should be referred to:

Cindy Petlock
Head of Legal, Regulatory and Compliance
cindy.petlock@aequin.com

AEQUITAS NEO EXCHANGE INC.
4th Floor, 155 University Avenue
Toronto, Ontario M5H 3B7

June 4, 2014

Ontario Securities Commission
20 Queen Street West, Suite 1903
Toronto, Ontario
M5H 3S8

Attention: Susan Greenglass, Director of Market Regulation

Dear Ms. Greenglass,

Re: Application for Recognition of Aequitas Neo Exchange Inc. ("Aequitas Neo Exchange") and its parent company, Aequitas Innovations Inc. ("Aequitas")

I. Application for Recognition of the Aequitas Neo Exchange and Aequitas

(a) Application for recognition of the Aequitas Neo Exchange

This letter (the "**Application**") sets out the application of the Aequitas Neo Exchange to the Ontario Securities Commission (the "**Commission**") for recognition of the Aequitas Neo Exchange as an exchange in accordance with section 21(2) of the *Securities Act* (Ontario), R.S.O. 1990, c. S.5 (the "**Act**").

(b) Application for recognition of Aequitas

This letter also sets out the application of Aequitas to the Commission for recognition of Aequitas as an exchange in accordance with section 21(2) of the *Securities Act* (Ontario) for the specific purpose of complying with the terms and conditions to be complied with by it, as a holding company for the Aequitas Neo Exchange, as set out in the draft recognition order published by the Commission (the "**Recognition Order**").

(c) Application for Exemptive Relief in Canadian Jurisdictions other than Ontario

The Aequitas Neo Exchange will be operating as an exchange across Canada. It has applied[1] for an exemption from recognition for the Aequitas Neo Exchange and Aequitas from each jurisdiction in Canada, other than Ontario, on the basis of the Lead Regulator Model. The Lead Regulator Model is set out in a Memorandum of Understanding ("**MOU**") among certain members of the Canadian Securities Administrators about the oversight of exchanges[2].

The underlying principles of the Lead Regulator Model are based upon each recognized exchange ("**Exchange**") having a lead regulator ("**Lead Regulator**") responsible for its oversight, and one or more exempting regulators ("**Exempting Regulators**"). The Exempting Regulators exempt the Exchange from recognition on the basis that:

(A) the Exchange is and will continue to be recognized by the Lead Regulator as an Exchange;

(B) the Lead Regulator is responsible for conducting the regulatory oversight of the Exchange; and

(C) the Lead Regulator will inform the Exempting Regulators of its oversight activities and the Exempting Regulators will have the opportunity to raise issues concerning the oversight of the Exchange with the Lead Regulator in accordance with the MOU.

II. Background and Introduction to the Aequitas Neo Exchange Marketplace

The mission statement of Aequitas is:

> "To build an exchange in Canada that provides an innovative and cost-efficient marketplace which protects the interest of all investors and reflects the fundamental purpose of markets: the efficient allocation of capital between issuer and investor as a central force driving the Canadian economy."

[1] The exemption application will be published by the Quebec Authorité des marchés financiers concurrently with this Application.

[2] The current MOU became effective on January 1, 2010.

Aequitas was founded by a group of stakeholders who believe today's equity marketplaces, both in as well as outside of Canada, do not provide the fairness, efficiency and choice required to encourage confidence and participation by investors, issuers and dealers. Various factors, including the concentration of services in one marketplace group, a dominant market structure model favouring those with superior speed, and a lack of innovation, discourage marketplace participation rather than fostering it.

Aequitas believes that by properly leveraging issuer and investor expertise in its governance model and advisory committees, as well as by leveraging technology, efficiency and innovation, this mission can be commercially fulfilled by the Aequitas Neo Exchange[3].

Within the context of today's markets, the Aequitas Neo Exchange offers a differentiated vision of how a marketplace should function and whom it should serve. Specifically, the Aequitas Neo Exchange proposes:

- An ownership and governance structure that includes a broad representation of stakeholders and is built on a core founding principle to foster innovation and competition which enhance market integrity and promote the public interest;
- Advisory committees that will give investors and issuers a strong voice;
- Solutions, including listing standards, designed to achieve fairness and encourage investor confidence in Canada's equity markets, while providing issuers with a capital formation toolset that will promote their success and growth;
- Technology and a market structure model, including the features of the Neo Book, that enhance market integrity by rebalancing the market in favour of long-term investors while helping to eliminate the most prevalent speed-based and opportunistic trading strategies;
- A plan to promote fair and sustainable market making through a program which will support the liquidity needs of investors and issuers; and
- Innovative and affordable services and fees designed to place meaningful competitive pressure on incumbent players.

As part of its feasibility analysis, Aequitas engaged in extensive consultation with the Commission to review key aspects of the proposed Aequitas Neo Exchange market structure model. On August 13, 2013, Commission Staff published for comment a description of the key aspects of the proposal entitled "Notice and Request for Comments Regarding Proposed Structure of Trading Facilities for a New Exchange Proposed to be Established by Aequitas Innovations Inc." (the "**RFC**"). A summary of the RFC and other public consultation initiatives is attached to this Application as Appendix A.

The Aequitas Neo Exchange has taken into account and revised its proposal in response to some of the comments received and related dialogue with both industry participants and the Commission, which is reflected in the Application.

III. Recognition Criteria for the Aequitas Neo Exchange

The following sets out the recognition criteria that will be applicable to the Aequitas Neo Exchange and how the Aequitas Neo Exchange proposes to achieve those criteria. The criteria are based upon the following topics:

- Governance
- Access
- Regulation of Participants and Issuers
- Rules and Rulemaking
- Due Process
- Clearing and Settlement
- Systems and Technology

[3] The mechanisms for achieving commercial solutions for these objectives are described in detail in this Application. In particular, see the sections relating to governance, trading functionality and listing requirements.

- Financial Viability
- Fees
- Information Sharing and Regulatory Cooperation.

A. Governance

Governance Criteria

(i) The governance structure and governance arrangements of the Aequitas Neo Exchange and Aequitas must ensure: (a) effective oversight of the Aequitas Neo Exchange; (b) that business and regulatory decisions are in keeping with their public interest mandate; (c) fair, meaningful and diverse representation on the board of directors and any board committees; (d) policies and procedures are in place to appropriately identify and manage conflicts of interest; and (e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors; and

(ii) The Aequitas Neo Exchange and Aequitas must have policies and procedures under which it will take reasonable steps, and must take such reasonable steps, to ensure that each director and officer is a fit and proper person.

1. The Aequitas Group of Companies

Aequitas Neo Exchange was incorporated under the *Canada Business Corporations Act* (the "**CBCA**") on January 17, 2014. Aequitas Neo Exchange is a wholly-owned subsidiary of Aequitas.

Aequitas was incorporated under the CBCA on May 30, 2013.

Aequitas has two additional subsidiaries: Aequitas Technology Services Inc. ("**AequiTech**") and Aequitas Capital Link Inc. ("**AequiLink**"). AequiTech provides technology services to Aequitas and its affiliates, and will operate a smart order router. AequiLink will operate a private equity facility business.

2. Aequitas Shareholders

The founding shareholders of Aequitas (the "**Founding Shareholders**") are Barclays Corporation Limited, BCE Inc., CI Investments Inc., IGM Financial Inc., ITG Canada Inc., OMERS OCM Investments II Inc., PSP Public Markets Inc., RBC Dominion Securities Inc. and Brilliant Orange Holdings Ltd. The Founding Shareholders (other than Brilliant Orange Holdings Ltd.) are each reporting issuers and/or regulated institutions and represent a diverse group of interests in the Canadian marketplace. As of the date hereof, each Founding Shareholder (other than Brilliant Orange Holdings Ltd.) owns or controls between 10% and 15% of the issued and outstanding voting shares of Aequitas. Brilliant Orange Holdings Ltd., the principal of which is the Chief Executive Officer of Aequitas and Aequitas Neo Exchange, owns voting shares carrying 5% of the voting power of all Aequitas voting shares, and other employees and officers of Aequitas own, directly or indirectly, voting shares having an aggregate of 4% of the voting power of all Aequitas voting shares.

Aequitas intends to issue additional voting shares in connection with a financing which is expected to be completed around the time of the commercial launch of the Aequitas Neo Exchange ("**Launch Financing**"). The Launch Financing will be offered to buy-side firms and other non-dealer issuers, and to sell-side firms ("**Launch Shareholders**"), and will be designed to expand the Aequitas shareholder base to include a diverse array of marketplace stakeholders and ensure that buy-side firms and other non-dealer issuers will hold not less than 51% of the outstanding Aequitas voting shares. Aequitas expects that each of the Launch Shareholders will have the opportunity to acquire approximately 0.5% - 5% of the voting shares of Aequitas through the Launch Financing, for an aggregated total of approximately 20%.[4]

Following the Launch Financing, the Aequitas shareholders are anticipated to be approximately composed of the following constituents (presented on a non-diluted basis):

[4] More specific details of the Launch Financing will be made public at the time of the Launch Financing.

Buy-Side and Issuers	55%
Sell-Side	35%
Employees and officers	10%
Total	**100%**

Aequitas also intends to issue incentive stock options to employees, officers and directors of Aequitas and its subsidiaries.

3. Objectives of the Governance Structure

The governance structure of Aequitas Neo Exchange and Aequitas is designed to ensure:

- That Aequitas Neo Exchange's business and regulatory decisions are in keeping with its public interest mandate;
- Fair, meaningful and diverse representation on the board of directors and any board committees, including independent director representation;
- Proper consideration and representation of the interests of the different types of persons or companies accessing the facilities and/or services of the Aequitas Neo Exchange;
- That Aequitas Neo Exchange and Aequitas have policies and procedures to appropriately identify and manage conflicts of interest;
- That each director and officer of Aequitas Neo Exchange and Aequitas is a fit and proper person; and
- That there are appropriate qualifications, remuneration, limitations of liability and indemnity provisions for directors and officers.

4. Aequitas and Aequitas Neo Exchange Board Structure

a. Aequitas Board and Committees

Aequitas is a holding company with no operational responsibilities. The board of directors ("**Board**") of Aequitas is expected to be comprised of 14 directors that reflect the diverse composition of the Aequitas shareholder base, as follows:

- four representatives nominated by buy-side and issuer (non-dealer) Founding Shareholders;
- two representatives nominated by sell-side Founding Shareholders;
- one representative nominated by buy-side and issuer (non-dealer) Launch Shareholders;
- one representative nominated by sell-side Launch Shareholders;
- five independent representatives, one of which will be the chairman of the Aequitas Neo Exchange Board; and
- the Chief Executive Officer of Aequitas Neo Exchange.

The chairman of the Aequitas Board will be a nominee director of a Founding Shareholder.

A quorum of the Aequitas Board will consist of a majority of directors with at least three of those attending being independent directors.

The Aequitas Board will have the following two standing committees: the Nominating and Governance Committee and the Finance and Audit Committee.

b. The Aequitas Neo Exchange Board and Committees

The Aequitas Neo Exchange Board is expected to be comprised of 10 directors, 5 of which will be non-independent and 5 of which will be independent. The non-independent directors are expected to be comprised of the following:

- one representative of buy-side and issuer (non-dealer) Founding Shareholders;
- one representative of sell-side Founding Shareholders;
- one representative of buy-side and issuer (non-dealer) Launch Shareholders;
- one representative of sell-side Launch Shareholders; and
- the Chief Executive Officer of the Aequitas Neo Exchange.

The chairman of the Aequitas Neo Exchange Board will be an independent director.

A quorum of the Aequitas Neo Exchange Board will consist of a majority of directors, at least 50% of whom shall be independent directors.

The Aequitas Neo Exchange Board will have four standing committees: the Regulatory Oversight Committee, the Nominating and Governance Committee, the Finance and Audit Committee and the Human Resources and Compensation Committee.

5. Aequitas Board Committee Structure

a. Aequitas Nominating and Governance Committee

The Aequitas Board will have a Nominating and Governance Committee comprised of no fewer than three members, at least two of whom will be independent directors. Since it is often the role of the Chairman to identify qualities or expertise of directors that would benefit the board, the Chairman of the Aequitas Board may be one of the members. The role of the Nominating and Governance Committee will be to identify and put forward for nomination qualified directors to act on the Aequitas Board. A quorum of the Nominating Committee consists of a majority of the members, at least two of whom shall be independent directors.

b. Aequitas Finance and Audit Committee

The Aequitas Board will have a Finance and Audit Committee comprised of no fewer than three members, at least two of whom shall be independent directors. The Finance and Audit Committee will perform all of the typical roles of an audit committee, including reviewing and recommending approval of Aequitas' financial statements and overseeing and confirming the integrity of internal controls and audit processes, as well as recommending the appointment of the external auditors. A quorum of the Finance and Audit Committee consists of a majority of the members, at least two of whom shall be independent directors.

6. The Aequitas Neo Exchange Board Committee Structure

a. The Aequitas Neo Exchange Regulatory Oversight Committee

The Aequitas Neo Exchange Board will have a Regulatory Oversight Committee, comprised of no fewer than three directors, a majority of which shall be independent directors. A quorum of the Regulatory Oversight Committee will consist of a majority of the members, at least a majority of whom shall be independent directors. The Aequitas Neo Exchange Board may establish panels of members of the Regulatory Oversight Committee to review changes in the Aequitas Neo Exchange Trading Policies ("**Trading Policies**") and listing requirements. In each case, the panel will be comprised of at least two members of the Regulatory Oversight Committee, and a quorum will consist of all members of the panel, at least one of whom shall be an independent director.

The Regulatory Oversight Committee's mandate is to oversee the performance of Aequitas Neo Exchange's regulatory responsibilities, and oversee the management of conflicts of interest, and includes the following:

- reviews and decides, or makes recommendations to the Aequitas Neo Exchange Board, on proposed regulations and rules that must be submitted to the Commission for review and approval under Schedule 5 of the Recognition Order;
- considers real or perceived conflicts of interest that may arise, including but not limited to the following contexts:
    - ownership interests in Aequitas or in the Aequitas Neo Exchange by any Aequitas Neo Exchange marketplace participant with representation on the Aequitas Board or the Aequitas Neo Exchange Board;

- increased concentration of ownership of Aequitas or the Aequitas Neo Exchange; and
- the profit-making objective and the public interest responsibilities of the Aequitas Neo Exchange, including general oversight of the management of the regulatory and public interest responsibilities of the Aequitas Neo Exchange;

- oversees the establishment of mechanisms to avoid and appropriately manage conflicts of interest or potential conflicts of interest, perceived or real, including any policies and procedures that are developed by the Aequitas Neo Exchange;
- monitors the operation of mechanisms that deal with conflicts of interest, including oversight of reporting of issuer regulation activities and conflicts of interest by the Aequitas Neo Exchange;
- reviews regularly, and at least annually, the effectiveness of the policies and procedures regarding conflicts of interest;
- annually prepares a written report examining the avoidance and management of conflicts of interest, the mechanisms used and the effectiveness of those mechanisms and provides the report to the Aequitas Neo Exchange Board promptly, and to the Commission within 30 days of providing it to the Aequitas Neo Exchange Board; and
- reports in writing directly to the Commission on any matter that the Regulatory Oversight Committee deems appropriate or that is required by the Commission without first requiring the Aequitas Neo Exchange Board approval for such reporting.

Aequitas Neo Exchange will obtain prior approval of the Commission before implementing amendments to the mandate of the Regulatory Oversight Committee and the mandate will be publicly available on the Aequitas Neo Exchange website.

b. The Aequitas Neo Exchange Nominating Committee

The Aequitas Neo Exchange Board will have a Nominating Committee, comprised of no fewer than three members, a majority of whom shall be independent directors. Since it is often the role of the Chairman to identify qualities or expertise of directors that would benefit the board, the Chairman of the Aequitas Neo Exchange Board may be one of the independent members**.** The role of the Nominating Committee will be to identify and put forward for nomination qualified directors to act on the Aequitas Neo Exchange Board. A quorum of the Nominating Committee consists of a majority of the members, at least a majority of whom shall be independent directors.

c. The Aequitas Neo Exchange Finance and Audit Committee

The Aequitas Neo Exchange Board will have a Finance and Audit Committee, comprised of no fewer than three members, at least 50% of whom shall be independent directors. The Finance and Audit Committee will perform all of the typical roles of an audit committee, including reviewing and recommending approval of Aequitas Neo Exchange's financial statements and overseeing and confirming the integrity of internal controls and audit processes, as well as recommending the appointment of the external auditors. A quorum of the Finance and Audit Committee consists of a majority of the members, at least 50% of whom shall be independent directors.

d. The Aequitas Neo Exchange Human Resources and Compensation Committee

The Aequitas Neo Exchange Board will have a Human Resources and Compensation Committee, comprised of no fewer than three members, at least 50% of whom shall be independent directors. The Human Resources and Compensation Committee will assist the Aequitas Neo Exchange Board in fulfilling its responsibilities of establishing the overall compensation philosophy, and making recommendations consistent with that philosophy, in respect of the compensation of the Aequitas Neo Exchange Board, the Chief Executive Officer and other executive officers of Aequitas Neo Exchange. A quorum of the Human Resources and Compensation Committee consists of a majority of the members, at least 50% of whom shall be independent directors.

7. The Aequitas Neo Exchange and Aequitas Independence Standards

The Aequitas Neo Exchange and Aequitas have established the following standards to determine whether a director is independent (the "**Independence Standards**"). An independent director is one who does not have a direct or indirect material relationship with Aequitas Neo Exchange or Aequitas, where the term "material relationship" is a relationship that could, in the view of the Aequitas Neo Exchange Board or the Aequitas Board, respectively, be reasonably expected to interfere with the exercise of the director's independent judgment. A director is independent if the director is "independent" within the meaning of

section 1.4 of National Instrument 52-110 – *Audit Committees* ("**NI 52-110**"), as amended from time, but is not independent if the director:

- is a partner, officer, director or employee of an Aequitas Neo Exchange marketplace participant or an associate of that partner, officer or employee;
- is a partner, officer, director or employee of an affiliated entity of an Aequitas Neo Exchange marketplace participant who is responsible for or is actively engaged in the day-to-day operations or activities of that Aequitas Neo Exchange marketplace participant;
- is an officer or an employee of Aequitas or any of its affiliates;
- is a partner, officer or employee of a Founding Shareholder or Launch Shareholder or any of its affiliated entities or an associate of that partner, officer or employee;
- is a director of a Founding Shareholder or Launch Shareholder or any of its affiliated entities or an associate of that director;
- is a person who owns or controls, or is the officer or employee of a person or company that owns or controls, directly or indirectly, more than 5% of the shares of Aequitas;
- is the director of a person or company that beneficially owns or controls, directly or indirectly, more than 5% of any class or series of voting shares of Aequitas;
- is a director that was nominated, and as a result appointed or elected, by a Founding Shareholder or Launch Shareholder; or
- has, or has had, any relationship with a Founding Shareholder or Launch Shareholder or a person or company that owns or controls, directly or indirectly, more than 5% of the shares of Aequitas, that could, in the view of the Nominating Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgment as a director of Aequitas or Aequitas Neo Exchange.

The Recognition Order permits the Nominating Committee of the Aequitas Neo Exchange or Aequitas, respectively, to waive specific restrictions set out above where it has determined that independence is not compromised, and the Commission does not object. This allows otherwise qualified independent persons to be considered as an independent director on the Board of Aequitas Neo Exchange or Aequitas.

The objective of the Independence Standards is to remove anyone who has a material relationship with Aequitas or its affiliates from qualifying as an independent director. The Nominating Committee of the Aequitas Neo Exchange and Aequitas, respectively, is charged with making recommendations to the Aequitas Neo Exchange Board and Aequitas Board, respectively, on the interpretation and application of the Independence Standards to the Aequitas Neo Exchange directors and Aequitas directors, respectively.

8. Director and Officer Fitness Requirements

The Aequitas Neo Exchange and Aequitas will ensure that each of its respective directors and officers is a fit and proper person so that there are reasonable grounds to believe that the business of the Aequitas Neo Exchange and Aequitas, respectively, will be conducted with integrity and in a manner that is consistent with the public interest.

The names and qualifications of nominee directors will be provided to the Aequitas Neo Exchange Nominating Committee or the Aequitas Nominating Committee, as applicable, to consider and determine whether the person is both fit and proper, as well as qualified. The officers will be reviewed and confirmed by the Aequitas Neo Exchange Board or the Aequitas Board, as applicable, as fit and proper.

9. Managing potential conflicts of interest within the Aequitas Neo Exchange and Aequitas

The Aequitas Neo Exchange and Aequitas, respectively, will adopt a conflicts of interest policy applicable to the members of the respective Board which will set out the obligations and expectations imposed upon directors in dealing with conflicts of interest and matters of confidentiality[5]. This policy will, among other things, provide that every director of the Aequitas Neo Exchange or Aequitas, respectively, shall, in acting in such capacity, act honestly and in good faith with a view to the best interests of the

[5] A copy has been filed with the application.

Aequitas Neo Exchange or Aequitas, respectively, and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. In addition, the policy will provide that directors must ensure that their personal interests and their duty to the Aequitas Neo Exchange or Aequitas, respectively, are not brought into conflict, and that they do not receive or obtain, directly or indirectly, a personal profit, gain or benefit (other than any fees paid as a result of acting as a director) as a result of their relationship with the Aequitas Neo Exchange or Aequitas, respectively. The conflicts of interest policy will also contain provisions requiring a director to disclose the nature and extent of any interest that he or she has in a material contract or material transaction with the Aequitas Neo Exchange or Aequitas, respectively.

In addition, the Aequitas Neo Exchange and Aequitas will establish policies and procedures that address the conflict of interest matters addressed in the Recognition Order, including conflicts arising from the interactions between the Aequitas Neo Exchange and Aequitas and its shareholders, and arising between the regulation functions and business activities of the Aequitas Neo Exchange.

In addition, the Recognition Order requires that significant shareholders of Aequitas also establish policies and procedures to manage conflicts of interest resulting from its interactions with the Aequitas Neo Exchange and Aequitas, and to maintain confidentiality.

B. Access

Fair Access Criteria

The Aequitas Neo Exchange must establish appropriate written standards for access to its services including requirements to ensure participants are appropriately registered under Ontario securities laws, or exempted from these requirements, and such access standards and the process for obtaining, limiting and denying access must be fair, transparent and applied reasonably.

The Aequitas Neo Exchange has established appropriate written standards for access to its trading and related services, including requirements that Aequitas Neo Exchange members ("**Members**") are appropriately registered under securities laws and are dealer members of the Investment Industry Regulatory Organization of Canada ("**IIROC**"). The access standards and the process for obtaining, limiting and denying access are set out in Part III of the Trading Policies and are fair, transparent and can be applied reasonably.

Specifically, a dealer is eligible to become a Member of the Aequitas Neo Exchange if it is a dealer member in good standing of IIROC. The Aequitas Neo Exchange may refuse to approve an applicant based on past or present misconduct by the applicant or any related person, or if the applicant refuses to comply with Aequitas Neo Exchange requirements or is not qualified by reason of integrity, solvency, training or experience. Any dealer who is refused approval will have a right of appeal to the Aequitas Neo Exchange's Regulatory Oversight Committee.

Dealers who are members of IIROC are eligible to become a Member by applying for membership and signing the Aequitas Neo Exchange member agreement ("**Member Agreement**"). Once approved, a Member must comply with all Aequitas Neo Exchange requirements as set out in the Member Agreement and the Trading Policies.

Copies of the proposed Member Agreement and the Trading Policies have been filed with this Application.

C. Regulation of Participants and Issuers

Regulation of Participants and Issuers Criteria

The Aequitas Neo Exchange must have the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of participants and issuers, monitoring their conduct, and appropriately disciplining them for violations of exchange requirement.

The Aequitas Neo Exchange has the authority, capacity, systems and processes to undertake directly or indirectly through a regulatory services provider, its regulation functions by:

- Setting requirements governing the conduct of its Members and Listed Issuers (as defined in the Aequitas Neo Exchange Listing Manual ("**Listing Manual**"));
- Monitoring their conduct; and
- Appropriately disciplining them for violations of Aequitas Neo Exchange requirements.

The Aequitas Neo Exchange will enter into a Regulatory Services Agreement with IIROC so that IIROC will perform on its behalf market regulation services and some listed issuer services as specified in the agreement.

The Regulatory Oversight Committee will, at least annually, review the performance of IIROC and the Aequitas Neo Exchange with respect to their regulation functions and report to the Aequitas Neo Exchange Board, together with any recommendations for improvement.

1. Trading

a. Overview

The Aequitas Neo Exchange's market structure includes four separate trading books (each, a "**Trading Book**"): Lit Book, Neo Book™, Dark Book and Crossing Book. Each Trading Book is designed to provide specific services that may be attractive to different kinds of market participants while providing a comprehensive offering that promotes market integrity, fairness and choice. The Aequitas Neo Exchange market structure has been designed to rebalance the market in favour of long-term investors while helping to eliminate the most prevalent speed-based trading strategies that negatively impact market quality, fairness and investor and issuer confidence. The Aequitas Neo Exchange market structure also features a market maker program designed to promote reliable liquidity, quality price discovery and support the needs of investors and issuers. In addition, new features and functions have been introduced to address the evolving needs of Members and their clients.

Among the many features of the Aequitas Neo Exchange market structure that help rebalance the market in favour of long-term investors and issuers, the following are expected to have the greatest impact:

- in the Lit Book, an execution priority (before time, and after price and broker-preference) for passive orders of long-term investors, which will reduce unnecessary intermediation and minimize information detection. The execution priority will allow their orders to trade before non-long-term investors that leverage speed-based strategies and to counter book layering as part of a technological front-running strategy;

- in the Neo Book™, a speed bump and higher trading fee applied to active orders from non-long-term investors that leverage speed-based strategies, coupled with a take-take fee structure and a size-time weighted execution priority (after price and broker-preference) to promote reliable liquidity and higher fill rates while minimizing technological front-running and information detection;

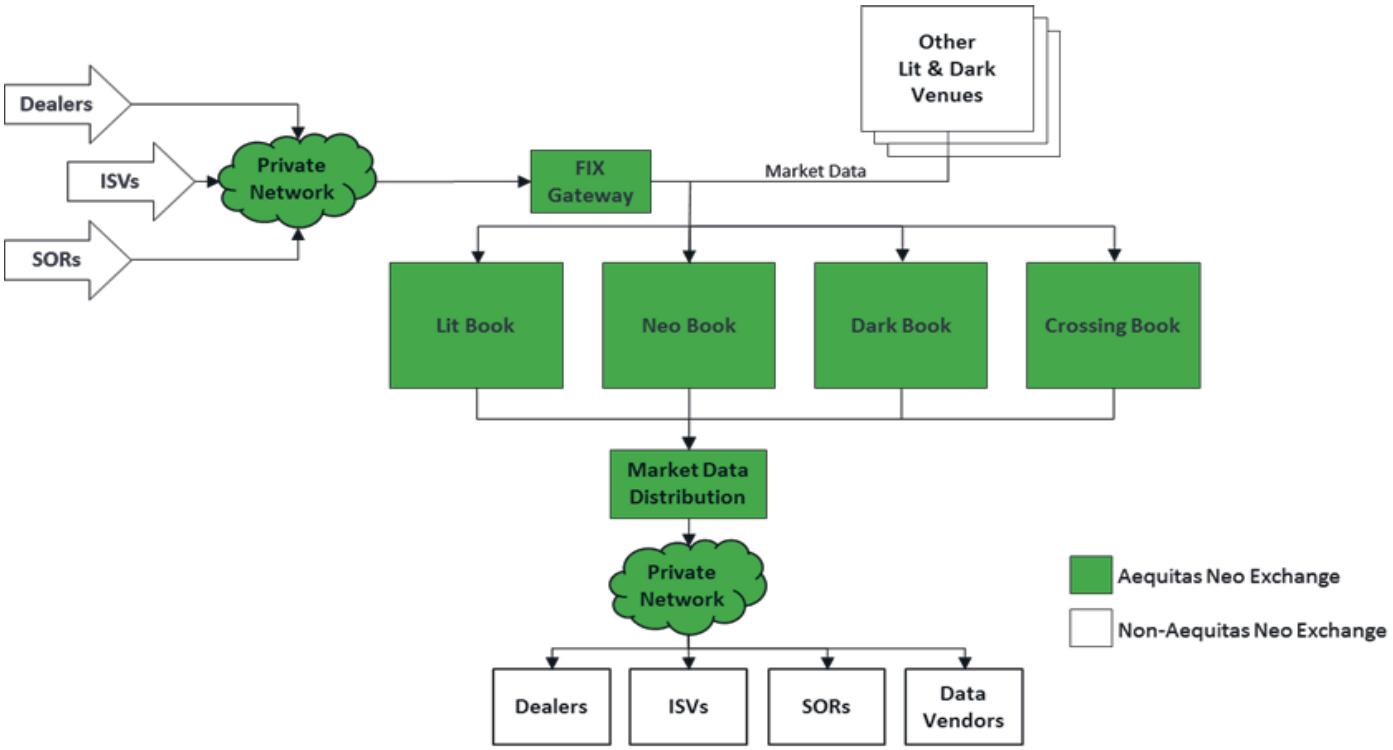
- in the Dark Book, segmentation of active orders from non-long-term investors that leverage speed-based strategies, coupled with a take-take fee structure and a size-time weighted execution priority (after price and broker-preference) to promote reliable liquidity and higher fill rates, while minimizing technological front-running and information detection;

- an integrated approach to trading fees across the various above mentioned Trading Books that will optimize the alignment of interests between the dealers and their long-term investor clients by providing a make-take fee in the Lit Book, where resting orders of long-term investors benefit from an execution priority, and a low take-take fee in both the Neo Book™ and the Dark Book, where liquidity taking orders of long-term investors benefit from more reliable liquidity; and

- a market making program providing committed market makers, currently sidelined by non-long-term investors that leverage speed based strategies, with the ability to benefit from sufficient trade volume and other incentives to provide reliable liquidity without crowding out the quote.

In each of the above cases, the execution quality of long term trading strategies is expected to be improved as described above.

The following diagram illustrates the design of the Aequitas Neo Exchange market structure:



The rules governing the Aequitas Neo Exchange market structure and the conduct of Members are set out in the Trading Policies, a copy of which has been filed with this Application. Requirements related to market making are set out in the Trading Policies and the Aequitas Neo Exchange Designated Market Maker ("**DMM**") Agreement, a copy of which has been filed with this Application.

The following sections provide summary descriptions of selected features of the Aequitas Neo Exchange market structure. All terms used but not defined in the following sections have the meaning given to them in the Trading Policies.

b. Securities Traded on the Aequitas Neo Exchange

Listed Securities (securities listed on Aequitas Neo Exchange) and Other Traded Securities (securities not listed on Aequitas Neo Exchange) will be traded on the Aequitas Neo Exchange.

c. Overview of the Aequitas Neo Exchange Trading Policies

The Trading Policies are organized into the following sections:

- Part I – Definitions
- Part II – Application of Policies and Authority of the Aequitas Neo Exchange
- Part III – Membership
- Part IV – Access to Trading
- Part V – Overview of Trading Books and Trading on the Aequitas Neo Exchange
- Part VI – Trading in the Lit Book
- Part VII – Trading in the Dark Book
- Part VIII – Trading in the Neo Book™
- Part IX – Printing Trades in the Crossing Book

- Part X – General Provisions Regarding Market Making
- Part XI – Order protection Rule Compliance
- Part XII – Clearing and Settlement
- Part XIII – Application of UMIR
- Part XIV – Appeals
- Part XV – Administration

d. The Aequitas Neo Exchange Trading Books

The following sets out key features of the Aequitas Neo Exchange Trading Books.

(i) Overview of Trading Books – Part V of the Trading Policies

Part V of the Trading Policies identifies the four Trading Books: Lit Book, Neo Book™, Dark Book and Crossing Book. It also discusses trading halts, price band parameters, trade cancellation, amendment and correction, and order types common to all Trading Books.

Trading Halts

Trading can be halted by the Market Regulator (IIROC), a securities regulatory authority such as the Commission, or the Aequitas Neo Exchange. Halting a security is considered a significant act and generally will be done by IIROC or in consultation with IIROC. However, the maintenance of fair markets and recent market events suggest that other options need to be available in the rare circumstances where the harm is obvious and immediate so that there may not be sufficient time to get a response from IIROC. However there will be clear accountability and oversight if such action is taken. If the Aequitas Neo Exchange takes action to halt trading, a report will be prepared and submitted to IIROC and the Commission for their review and follow up.

Price Band Parameters

The Aequitas Neo Exchange will have price band parameters to manage clearly erroneous trades, based on the variance from the NLSP and other reference prices. The applicable price bands will be published by notice to Members.[6] The Aequitas Neo Exchange or the DMM for its Assigned Security may delay the opening or delay the re-opening of a security following a trading halt in the Lit Book, and the Aequitas Neo Exchange may delay the closing of a security, if during the Opening Call, Closing Call or re-opening auction, the price at which the auction would be completed exceeds the price band parameters. Two types of price bands will apply during the Continuous Trading Session in each of the Lit Book and Neo Book™: (i) "Static Price Band", based on the variance from a reference price, which will be set each day for a security to the Opening Price for the security in the Lit Book and Neo Book™, respectively, or to another reference price; and (ii) "Dynamic Execution Limit", based on the variance from the NLSP.

Novel Order Types

Section 5.07 of the Trading Policies sets out the order types and modifiers that are common to all Trading Books.[7] Most of the order types and modifiers are currently available on other marketplaces. The following is a description of new order types or functions that are being introduced and are common to all Trading Books:[8]

A Derived Order™ is new functionality that allows a party to have a visible resting order in the Lit Book or Neo Book™ with the ability to also have access to liquidity in other Trading Books without having the risk of double fill.[9] There are precedents for

[6] The price band parameters will be implemented in a manner consistent with regulatory requirements, including the IIROC market wide circuit breaker and single stock circuit breaker requirements.

[7] Order types and modifiers that are particular to one or more Trading Book (but not all Trading Books) are set out separately in the Trading Policies:

- see section 6.02 of the Trading Policies for additional modifiers available in the Lit Book;
- see section 7.02 of the Trading Policies for additional order types and modifiers available in the Dark Book;
- see section 8.02 of the Trading Policies for additional order types and modifiers available in the Neo Book™; and
- see sections 9.02 and 9.03 of the Trading Policies for cross types and additional cross attributes available in the Crossing Book.

[8] Novel order types and functions that are particular to one or more Trading Book (but not all Trading Books) are included in this Application with the description of the relevant Trading Book.

[9] A Derived Order™ may only have one visible leg, and will not result in the appearance of an order or volume that is not intended to be executable or that gives a false perception of liquidity.

similar order types on other markets, most noticeably "Implied Orders" on the Montreal Exchange which ties together the spread order books with the outright order books.

A Derived Order™ is a Limit Order where the market participant indicates that it would like the order replicated into other Trading Books. The possible variations are:

- A visible resting order entered on the Lit Book which is replicated as a non-visible order on the Dark Book;
- A non-visible resting order entered on the Lit Book which is replicated as a visible order on the Neo Book™ and/or a non-visible order in the Dark Book; or
- A visible resting order entered on the Neo Book™ which is replicated as a non-visible order in the Dark Book.

The main benefits of the Derived Order™ can be summarized as follows:

- it provides the market participant with the ability to expose its resting order to active order flow within multiple books simultaneously, and hence benefit from increased liquidity; and
- it ensures that the above mentioned enhanced exposure is not leading to the risk of multiple fills of the same order.

A National Best/Pegged Order is a limit order that is automatically adjusted to changes in the NBB or NBO. A National Best order pegged to an offset within the NBBO will be a non-visible order. A National Best order pegged to the NBB (NBO) or an offset with a worse price relative to the NBB (NBO) may be visible or non-visible depending on (i) the Trading Book on which it is entered and (ii) the security being traded. Generally, less liquid securities will support visible National Best orders, and liquid securities will support non-visible National Best orders. Similar order types already exist on other markets such as Chi-X Canada Pegged Offset orders and TSX/TSXV Dark Limit orders.

The main benefits of the National Best/Pegged Order can be summarized as follows:

- it levels the playing field between market participants with a speed advantage and those who don't have one, by providing the latter with the ability to automatically have their orders adjusted when there is a change in the NBBO;
- it provides market participants with a protection mechanism for orders that would otherwise easily be taken out if someone seeks to technologically front-run them based on a change in the NBBO; and
- it enables liquidity provision with lesser risk exposure.

(ii) The Lit Book – Part VI of the Trading Policies

The Lit Book is described in Part VI of the Trading Policies. The following is a summary description of selected features of the Lit Book.

Trading Sessions

The Lit Book has the following trading sessions:

- **Opening** – A Pre-Opening, followed by an Opening Call, for Listed Securities; Aequitas Neo Exchange may also designate Other Traded Securities as eligible for the Pre-Opening and Opening Call;
- **Continuous Trading** – for Listed Securities and Other Traded Securities;
- **Closing** – A Pre-Closing, followed by a Closing Call, for Listed Securities; Aequitas Neo Exchange may also designate Other Traded Securities as eligible for the Pre-Closing and Closing Call.
- **Extended Trading** – for Listed Securities; Aequitas Neo Exchange may also designate Other Traded Securities as eligible for the Extended Trading Session.

Opening

During the Pre-Opening Session until the Opening Call, orders can be entered, amended or cancelled in the Lit Book. The Opening Call will be initiated by an opening message submitted by the DMM for the security, at or after 9:30am. Immediately

prior to the execution of the Opening Call, the DMM may submit an Imbalance Only[10] order to absorb some or all of the imbalance that may exist. The Aequitas Neo Exchange or the DMM may delay the opening of an Opening Call Eligible Security if the COP differs from the previous day's Closing Price by an amount greater than the price band parameters set by Aequitas Neo Exchange, or if Aequitas Neo Exchange or the DMM determines that it is appropriate due to market conditions or in order to maintain a fair and orderly market. The execution priority in the Opening Call (at the COP) is by: broker preferencing, Neo Trader Orders™[11], and time, as more particularly set out in sections 6.05 of the Trading Policies.

The fee model for transactions executed at the Opening Call is a take-take fee model.

Continuous Trading

The Continuous Trading Session in the Lit Book features full pre-trade and post-trade transparency. The execution priority is by: price, broker preferencing, Neo Trader Orders™, and time. In addition, the DMM for the security is allocated a specified percentage of traded volume (initially set at 15% of traded volume for the security for the day) through the "Market Maker Volume Allocation". The Market Maker Volume Allocation at a given price level exists in parallel with the execution priority, and has been designed to give the DMM a priority while at the same time addressing concerns raised during the RFC regarding the DMM priority "crowding out the quote", and in a way that minimizes the number of fills to fulfill the incoming order.

The fee model for the Continuous Trading Session in the Lit Book is a make-take fee model.

Closing and Extended Trading

The Closing Call will occur at or after 4:00pm, followed by the Extended Trading Session. The execution priority in the Closing Call (at the CCP) is by: broker preferencing, Neo Trader Orders™, and time, as more particularly set out in sections 6.11 of the Trading Policies.

The fee model for transactions executed at the Closing Call is a take-take fee model, and the fee model for the Extended Trading session is a make-take fee model.

Odd Lots

The Lit Book also features an auto-execution Odd Lot Facility.

Market Maker Obligations and Benefits

In the Lit Book, a DMM must trade for its own account in a sufficient degree to assist in the maintenance of a fair and orderly market and achieve reasonable price continuity and liquidity for its Assigned Securities. The DMM is required to meet specific obligations in the Lit Book, which include two-sided quoting requirements, size and spread percentage requirements, NBBO presence requirements and a quoting range requirement.[12]

The DMM also has the following additional obligations in the Lit Book:

- facilitating the opening, delayed opening, and resumption of trading following a trading halt, as specified in the Trading Policies; and
- acting as the Odd Lot dealer to auto-execute Odd Lots.

For Listed Securities, DMMs are also provided with the Market Maker Commitment feature, which is the DMM's non-visible commitment to trade a specified number of shares at specified price points in the Lit Book in reaction to incoming contra side orders. The Market Maker Commitment is modeled after the NYSE "Capital Commitment Schedule" available to NYSE market makers.[13]

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[10] An "Imbalance Only" order is an order that may only interact with orders to reduce the imbalance identified in an Message during the Opening Call or Closing Call (or during a re-opening following a halt).

[11] A "Neo Trader Order"™ is a Limit or Market Order entered on the Lit Book which originates from a Neo Trader™ account. Neo Trader™ accounts are discussed in more detail in section III(C)(1)(d)(iv) – "Neo Book™ – Part VIII of the Trading Policies."

[12] To assist the DMM in meeting its quoting obligations, the DMM may use the "Market Maker Quote", which is a Limit Order only available to DMMs allowing a one or two sided National Best order with an optional peg offset (of one or more minimum trading increments) outside the NBBO that can be applied to either side of the order. In addition, the DMM will be able to submit batched orders to allow the DMM to manage obligations against a number of securities. This gives them greater efficiency to manage obligations, adjust risk positions and ensure they are conducting fair and orderly markets.

[13] Market Maker Commitment is described in more detail in section III(C)(1)(e) – "Designated Market Making Program – Part X of the Trading Policies".

For securities of responsibility, trade allocations through the Market Maker Volume Allocation would be the primary incentive offered to DMMs.

DMMs may also be eligible to participate in the performance bonus pool[14] (which utilizes similar concepts to the BATS Competitive Liquidity Provider Program) and, for Listed Securities, the issuer support program[15] (modeled after the NASDAQ Market Quality Program and NYSE Arca ETP Incentive Program), provided they meet or exceed their obligations across all Trading Books.

Other Order Types

There are no novel order types available exclusively in the Lit Book other than those previously discussed in this section (see section 5.07 of the Trading Policies for order types and modifiers available in all Trading Books, and section 6.02 for all additional modifiers available in the Lit Book).[16]

Access

There are no access restrictions in the Lit Book.

(iii) The Dark Book – Part VII of the Trading Policies

The Dark Book is described in Part VII of the Trading Policies. The following is a summary description of selected features of the Dark Book.

Trading Sessions

The Dark Book has the following trading sessions, each of which is available for Listed Securities and Other Traded Securities:

- Pre-Continuous and Continuous Trading
- Mid-Point Call
- Size-Up Call

Pre-Continuous and Continuous Trading

During the Pre-Continuous and Continuous Trading Sessions, Liquidity Providing Orders[17] submitted to the Dark Book will be booked and will not interact with any other Liquidity Providing Orders resting in the Dark Book. Only Dark Liquidity Taking Orders[18] may execute against Liquidity Providing Orders to take resting liquidity during the Continuous Trading Session.

The execution priority in the Dark Book during the Continuous Trading Session is by: price, broker preferencing, and Size-Time. "Size-Time" is designed to reward participants for posting larger resting orders with a time commitment on the book. Size-Time is an allocation methodology utilized in the Dark Book and Neo Book™ when multiple potential matches have been identified at a given price which applies the following criteria:

(a) size;

(b) priority time-stamp;

(c) time of the last partial fill (of the order); and

(d) remaining order volume.

[14] The Aequitas Neo Exchange will contribute an amount monthly to a performance bonus pool, to be divided proportionately between all eligible DMMs. To be eligible for a performance bonus, DMMs must meet or exceed their obligations in all securities of responsibility for the month.

[15] Listed Issuers may also participate in an issuer support program through which the issuer may make payments to reward its DMM for meeting the obligations set by the Aequitas Neo Exchange for the Assigned Security. The payments will be made to the Aequitas Neo Exchange, which will be responsible for monitoring and confirming that the DMM has met or exceeded its obligations prior to awarding the payment.

[16] The Lit Book and Dark Book will both support a "Minimum Acceptable Quantity" modifier, which may be applied to a non-visible Limit Order, where the user may specify a minimum size to be filled by a single execution or multiple executions.

[17] A "Liquidity Providing Order" is a resting order booked in the Dark Book or Neo Book.

[18] A "Dark Liquidity Taking Order" is an active Limit or Market FOK or FAK Order entered on the Dark Book which originates from a Neo Trader account. Neo Trader accounts are discussed in more detail in section III(C)(1)(d)(iv) – "Neo Book – Part VIII of the Trading Policies."

After considering (a), a weighted average of (b), (c) and (d) is then calculated to obtain the "Size-Time" for the order, which determines the priority of the order relative to other resting orders. In the event that two or more orders have the same size and Size-Time, the original entry timestamp of the orders will be used to determine priority.

In addition, the DMM for the security is allocated a specified percentage of traded volume (initially set at 15% of traded volume for the security for the day) through the "Market Maker Volume Allocation".

The fee model for the Continuous Trading session in the Dark Book is a take-take fee model. In addition, there will be a reduced fee for Dark Liquidity Taking Orders originating from Retail Customer accounts.

Mid-Point Call

In addition to the Continuous Trading Session, Liquidity Providing Orders resting in the Dark Book may be designated as eligible for participation in Mid-Point Calls. Automated Mid-Point Calls occur in the Dark Book at random times every two (2) to five (5) seconds at the mid-point of the NBBO.[19]

The execution priority in the Dark Book during the Mid-Point Call is by: price, broker preferencing, and Size-Time.

In addition, the DMM for the security is allocated a specified percentage of traded volume (initially set at 15% of traded volume for the security for the day) through the "Market Maker Volume Allocation".

The fee model for the Mid-Point Call session in the Dark Book is a take-take fee model. In addition, there will be a reduced fee for Dark Liquidity Taking Orders originating from Retail Customer accounts.

Size-Up Call

Liquidity Providing Orders resting in the Dark Book may also be designated for participation in a Size-Up Call to promote liquidity and decrease market impact costs. Following the completion of a Mid-Point Call, the Aequitas Neo Exchange Systems will identify eligible Liquidity Providing Orders.[20] If eligible orders exist on both the bid and ask side, each originating Member will be notified of the opportunity to participate in a Size-Up Call. The originating Member may then commit any amount of volume to the Size-Up Call. The Size-Up Call will be executed at the execution price of the Mid-Point Call that triggered the Size-Up Call (the reference price) where the reference price is within the NBBO at the time that the Size-Up Call is concluded. Where the reference price is at or outside the NBBO at the time that the Size-Up Call is concluded, the Size-Up Call will execute at a price that is closest to the reference price which is within the current NBBO.

The execution priority in the Dark Book during a Size-Up Call is by: broker preferencing followed by Size-Time for Liquidity Providing Orders, and then by broker preferencing followed by Size-Time for volume committed during the Size-Up Call.

In addition, the DMM for the security is allocated a specified percentage of traded volume (initially set at 15% of traded volume for the security for the day) through the "Market Maker Volume Allocation" with respect to trades against Liquidity Providing Orders only (but not with respect to the additional volume committed during the Size-Up Call).

The fee model for the Size-Up Call session in the Dark Book is a take-take fee model. In addition, there will be a reduced fee for Dark Liquidity Taking Orders originating from Retail Customer accounts.

Market Maker Obligations and Benefits

Specific obligations are not imposed on DMMs in the Dark Book since quoting obligations must be visible to benefit price discovery, which runs contrary to the purpose of a "dark book". Furthermore, trading in the Dark Book cannot take place outside of the NBBO, which acts as the true goal posts for this Trading Book, and which the DMM helps to set through the other Trading Books.

Although there are no specific quoting obligations in the Dark Book, it is expected that the DMM will be participating in the Dark Book since participation in each Trading Book is a part of its role to maintain fair and orderly markets for its Assigned Securities.

[19] There are precedents for similar trading sessions on other markets, for example MATCH Now's automated call executions which occur at randomized 5 second intervals throughout the day.

[20] Provided that a Liquidity Providing Order is designated for participation in Size-Up Calls and meets the minimum dollar value and volume threshold as determined by Aequitas Neo Exchange and specified by Notice, the originating Member who submitted the Liquidity Providing Order will be eligible to receive information about and participate in Size-Up Calls.

Transparency

Similar to existing dark pools operating in Canada today, the Dark Book offers no pre-trade transparency. It complies with Canada's rules regulating dark orders. This means that matching must occur at the mid-point of, or at least one standard price increment from, the NBBO, or at or better than the NBBO for active orders provided they are for at least 50 standard trading units or $100,000 in value.

Other Order Types

There are no other novel order types available in the Dark Book other than those previously discussed in this section (see section 5.07 of the Trading Policies for order types and modifiers available in all Trading Books, and section 7.02 for all additional order types and modifiers available in the Dark Book). [21]

Access

Dark Liquidity Taking Orders (i.e. active orders) are limited to Trader IDs that are qualified as acting for Neo Trader™ qualified accounts. This is similar to Alpha Exchange's IntraSpread, which limits active orders to qualified retail orders.

(iv) The Neo Book™ – Part VIII of the Trading Policies

The Neo Book™ is described in Part VIII of the Trading Policies. The following is a summary description of features of the Neo Book™.

The Neo Book™ is an innovative type of execution facility where participants are rewarded for posting larger resting orders with a time commitment on the book (via Size-Time weighted matching priority), where liquidity providers are protected from technological front-running and information detection (via a speed bump and fees applied to certain active orders) and where the pre-trade price discovery is aggregated by price level to reduce information leakage. Resting orders do not match with one another and liquidity taking is restricted to FOK and FAK orders. For FOK and FAK orders that originate from a Trader ID that is not qualified as acting for Neo Trader™ qualified accounts, a speed bump and increased fee is applied.

The features of this book (including favorable pricing for retail active flow, combined with a place where liquidity provision is rewarded and protected) will have the impact of creating a book where retail flow, buy side institutional flow and market makers will interact within an environment that levels the playing field between those market participants that have a speed advantage and those who do not, restabilising reliable liquidity and investor confidence.

Trading Sessions

The Neo Book™ only has a Continuous Trading Session, which is available for Listed Securities and Other Traded Securities.

Continuous Trading

During the Continuous Trading Session, Liquidity Providing Orders submitted to the Neo Book™ will be booked and will not interact with any other Liquidity Providing Orders resting in the Neo Book™. Only FOK or FAK orders may execute against Liquidity Providing Orders to take resting liquidity during the Continuous Trading Session. There will be two FOK/FAK order types: Neo Take Orders™[22] and LST Take Orders.[23]

The execution priority in the Neo Book™ during the Continuous Trading Session is by: price, broker preferencing, and Size-Time. In addition, the DMM for the security is allocated a specified percentage of volume of shares traded (initially set at 15% of traded volume for the security for the day) through the "Market Maker Volume Allocation".

The Neo Book™ fee model is a take/take model, not a maker/taker fee model. In addition, there is a reduced fee for Neo Take Orders™ originating from Retail Customer accounts, and, as discussed above, a higher fee will be applied to LST Take Orders.

Market Making Obligations and Benefits

In the Neo Book™, a DMM must trade for its own account in a sufficient degree to assist in the maintenance of a fair and orderly market and achieve reasonable price continuity and liquidity for its Assigned Securities. The DMM is required to meet specific

[21] The Lit Book and Dark Book will both support a "Minimum Acceptable Quantity" modifier, which may be applied to a non-visible Limit Order, where the user may specify a minimum size to be filled by a single execution or multiple executions.

[22] A "Neo Take Order"™ is an active Limit or Market FOK or FAK Order entered on the Neo Book™ which originates from a Neo Trader™ account.

[23] An "LST Take Order" is an active Limit or Market FOK or FAK Order entered on the Neo Book™ which originates from an LST account.

obligations in the Neo Book™, which include two-sided quoting requirements, size and spread percentage requirements, NBBO presence requirements and a quoting range requirement.[24]

For Listed Securities, DMMs are also provided with the Market Maker Commitment feature in the Neo Book™, which is the DMM's non-visible commitment to trade a specified number of shares at specified price points in the Neo Book™ in reaction to incoming contra side orders. The Market Maker Commitment is modeled after the NYSE "Capital Commitment Schedule" available to NYSE market makers.[25]

For securities of responsibility, execution allocations through the Market Maker Volume Allocation would be the primary incentive offered to DMMs.

DMMs may also be eligible to participate in the performance bonus pool and, for Listed Securities, the issuer support program.

Transparency

The Neo Book™ is a protected lit book that has both pre-trade and post-trade transparency. The Neo Book™ displays the aggregate size of resting orders at each price level (market by price and not market by order). This information will be available to the approved Information Processor and to all data vendors. In addition, the volume of hidden orders pegged to the mid-point of the NBBO, or to an offset inside the NBBO, will be also be aggregated together with displayed volume at the NBBO. The hidden orders will comply with the Dark Rules.

Novel Order Types

The following are novel order types available on the Neo Book™ (see section 5.07 of the Trading Policies for order types and modifiers available in all Trading Books, and section 8.02 for all additional order types and modifiers available in the Neo Book™):

- An "LST Take Order" is an active Limit or Market FOK or FAK Order entered on the Neo Book™ which originates from an LST account.

- A "Neo Take Order™" is an active Limit or Market FOK or FAK Order entered on the Neo Book™ which originates from a Neo Trader™ account.

  As set out in the Trading Policies, "Neo Trader™" orders are orders that cannot be entered through a Trader ID that sends orders from:

  - an arbitrage account;

  - the account of a person with Designated Market Maker obligations; or

  - an account for which trading strategies are automated and which generally do not carry net long or short overnight positions (i.e. is non-directional or market neutral);

  but may be sent from a principal account that has acquired during a trading day a position in a particular security in a transaction with a client that is unwound during the balance of the trading day such that, in the ordinary course, the account does not have, at the end of each trading day, more than a nominal position, whether short or long, in a particular security (a facilitation account).

The definitions have been revised from those included in the RFC so that they do not rely on the "short-marking exempt" (SME) marker. At no time has Aequitas Neo Exchange intended to create definitions that are based solely on predatory trading strategies. Aequitas Neo Exchange has focused on creating a level playing field for those who do, and those who do not have technology advantages who therefore are susceptible and less able to defend against predatory trading strategies. In establishing the definitions, Aequitas Neo Exchange not only took into consideration its business objectives but also the need for implementation and compliance by it and its Members to be practical and cost efficient.

[24] To assist the DMM in meeting its quoting obligations, the DMM may use the "Market Maker Quote", which is a Limit Order only available to DMMs allowing a one or two sided National Best order with an optional peg offset (of one or more minimum trading increments) outside the NBBO that can be applied to either side of the order. In addition, the DMM will be able to submit batched orders to allow the DMM to manage obligations against a number of securities. This gives them greater efficiency to manage obligations, adjust risk positions and ensure they are conducting fair and orderly markets.

[25] Market Maker Commitment is described in more detail in section III(C)(1)(e) – "Designated Market Making Program – Part X of the Trading Policies".

In order to implement the different Neo Trader™ and LST orders and priority, Aequitas Neo Exchange will require that Members certify which Trader IDs are qualified as acting for qualified Neo Trader™ accounts, and that they have policies and procedures to confirm that they have properly identified the Trader IDs. This approach to implementation is consistent with NYSE's approach to the RLP program.

Aequitas Neo Exchange intends to review the behavior of the Trader IDs on a regular basis to confirm that the orders and trades being generated by that Trader ID are consistent with a long term investor's trading strategy.

As indicated in the Trading Policies, Aequitas Neo Exchange will use the following checks:

- the alpha value of trading on specific securities at end of day;
- message rates within our books to see if trading patterns are consistent;
- order to trade ratios within our books;
- inconsistent use of markers (proprietary, market maker, etc.); and
- positions in securities (whether consistently neutral or not).

Aequitas Neo Exchange may also ask to review a Member's policies and procedures if Aequitas Neo Exchange become aware of an issue. Another option available to Aequitas Neo Exchange is to request that Members provide information regarding specific Trader IDs in order to determine that the Trader ID has been properly identified and qualified.

Access

LST Take Orders will pay a higher fee for executions and will be subject to a "speed bump", which is a randomized delay imposed by Aequitas Neo Exchange before the order is entered into the Neo Book™. The duration of the delay will be determined by Aequitas Neo Exchange and be published by Notice to Members, and is initially set at a randomized duration of between 3 to 9 milliseconds. The objective of the disincentives applied to LST Take Orders is to create a level playing field between those who rely on speed and leverage rebates in other marketplaces.

In its original proposal in the RFC, Aequitas sought to counter certain trading strategies by prohibiting orders of "high frequency traders" (HFT) from taking liquidity in the proposed "Hybrid Book". This approach was based on prohibiting access. Aequitas has since agreed that it could also achieve its objectives by applying meaningful disincentives to orders from trader ids which have speed advantages in the Neo Book™ while, at the same time, subjecting the Neo Book™ to OPR because it will be a protected market. This current approach does not rely on prohibiting access to any group of market participants.

The two disincentives that were considered by Aequitas Neo Exchange and which can effectively deter those trading strategies are: (i) uneconomic transaction fees applied to the targeted trading strategies; and/or (ii) suppression of the speed advantage (speed bump) when executing those strategies. Uneconomic transaction fees discourage HFT strategies that are based on executing numerous transactions for small profits. Likewise, a speed bump allows liquidity providers to react before an HFT strategy overruns them. These two disincentives will level the playing field and provide protection for long term investors.

In order for a fee disincentive by itself to be effective in deterring the targeted HFT strategies and rebalancing speed advantages, Aequitas Neo Exchange concluded that the active fee for these orders should be at or close to a trading increment. However, due to concerns regarding the precedent this would set for fees in Canadian markets, Aequitas Neo Exchange decided to explore implementing a speed bump to achieve its objectives.

In order for a speed bump disincentive to be effective by itself and allow liquidity providers to react before an HFT or other speed based strategy overruns them, Aequitas Neo Exchange concluded the delay should be approximately 5 seconds based on the estimated time for a manual human response to new information in the market.

In order to avoid unintended consequences resulting from such a delay, Aequitas Neo Exchange proposes combining a "35 mils per share" take fee (tiered fee) and a random 3-9 milliseconds "speed bump" for active LST orders in its Neo Book™. This particular combination of parameters was chosen for the following reasons:

- Take Fee: 35 mils per share is currently the highest active fee applied in the Canadian market (this will be adjusted when the highest active fee, and related passive rebate, in the market is changed);
- Speed Bump Non co-located investors with automated trading strategies require around 5 milliseconds more to react to a market event than co-located HFTs with a speed advantage, based on the following considerations:

- the time it takes a custom trading system to process market events and generate orders compared to the automated tools that exist within off-the-shelf commercial execution management systems commonly used by investors;

- the time it takes for data to travel to and from a non-co-located data center in comparison to the time it takes within a co-located data center (considering the current layout of established data centers in the Toronto region);

- the time it takes a functionally rich order management system, as used by a broker / dealer, to process client orders in comparison to the time it takes a proprietary trading firm to interact with the market without having to go through an intermediary.

In conclusion, the Neo Book™ solution, in contrast to the "Hybrid Book" proposal originally described in the RFC, does not prohibit access for any liquidity takers and does not raise any Fair Access concerns. The proposed solution merely imposes a disincentive on certain order flow seeking to access the Neo Book™. There are many examples of marketplaces using fees and technology services to provide incentives for certain order flow which provide precedent for the fact that differentiated treatment can be consistent with the basic principle of Fair Access in lit markets.

In addition, the Neo Book™ solution will be a lit book subject to OPR, will set the NBBO, and will display all price levels. In contrast to the Hybrid Book proposal described in the RFC, the Neo Book™ will not raise any Dark Rule concerns.

The proposed Neo Book solution re-establishes a level playing field between market participants benefitting or not from a speed advantage.

(v) The Crossing Book – Part IX of the Trading Policies

The Crossing Book is described in Part IX of the Trading Policies. The following is a summary description of selected features of the Crossing Book.

Sessions

The Crossing Book will be available to enter intentional crosses and print trades. Marketplace participants will be able to enter Bypass, National and Non-Aequitas Crosses.

The Crossing Book fee model is a single fee (or rebate) by transactions reported.

Access considerations

Anyone will be able to enter crosses in the Crossing Book.

e. Designated Market Making Program – Part X of the Trading Policies

The Aequitas Neo Exchange market structure includes a robust market making program for both Listed Securities and Other Traded Securities. Aequitas Neo Exchange requires that a DMM be a Member of the Aequitas Neo Exchange and an IIROC dealer-member. The specific obligations and benefits applicable to each book are set out under the sections describing the Trading Books. This section describes the mechanics of how the program works and includes a summary of what is applicable in each of the Trading Books.

The Aequitas Neo Exchange market making program is designed to revive the role of the traditional market maker in the Canadian equity markets, leveraging technology and market structure innovation. The program fosters the provision of true liquidity and quality price discovery by striking the right balance between the market makers obligations and benefits.

A DMM must trade for its own account in a sufficient degree to assist in the maintenance of a fair and orderly market and achieve reasonable price continuity and liquidity for its Assigned Securities in each of the Lit Book, Neo Book™ and Dark Book.

The DMM also has the following obligations for its Assigned Securities:

- two-sided quoting requirements, size and spread percentage requirements, NBBO presence requirements and a quoting range requirement (Lit Book and Neo Book™);

- facilitating the opening, delayed opening, and resumption of trading following a trading halt, as specified in the Trading Policies (Lit Book); and

- acting as the Odd Lot dealer to auto-execute Odd Lots (Lit Book).

For Listed Securities, DMMs are also provided with the Market Maker Commitment (MMC) feature in the Lit Book and the Neo Book™, which is the DMM's non-visible commitment to trade a specified number of shares at specified price points in reaction to incoming contra side orders. The Market Maker Commitment is modeled after the NYSE "Capital Commitment Schedule"[26] available to NYSE market makers.

The MMC is a mechanism where DMM's, for their Assigned Securities, can specify non-visible volume at different price levels in each of the Lit Book and Neo Book™, respectively. The MMC primarily comes into play in the event there is an incoming active order that would trade through multiple price levels. The system will calculate the completion price of such an order taking into account the visible and non-visible volume (excluding MMC) that exists in the book. MMC volume will participate in the execution at a price level which is better than the completion price and for which there is the most MMC volume. For each incoming active order, MMC may only participate once (at one price level), and the MMC only participates if it provides price improvement.[27]

The main benefits of the Market Maker Commitment function can be summarized as follows:

- it allows DMMs to provide additional liquidity in support of a security;
- it allows for the management of major price swings, in combination with the application of static price bands, like the ones evident during the Flash Crash in 2010;
- it allows the DMM to dampen a price decline or increase; and
- it provides price improvement for the incoming order.

The obligation to maintain fair and orderly markets has an impact on the Lit Book, Neo Book™ and Dark Book. No specific obligations are imposed on DMMs in the Dark Book since quoting obligations must be visible to benefit price discovery, which runs contrary to the purpose of a "dark book". Furthermore, trading in the Dark Book cannot take place outside of the NBBO, which acts as the true goal posts for this Trading Book, and which the DMM helps to set through the other Trading Books.

See the descriptions in the sections above for additional details regarding DMM obligations in each of the Trading Books.

For securities of responsibility, execution allocations through the Market Maker Volume Allocation would be the primary incentive offered to DMMs. The Market Maker Volume Allocation at a given price level exists in parallel with the execution priorities as defined in each Trading Book, and has been designed to give the DMM a priority while at the same time addressing concerns raised during the RFC regarding the DMM priority "crowding out the quote", and minimizing the number of fills to fulfill the incoming order. Aequitas Neo Exchange believes that granting priority in the Trading Books will be a valued functional benefit for DMMs, and, importantly, one that does not rely on a financial subsidy based on make-take fees.

DMMs may also be eligible to participate in the performance bonus pool (which utilizes similar concepts to the BATS Competitive Liquidity Provider Program) and in addition, for Listed Securities, the issuer support program (modeled after the NASDAQ Market Quality Program and NYSE Arca ETP Incentive Program).

- For the performance bonus pool, Aequitas Neo Exchange will contribute an amount monthly to a performance bonus pool, to be divided between all eligible DMMs. To be eligible for a performance bonus, DMMs must meet or exceed their obligations in all of its Assigned Securities for the month across all Trading Books.
- For the issuer support program, Listed Issuers may make payments to reward its DMM for meeting the obligations set by Aequitas Neo Exchange for the Assigned Security. The payments will be made to Aequitas Neo Exchange, which will be responsible for monitoring and confirming that the DMM has met or exceeded its obligations prior to awarding the payment.

To assist the DMM in meeting its quoting obligations, the DMM may use the "Market Maker Quote", which is a Limit Order only available to DMMs allowing a one or two sided National Best order with an optional peg offset (of one or more minimum trading increments) outside the NBBO that can be applied to either side of the order. In addition, the DMM will be able to submit

[26] http://nyserules.nyse.com/nyse/rules/nyse-rules/chp_1_13/default.asp

[27] MMC may also be available where an active order would be fully filled at or within the NBBO (in which case the MMC volume will participate at or within the NBBO) or where an active order would not be fully filled and the balance would be cancelled or booked (in which case the MMC volume will participate at the worst price before the balance of the order is cancelled or booked). See Section 10.03 of the Trading Policies.

batched orders to allow the DMM to manage obligations against a number of securities. This gives them greater efficiency to manage obligations, adjust risk positions and ensure they are conducting fair and orderly markets.

The benefits and the obligations are properly balanced to provide the appropriate incentives for the market makers to commit capital and resources to this program.

f. Order Protection Rule (OPR) Compliance – Part XI of the Trading Policies

In the Lit Book, an order must be designated DAO, Protect and Cancel or Protect and Reprice; Aequitas Neo Exchange will not re-route orders to other marketplaces.

For the Neo Book™, a Liquidity Providing Order (i.e. passive orders) must be designated as DAO, Protect and Cancel or Protect and Reprice; Aequitas Neo Exchange will not re-route orders to other marketplaces.

Active orders in the Neo Book™ (i.e. LST Take Orders and Neo Take Orders™) must be designated DAO or Protect and Cancel; Aequitas Neo Exchange will not re-route orders to other marketplaces. LST Take Orders whether or not marked DAO will be checked for OPR compliance after the speed bump is applied, and will be rejected if there is a better priced order on another protected marketplace.

2. Data

The Aequitas Neo Exchange will be a data contributor to the TSX Inc. Information Processor. In addition, the Aequitas Neo Exchange has multiple arrangements for the distribution of pre-trade and post-trade information and this information will available to all Members on an equitable basis.

3. Listing

The Aequitas Neo Exchange's approach to listing is based on the following principles:

- clear, objective standards that provide consistent and efficient decision making;
- initial listing standards that are equivalent to or more onerous than current Canadian senior listing standards;
- separate listing standards for general (corporate) issuers, closed-end funds, exchange-traded funds and other exchange traded products to acknowledge the different nature and needs of the various types of issuers;
- advance notice requirements of material transactions or where there is significant related person participation to provide Aequitas Neo Exchange with the opportunity to confirm compliance with Aequitas Neo Exchange requirements and review for public interest (market integrity) concerns, Aequitas Neo Exchange approval of transactions is required only in limited circumstances; and
- enhanced corporate governance requirements generally, and shareholder approval requirements for threshold transactions or where there is significant related person participation.

Issuers that meet the criteria set out in the Listing Manual can apply to Aequitas Neo Exchange to qualify their securities for listing, and must thereafter comply with the requirements set out in the Listing Manual. The Listing Manual also sets out various powers to monitor compliance of Listed Issuers, and to discipline, suspend or delist Listed Issuers in circumstances of non-compliance. The topics covered in the Listing Manual are:

- Part I – Definitions, Interpretation and General Discretion
- Part II – Original Listing Requirements
- Part III – Continuous Listing Requirements
- Part IV – Ongoing Requirements and Posting Requirements
- Part V – Timely Disclosure
- Part VI – Dividends and Other Distributions
- Part VII – Corporate Finance and Capital Structure Changes

- Part VIII – Significant Transactions
- Part IX – Reverse Takeover Transactions
- Part X – Corporate Governance and Security Holder Approval
- Part XI – Suspensions, Delisting and Other Remedial Actions
- Part XII – Appeals

A copy of the Listing Manual has been filed with this Application.

a. Original Listing Standards – Part II of the Listing Manual

For general (corporate) issuers, the initial listing standards are as follows: Equity Standard, Net Income Standard and the Market Value Standard. The initial listing requirements for general (corporate) issuers are summarized below:

Requirement	Equity Standard	Net Income Standard	Market Value Standard
Shareholders' Equity	$5 million	$4 million	$5 million
Market Value of Public Float	$15 million	$5 million	$15 million
Net Income	-	$750,000	–
Market Value of Listed Securities	–	–	$50 million*
Operating History	2 years	-	–
Minimum Price	$2 per share	$2 per share	$2 per share
Public Float	1 million	1 million	1 million
Shareholders - Public, Board Lot	300	300	300
Analyst / Investor Relations Req.	Yes	Yes	Yes

* must meet the market value requirement for 90 consecutive trading days.

In addition, an investment issuer (an issuer that does not have an operating business) may qualify for listing where the issuer is not an "investment fund" within the meaning of the Act, provided it has adopted an investment policy and satisfies the listing criteria for general (corporate) issuers (provided that the issuer is not required to satisfy the 2 year operating history requirement, if applying under the Equity Standard, nor the analyst coverage / investor relations requirement).

The initial listing requirements for closed-end funds, exchange traded funds, other exchange-traded products and other exchange-traded products that have debt-like characteristics, are summarized below:

Criteria	Closed-End Fund	Exchange-Traded Fund	Other Exchange-Traded Product	Other Exchange-Traded Product - Debt
Distribution	1 million securities and 300 board lot holders	100,000 securities	1 million securities and 300 board lot holders (unless exemption appropriate)	1 million securities and 300 board lot holders (unless exemption appropriate)
Value	NAV of $20 million	NAV or $2 million, or NAV of $1 million and part of family having a NAV of $10 million	$4 million (unless exemption appropriate)	$4 million (unless exemption appropriate)
Size and nature of issuer	-	-	Listed company (or affiliate), or trust company, asset manager or financial institution with substantial capital, surplus and experience, and Assets in excess of $100 million	Listed company (or affiliate), or trust company, asset manager or financial institution with substantial capital, surplus and experience, and Assets in excess of $100 million, and Minimum tangible net worth in excess of $100 million
Net Asset Value (NAV) calculation and dissemination	Daily	Daily	Daily (where appropriate for the product)	Daily (where appropriate for the product)
Intra-Day Indicative Value calculation	-	Continuous	Continuous (for the product or the underlying, where appropriate for the product)	Continuous (for the product or the underlying, where appropriate for the product)
Underlying asset criteria	No specific requirement. Characteristics of underlying generally considered as part of suitability assessment.	No specific requirement. Characteristics of underlying generally considered as part of suitability assessment.	No specific requirement. Characteristics of underlying generally considered as part of suitability assessment.	No specific requirement. Characteristics of underlying generally considered as part of suitability assessment.
Term	–	–	–	Maximum of thirty years

b. Corporate Governance and Shareholder Approval

Aequitas Neo Exchange supports strong corporate governance and shareholder approval requirements as a substitute for the exchange's discretionary merit review of corporate transactions. This reduces the uncertainty regarding results and time associated with discretionary reviews.

For general corporate issuers there must be at least one-third unrelated directors, annual individual election, and a majority voting requirement. The Audit Committees must be constituted consistent with NI 52-110. In addition, the Compensation and Nominating and Corporate Governance Committees must have a majority of unrelated directors.

Security holder approval is required for specified securities offerings and acquisitions. In addition there must be security holder approval of adoption and material amendment of security based compensation arrangements and shareholder rights plans.

c. Listed Issuers will be treated as "non-venture issuers"

All issuers listing on the Aequitas Neo Exchange are required to comply with securities laws applicable to "non-venture issuers".

D. Rules and Rulemaking

Rules and Rulemaking Criteria

The Aequitas Neo Exchange must have rules, policies, and other similar instruments that are designed to (i) appropriately govern and regulate the operations and activities of participants and issuers, (ii) ensure a fair and orderly market, and (iii) provide a framework for disciplinary and enforcement actions.

The Aequitas Neo Exchange has established, or will establish, rules, policies and other similar instruments ("**Rules**") designed to govern the operations and activities of Members and Listed Issuers and designed to:

- Ensure compliance with securities legislation;
- Prevent fraudulent and manipulative acts and practices;
- Promote just and equitable principles of trade;
- Provide for appropriate sanctions for violations of Aequitas Neo Exchange Rules;
- Ensure a fair and orderly market; and
- Provide a framework for disciplinary and enforcement actions.

The Aequitas Neo Exchange will be executing a Regulatory Services Agreement with IIROC regarding UMIRs.

The Aequitas Neo Exchange will comply with the process for review and approval of Rules and the information contained in Form 21-101F1 and the exhibits thereto as set out in the Recognition Order.

The Regulatory Oversight Committee is responsible for reviewing and deciding, or making recommendations to the Aequitas Neo Exchange Board, on proposed regulation rules that must be submitted to the Commission under Schedule 5 of the Recognition Order, and to periodically, and at least annually, prepare a written report providing details of the Regulatory Oversight Committee's review of any regulation rules and in particular any issues or concerns that arose with respect to the rules, and provide the report to the Aequitas Neo Exchange Board promptly, and to the Commission within 30 days of providing it to the Aequitas Neo Exchange Board.

E. Due Process

Due Process Criteria

For any decision made by the Aequitas Neo Exchange that affects a participant or issuer, or an applicant to be a participant or issuer, including a decision in relation to access, listing, exemptions, or discipline, the Aequitas Neo Exchange must ensure that: (i) parties are given an opportunity to be heard or make representations, and (ii) it keeps a record of, gives reasons for and provides for appeals or reviews of its decisions.

The Aequitas Neo Exchange's requirements relating to access, listing, exemptions and discipline will be fair and reasonable. For all decisions made by the Aequitas Neo Exchange in the administration of the Trading Policies or the Listing Manual that affect a Member or Listed Issuer, the Aequitas Neo Exchange will keep a record of and provide its reasons, and the affected party will be given an opportunity to appeal to the Regulatory Oversight Committee. In addition, if the affected party wishes to appeal the decision of the Regulatory Oversight Committee, it has the right to pursue either arbitration (if applicable) or its other rights under securities law, including requesting review of the decision by the Commission.

F. Clearing and Settlement

Clearing and Settlement Criteria

The Aequitas Neo Exchange must have appropriate arrangements for the clearing and settlement of trades.

The Aequitas Neo Exchange will have appropriate arrangements for enabling the clearing and settlement of transactions, and all trades will be cleared and settled through a recognized clearing agency. The Aequitas Neo Exchange will require all Members to have appropriate clearing arrangements in place.

G. Systems and Technology

Systems and Technology, and Information Risk Management Criteria

The Aequitas Neo Exchange must have appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

The Aequitas Neo Exchange will establish appropriate risk management procedures, including those that handle trading errors, trading halts and circuit breakers. Such operational procedures will be developed in connection with the design and implementation of the Aequitas Neo Exchange's trading platform technology.

In addition the Aequitas Neo Exchange's trading platform will be implemented with full redundancy using both a primary and secondary data center. The trading platform will be available and accessible from both the primary and secondary data center. All systems and technology implemented will have fulfilled industry-specific standards and controls pertaining to development, testing, and deployment of the operational environment.

H. Financial Viability and Reporting

Financial Viability Criteria

The Aequitas Neo Exchange must have sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

Aequitas has completed two rounds of financing and intends to complete the Launch Financing concurrent with the commercial launch of the Aequitas Neo Exchange. Some or all of the funds raised by Aequitas will be used to capitalize the Aequitas Neo Exchange for the following purposes:

- implementation of the technology and human capital as determined in the Aequitas Neo Exchange business plans;
- pursuing regulatory approvals;
- Member relationship management and Member on-boarding;
- pilot testing and "go-live" rehearsal;
- commencing operations of the Aequitas Neo Exchange marketplace;
- meet current expenditures; and
- fund the capital and operating plan as determined in the Aequitas Neo Exchange business plans, up to the point of cash flow breakeven.

The Aequitas Neo Exchange will maintain sufficient financial resources for the proper performance of its functions and to meet its responsibilities. On a quarterly basis, the Aequitas Neo Exchange will provide the Commission with unaudited financial statements and a calculation of certain liquidity, debt coverage and financial leverage measures as set out in the Recognition Order.

The Aequitas Neo Exchange will file with the Commission annual audited financial statements within 90 days after the end of each financial year. In addition, the Aequitas Neo Exchange will file with the Commission its financial budget for the year,

together with underlying assumptions, as approved by the Aequitas Neo Exchange Board, within 30 days of the commencement of each financial year.

I. Fees

Fees Criteria

(*i) All fees imposed by the Aequitas Neo Exchange must be reasonable and equitably allocated and consistent with the requirements in Ontario securities laws, and (ii) the process for setting fees must be fair and appropriate, and the fee model transparent*.

All fees imposed by the Aequitas Neo Exchange will be equitably allocated and will not have the effect of creating unreasonable barriers to access. The Aequitas Neo Exchange's process for setting fees will be fair, appropriate and its fees will be fully transparent. In addition, with respect to the execution of an order, the Aequitas Neo Exchange will not impose terms that have the effect of discriminating between orders that are routed to the Aequitas Neo Exchange from other marketplaces and orders that are entered on the Aequitas Neo Exchange.

1. Trading Fees[28]

Consistent with its stated objectives, the Aequitas Neo Exchange's trading fee structure offers a viable alternative to the dominant rebate incentives and make-take pricing model, which the Aequitas Neo Exchange believes have adversely impacted market quality.

The Dark Book and Neo Book™ will each feature a take-take pricing model, where both active and passive executing orders will be charged a fee and no rebate will be available. A lower fee will be charged for lower priced securities. In addition, in the Neo Book™, LST Take Orders will be charged a higher fee than other active orders in the Neo Book™.

The Lit Book will have a make-take model. The Aequitas Neo Exchange intends to benchmark the "take" fees generally to the "higher take" fees in other Canadian marketplaces. A lower fee will be charged for lower priced securities. The Aequitas Neo Exchange's commitment is to lower its fees in tandem with any reduction in take fees in Canada.

Aequitas believes that the combination of the take-take fee model in the Dark Book and the Neo Book™, with the make-take fee model in the Lit Book, will optimize the alignment of interest between broker/dealers and their clients. Furthermore, Aequitas also believes that the make-take model in the Lit Book will not incentivize predatory behaviors by market participants with a speed advantage because of the execution priorities in this book.

In addition to trading fees, the Aequitas Neo Exchange will also charge a fee upon the application of a firm to become a Member.

The specific amount of the trading and other fees will be determined by the Aequitas Neo Exchange at a later date and will be set out in a schedule attached to the Member Agreement.

The Aequitas Neo Exchange's approach to trading fees is an integral part of its overall marketplace solution. The Aequitas Neo Exchange believes that by providing its alternative marketplace solution, along with its commitment to lower fees, it will place pressure on the make-take fee model to evolve to a different fee model for all marketplaces in Canada.

2. Data Fees

Members and other third parties may purchase from the Aequitas Neo Exchange any of a variety of data products for internal consumption or redistribution by entering into a data agreement ("**Data Agreement**") with Aequitas Neo Exchange, or an agreement with an approved data distributor.

The fees charged for data vary depending on the type of data feed subscribed for and the intended use of such feed. The amount of data fees will be determined by the Aequitas Neo Exchange at a later date and will be set out set out in the Data Order Form attached to the Data Agreement.

A copy of the Data Agreement has been filed with this Application.

[28] Although the trading fees relevant to each book have been described above, we are restating the fee structure here to provide an overall view.

3. Listing Fees

The Aequitas Neo Exchange will charge initial and ongoing listing fees. The amount of listing fees will be determined by the Aequitas Neo Exchange at a later date and will be set out set out in the Aequitas Neo Exchange Listing Agreement. It is the intent of the Aequitas Neo Exchange to pursue a fee approach which is consistent with its strategy for trading and data fees: competitive fees providing stakeholders with choice.

2. Information Sharing and Regulatory Cooperation

Information Sharing and Regulatory Cooperation

The Aequitas Neo Exchange must have mechanisms in place to enable it to share information and otherwise cooperate with the Commission, recognized self-regulatory organizations, other recognized or exempt exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

The Aequitas Neo Exchange will have mechanisms in place to ensure that it is able to cooperate, by sharing information or otherwise, with the Commission, recognized self-regulatory organizations, other recognized or exempt exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies. As part of its operational procedures, the Aequitas Neo Exchange will establish requirements so that information is available in easily accessible formats and locations.

IV. Conclusion

The Aequitas Neo Exchange respectfully submits that, subject to the terms and conditions imposed by the Commission, that the Aequitas Neo Exchange meets the criteria for recognition so that recognition will not be contrary to the public interest.

Sincerely,

"*Jos Schmitt*"

Jos Schmitt
Chief Executive Officer,
Aequitas Neo Exchange Inc.

Cc: Cindy Petlock
Head of Legal, Regulatory and Compliance
Aequitas Neo Exchange Inc.

Randee Pavalow
Chief of Issuer Products
Aequitas Neo Exchange Inc.

Nicholas Dobbek
Legal Counsel
Aequitas Neo Exchange Inc.

APPENDIX A

Previous Commission Request for Comment and other Public Consultation Initiatives

As part of its feasibility analysis, Aequitas engaged in extensive consultation with the Commission to review key aspects of the proposed Aequitas Neo Exchange marketplace solution. On August 13, 2013, Commission Staff published for comment a description of the Aequitas Neo Exchange proposal's key features entitled "Notice and Request for Comments Regarding Proposed Structure of Trading Facilities for a New Exchange Proposed to be Established by Aequitas Innovations Inc." (the "**RFC**"). The RFC requested comments on the following aspects of the Aequitas Neo Exchange proposal:

1. Segmentation of order flow in the context of the principles underlying OPR
2. Segmentation of order flow in the context of the principles underlying fair access
3. Market maker priority
4. DEA clients as market makers
5. Potential impact of Hybrid on market quality and market integrity
6. Hybrid as a visible market

The RFC resulted in 39 comment letters from members of the investment community, including dealer representatives, buy-side representatives, an issuer representative and other market participants. The RFC and all comment letters are available on the OSC website.[29]

In addition to, and in parallel with, the RFC, Aequitas attempted to encourage dialogue and determine current investor sentiment regarding: (i) issues in today's public equity markets, (ii) the Aequitas Neo Exchange proposal, and (iii) technical issues raised in the RFC. Its efforts included an electronic questionnaire, which was available on its web site (the "**Questionnaire**"), and hiring an independent research firm to conduct an Investment Advisor survey to gauge retail sentiment ("**Survey**"). Aequitas also made a tool available online for market participants to generally show their support for Aequitas and for choice and competition in the exchange landscape (the "**Letters of Support**").

Following the close of the comment period, Aequitas prepared a summary of the responses to the RFC, Questionnaire, Survey and Letters of Support, and expressed its views on the relevant issues highlighted by the process (the "**Aequitas Neo Exchange Summary of Comments**"). A copy of the Aequitas Neo Exchange Summary of Comments has previously been submitted to the Commission.

As set out in the Aequitas Neo Exchange Summary of Comments, it is the view of Aequitas Neo Exchange and Aequitas that the various responses to the RFC, and the parallel comment process undertaken by Aequitas, demonstrate clear support for many aspects of the Aequitas Neo Exchange proposal, including:

- for innovative solutions that address market quality issues and provide choice;
- that the Aequitas Neo Exchange and Aequitas have identified the correct issues facing the capital markets, and that the general market micro-structure which focuses on the needs of speed-driven intermediation is, at least part of, the cause of investor confidence issues;
- for the view that requiring equal treatment of all flow is no longer appropriate, and that fair access should be examined in the context of specific facts, such as addressing market quality concerns.

The Aequitas Neo Exchange has taken into account and revised its proposal in response to some of the comments received and related dialogue with both industry participants and the Commission, which is reflected in the Application.

[29] http://www.osc.gov.on.ca/en/Marketplaces_pending-applications_index.htm

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

AND

IN THE MATTER OF
AEQUITAS INNOVATIONS INC. AND AEQUITAS NEO EXCHANGE INC.

AND

IN THE MATTER OF
BCE INC.,
BARCLAYS CORPORATION LIMITED,
BRILLIANT ORANGE HOLDINGS LTD.,
CI INVESTMENTS INC.,
IGM FINANCIAL INC.,
ITG CANADA CORP.,
OMERS OCM INVESTMENTS II INC.,
PSP PUBLIC MARKETS INC.
AND RBC DOMINION SECURITIES INC.

ORDER
(Sections 21 and 144 of the Act)

WHEREAS Aequitas Innovations Inc. (Aequitas) and Aequitas Neo Exchange Inc. (Aequitas Neo Exchange) (the Applicants) have filed an application requesting recognition of Aequitas and Aequitas Neo Exchange as an exchange pursuant to section 21 of the Act (Application);

AND WHEREAS at the time of granting this order, Aequitas is the sole shareholder of the Exchange and BCE Inc., Barclays Corporation Limited, Brilliant Orange Holdings Ltd., CI Investments Inc., IGM Financial Inc., ITG Canada Corp., OMERS OCM Investments II Inc., PSP Public Markets Inc. and RBC Dominion Securities Inc. are each shareholders in Aequitas;

AND WHEREAS near the time of the launch of Aequitas Neo Exchange, Aequitas will conduct a financing whereby additional voting shares will be issued to buy-side and other non-dealer firms and sell-side firms;

AND WHEREAS the Commission has received certain representations and undertakings from the Applicants in connection with the Application;

AND WHEREAS the Applicants represent that Aequitas and Aequitas Neo Exchange satisfy the criteria for recognition as an exchange in Schedule 1 of this order;

AND WHEREAS the Commission has determined that the recognition of Aequitas and Aequitas Neo Exchange would not be prejudicial to the public interest;

AND WHEREAS Aequitas, Aequitas Neo Exchange and the founding shareholders (as defined in Schedule 2) have agreed to the applicable terms and conditions set out in Schedules 1 to 4 to the Order;

AND WHEREAS each of the launch shareholders that is also a significant shareholder (as defined in Schedule 2) will, upon acquisition of its shares, agree to the applicable terms and conditions set out in Schedule 4 to the Order and will execute and become a party to the Aequitas shareholders' agreement;

IT IS ORDERED that:

(a) pursuant to section 21 of the Act, Aequitas is recognized as an exchange, and

(b) pursuant to section 21 of the Act, Aequitas Neo Exchange is recognized as an exchange,

provided that the Applicants, the founding shareholders and the launch shareholders that are significant shareholders (as defined in Schedule 2) comply with the terms and conditions set out in Schedules 2, 3 and 4 to the Order, as applicable.

DATED this _____ day of _____, _____

SCHEDULE 1

CRITERIA FOR RECOGNITION

PART 1 COMPLIANCE WITH NI 21-101 AND NI 23-101

1.1 Compliance with NI 21-101 and NI 23-101

The exchange complies with the requirements set out in National Instrument 21-101 *Marketplace Operation* (NI 21-101) and in National Instrument 23-101 *Trading Rules*, each as amended from time to time, which include requirements relating to:

(a) access;

(b) marketplace operations;

(c) exchange rules, policies and other similar instruments;

(d) order and trade transparency;

(e) transparency of marketplace operations;

(f) record keeping;

(g) marketplace systems and business continuity planning;

(h) confidentiality of information;

(i) outsourcing;

(j) clearing and settlement;

(k) fair and orderly markets;

(l) the management of conflicts of interest; and

(m) filing of financial statements.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

(a) effective oversight of the exchange;

(b) that business and regulatory decisions are in keeping with the exchange's public interest mandate;

(c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

  (i) appropriate representation of independent directors, and

  (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange;

(d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest; and

(e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person.

PART 3 ACCESS

3.1 Fair Access

(a) The exchange has established appropriate written standards for access to its services including requirements to ensure participants are appropriately registered under Ontario securities laws, or exempted from these requirements.

(b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.

PART 4 REGULATION OF PARTICIPANTS AND ISSUERS ON THE EXCHANGE

4.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of participants and issuers, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 5 RULES AND RULEMAKING

5.1 Rules and Rulemaking

(a) The exchange has rules, policies, and other similar instruments (Rules) that are designed to appropriately govern and regulate the operations and activities of participants and issuers.

(b) In addition to meeting the requirements of NI 21-101 relating to market operations and exchange rules, policies and other similar instruments as referred to in paragraphs 1.1(b) and (c) of this Schedule, respectively, the Rules are also designed to

(i) ensure a fair and orderly market; and

(ii) provide a framework for disciplinary and enforcement actions.

PART 6 DUE PROCESS

6.1 Due Process

For any decision made by the exchange that affects a participant or issuer, or an applicant to be a participant or issuer, including a decision in relation to access, listing, exemptions, or discipline, the exchange ensures that:

(a) parties are given an opportunity to be heard or make representations, and

(b) it keeps a record of, gives reasons for and provides for appeals or reviews of its decisions.

PART 7 CLEARING AND SETTLEMENT

7.1 Clearing and Settlement

The exchange has appropriate arrangements for the clearing and settlement of trades.

PART 8 SYSTEMS AND TECHNOLOGY

8.1 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

PART 9 FINANCIAL VIABILITY

9.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 10 FEES

10.1 Fees

(a) All fees imposed by the exchange are reasonable and equitably allocated and are consistent with the requirements in Ontario securities laws, including those listed in paragraphs 1.1(a) and (e) of this Schedule.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 11 INFORMATION SHARING AND REGULATORY COOPERATION

11.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, recognized self-regulatory organizations, other recognized or exempt exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

SCHEDULE 2

TERMS AND CONDITIONS APPLICABLE TO AEQUITAS NEO EXCHANGE

1. DEFINITIONS AND INTERPRETATION

(a) For the purposes of this Schedule:

"accounting principles" means accounting principles as defined in National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

"Aequitas Neo Exchange dealer" means a dealer that is also a significant shareholder;

"Aequitas Neo Exchange marketplace participant" means a marketplace participant of Aequitas Neo Exchange;

"Aequitas Neo Exchange issuer" means a person or company whose securities are listed on Aequitas Neo Exchange;

"affiliated entity" has the meaning ascribed to it in section 1.3 of National Instrument 21-101 *Marketplace Operation*;

"associate" has the meaning ascribed to it in subsection 1(1) of the Act;

"Board" means the board of directors of Aequitas or Aequitas Neo Exchange, as the context requires;

"criteria for recognition" means all the criteria for recognition set out in Schedule 1 to the Order;

"dealer" means "investment dealer", as that term is defined in section 1.1 of National Instrument 31-103 *Registration Requirements*;

"founding shareholder" means each of the BCE Inc., Barclays Corporation Limited, Brilliant Orange Holdings Inc., CI Investments Inc., IGM Financial Inc., ITG Canada Corp., OMERS OCM Investments II Inc., PSP Public Markets Inc. and RBC Dominion Securities Inc.;

"IIROC" means the Investment Industry Regulatory Organization of Canada;

"launch shareholder" means a person or company that acquired any class of voting shares of Aequitas in financing completed in connection with the launch of Aequitas Neo Exchange;

"marketplace" has the meaning ascribed to it in subsection 1.(1) of the Act;

"marketplace participant" has the meaning ascribed to it in section 1.1 of NI 21-101;

"Nominating Committee" means the committee established by Aequitas Neo Exchange pursuant to section 6 of this Schedule or by Aequitas pursuant to section 27 of Schedule 3, as the context requires;

"officer" has the meaning ascribed to it in subsection 1(1) of the Act;

"Regulatory Oversight Committee" means the committee established by Aequitas Neo Exchange pursuant to section 7 of this Schedule;

"Rule" means a rule, policy, or other similar instrument of Aequitas Neo Exchange;

"shareholder" means a founding shareholder or a launch shareholder;

"significant shareholder" means a person or company that:

(i) is a founding shareholder;

(ii) is a launch shareholder whose nominee is on the Board of Aequitas or Aequitas Neo Exchange, for so long as the nominee of the launch shareholder remains on the Board of Aequitas or Aequitas Neo Exchange;

(iii) is a launch shareholder that has a partner, director or employee who is a director on the board of Aequitas or Aequitas Neo Exchange, for so long as such partner, officer, director or employee remains a member on this board; or

(iv) beneficially owns or controls, directly or indirectly, more than 5% of any class or series of voting shares of Aequitas.

"unaudited consolidated financial statements" means financial statements that are prepared in the same manner as audited consolidated financial statements, except that they are not audited; and

"unaudited non-consolidated financial statements" means financial statements that are prepared in the same manner as audited consolidated financial statements, except that

(i) they are not audited; and

(ii) investments in subsidiary entities, jointly controlled entities and associates are accounted for as specified for separate financial statements in International Accounting Standard 27 Separate Financial Statements.

(b) For the purposes of this Schedule, an individual is independent if the individual is "independent" within the meaning of section 1.4 of National Instrument 52-110 *Audit Committees*, as amended from time to time, but is not independent if the individual:

(i) is a partner, officer, director or employee of an Aequitas Neo Exchange marketplace participant or an associate of that partner, officer or employee;

(ii) is a partner, officer, director or employee of an affiliated entity of an Aequitas Neo Exchange marketplace participant who is responsible for or is actively engaged in the day-to-day operations or activities of that Aequitas Neo Exchange marketplace participant;

(iii) is an officer or an employee of Aequitas or any of its affiliates;

(iv) is a partner, officer or employee of a founding shareholder or launch shareholder of Aequitas or any of its affiliated entities or an associate of that partner, officer or employee;

(v) is a director of a founding shareholder or launch shareholder or any of its affiliated entities or an associate of that director;

(vi) is a person who owns or controls, or is the officer or employee of a person or company that owns or controls, directly or indirectly, more than 5% of the shares of Aequitas;

(vii) is the director of a person or company that beneficially owns or controls, directly or indirectly, more than 5% of any class or series of voting shares of Aequitas;

(viii) is a director that was nominated, and as a result appointed or elected, by a founding shareholder or launch shareholder; or

(ix) has, or has had, any relationship with a founding shareholder or a launch shareholder or a person or company that owns or controls, directly or indirectly, more than 5% of the shares of Aequitas, that could, in the view of the Nomination Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgment as a director of Aequitas or Aequitas Neo Exchange.

(c) For the purposes of paragraph (b), the Nominating Committee may waive the restrictions set out in subparagraphs (b)(v), (b)(vii) and (viii) provided that:

(i) the individual being considered does not have, and has not had, any relationship with a shareholder that could, in the view of the Nominating Committee, having regard to all relevant circumstances, be reasonably perceived to interfere with the exercise of his or her independent judgement as a director of Aequitas Neo Exchange;

(ii) Aequitas Neo Exchange publicly discloses the use of the waiver with reasons why the particular candidate was selected;

(iii) Aequitas Neo Exchange provides advance notice to the Commission, at least 15 business days before the public disclosure in sub-paragraph (c)(ii) is made, and

(iv) the Commission does not object within 15 business days of its receipt of the notice provided under sub-paragraph (c)(iii) above.

2. PUBLIC INTEREST RESPONSIBILITIES

(a) Aequitas Neo Exchange shall conduct its business and operations in a manner that is consistent with the public interest.

(b) The mandate of the board of Aequitas Neo Exchange shall expressly include regulatory and public interest responsibilities of Aequitas Neo Exchange.

3. SHARE OWNERSHIP RESTRICTIONS

(a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert shall beneficially own or exercise control or direction over:

(i) more than 10% of any class or series of voting shares of Aequitas Neo Exchange, and

(ii) more than 50% of any class or series of voting shares of Aequitas Neo Exchange.

(b) The articles of Aequitas Neo Exchange shall contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

4. RECOGNITION CRITERIA

Aequitas Neo Exchange shall continue to meet the criteria for recognition set out in Schedule 1 to the Order.

5. BOARD OF DIRECTORS

(a) Aequitas Neo Exchange shall ensure that at least 50% of its Board members are independent.

(b) The chair of the Board shall be independent.

(c) In the event that Aequitas Neo Exchange fails to meet the requirements of paragraphs (a) or (b) of this section, it shall immediately advise the Commission and take appropriate measures to promptly remedy such failure.

(d) Aequitas Neo Exchange shall ensure that its Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, with at least 50% being independent.

6. NOMINATING COMMITTEE

Aequitas Neo Exchange shall maintain a Nominating Committee of the Board that, at a minimum:

(a) is made up of at least three directors, at least 50% of which shall be independent;

(b) confirms the status of a nominee to the Board as independent before the name of the individual is submitted to shareholders of Aequitas Neo Exchange as a nominee for election to the Board;

(c) confirms, on an annual basis, that the status of the directors that are independent has not changed;

(d) assesses and approves all nominees of management to the Board; and

(e) has a requirement that the quorum consist of at least 50% of independent directors.

7. REGULATORY OVERSIGHT COMMITTEE

(a) Aequitas Neo Exchange shall establish and maintain a Regulatory Oversight Committee that, at a minimum:

(i) is made up of at least three directors, a majority of which shall be independent;

(ii) reviews and decides, or makes recommendations to the Board, on proposed regulation and rules that must be submitted to the OSC for review and approval under Schedule 5 *Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto* of this Order;

(iii) considers real or perceived conflicts of interest that may arise, including but not limited to the following contexts:

(A) ownership interests in Aequitas by any Aequitas Neo Exchange marketplace participant with representation on the Board of Aequitas or the Board of Aequitas Neo Exchange,

(B) increased concentration of ownership of Aequitas, and

(C) the profit-making objective and the public interest responsibilities of Aequitas Neo Exchange, including general oversight of the management of the regulatory and public interest responsibilities of Aequitas Neo Exchange.

(iv) oversees the establishment of mechanisms to avoid and appropriately managed conflicts of interest or potential conflicts of interest, perceived or real, including any policies and procedures that are developed by Aequitas Neo Exchange, including those that are required to be established pursuant to the Schedules of the Order;

(v) monitors the operation of mechanisms that deal with conflicts of interest, including oversight of reporting of issuer regulation activities and conflicts of interest by Aequitas Neo Exchange;

(vi) reviews regularly, and at least annually, the effectiveness of the policies and procedures regarding conflicts of interest;

(vii) annually prepares a written report examining the avoidance and management of conflicts of interest, the mechanisms used and the effectiveness of those mechanisms and provides the report to the Board promptly, and to the Commission within 30 days of providing it to its Board;

(viii) reports in writing directly to the Commission on any matter that the Regulatory Oversight Committee deems appropriate or that is required by the Commission without first requiring Board approval for such reporting.

(b) The mandate of the Regulatory Oversight Committee shall be publicly available on the website of Aequitas Neo Exchange.

(c) The Regulatory Oversight Committee shall provide to the Commission meeting materials provided to the Regulatory Oversight Committee members in conjunction with each meeting, within 30 days after any meeting it held, and will include a list of the matters considered and a detailed summary of the Regulatory Oversight Committee's considerations, how those matters were addressed and any other information required by the Commission.

(d) The Regulatory Oversight Committee shall provide such information as may be required by the Commission from time to time.

8. CONFLICTS OF INTEREST AND CONFIDENTIALITY

(a) Aequitas Neo Exchange shall establish, maintain and require compliance with policies and procedures that:

(i) identify and manage any conflicts of interest or potential conflicts of interest, real or perceived, arising from the operation of the marketplace or the services it provides including, but not limited to, the following:

(A) conflicts of interest or potential conflicts of interest that arise from the involvement of any partner, director, officer or employee of a significant shareholder in the management or oversight of the exchange operations or regulation functions of Aequitas Neo Exchange and the services or products it provides;

(B) conflicts of interest or potential conflicts of interest that arise from any interactions between Aequitas Neo Exchange and a significant shareholder where Aequitas Neo Exchange may be exercising discretion that involves or affects the significant shareholder either directly or indirectly, and

(C) conflicts of interest or potential conflicts of interest that arise between the regulation functions and the business activities of Aequitas Neo Exchange, particularly with respect to conflicts of interest or

potential conflicts of interest that arise between the Aequitas Neo Exchange issuer regulation functions and the business activities of Aequitas Neo Exchange, and

(ii) require that confidential information regarding marketplace operations, regulation functions, an Aequitas Neo Exchange marketplace participant or an Aequitas Neo Exchange issuer that is obtained by a partner, director, officer or employee of a significant shareholder through that individual's involvement in the management or oversight of marketplace operations or regulation functions of Aequitas Neo Exchange:

(A) be kept separate and confidential from the business or other operations of the significant shareholder, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to the significant shareholder or its affiliated entities.

(b) Aequitas Neo Exchange shall establish, maintain and require compliance with policies and procedures that identify and manage conflicts of interest or potential conflicts of interest arising from the listing of the shares of any significant shareholder or an affiliate of a significant shareholder on Aequitas Neo Exchange.

(c) Aequitas Neo Exchange shall require each shareholder that is a dealer and each affiliate of shareholder that is a dealer to disclose its relationship to Aequitas Neo Exchange to:

(i) clients whose orders might be, and clients whose orders have been, routed to Aequitas Neo Exchange; and

(ii) entities for which the dealer is acting or proposing to act as underwriter in connection with the issuance of securities to be listed on Aequitas Neo Exchange.

(d) Aequitas Neo Exchange shall regularly review compliance with the policies and procedures established in accordance with paragraphs 8(a), (b) and (c), and shall document each review, and any deficiencies, and how those deficiencies were remedied. A report detailing review(s) conducted shall be provided to the Commission on an annual basis.

(e) The policies established in accordance with paragraphs 8(a), (b) and (c) shall be made publicly available on the website of Aequitas Neo Exchange.

9. ACCESS

Aequitas Neo Exchange's requirements shall provide access to the facilities of Aequitas Neo Exchange only to properly registered investment dealers that are members of IIROC and satisfy reasonable access requirements established by Aequitas Neo Exchange.

10. REGULATION OF AEQUITAS NEO EXCHANGE MARKETPLACE PARTICIPANTS AND AEQUITAS NEO EXCHANGE ISSUERS

(a) Aequitas Neo Exchange shall establish, maintain and require compliance with policies and procedures that effectively monitor and enforce the Rules against Aequitas Neo Exchange marketplace participants and Aequitas Neo Exchange issuers, either directly or indirectly through a regulation services provider.

(b) Aequitas Neo Exchange has retained and shall continue to retain IIROC as a regulation services provider to provide, as agent for Aequitas Neo Exchange, certain regulation services that have been approved by the Commission. Aequitas Neo Exchange shall provide to the Commission, on an annual basis, a list outlining the regulation services performed by IIROC and the regulation functions performed by Aequitas Neo Exchange. Aequitas Neo Exchange shall obtain approval of the Commission before amending the listed services.

(c) Aequitas Neo Exchange shall perform all other regulation functions not performed by IIROC, and shall maintain adequate staffing, systems and other resources in support of those functions. Aequitas Neo Exchange shall obtain prior Commission approval before outsourcing such regulation functions to any party, including affiliated entities or associates of Aequitas Neo Exchange.

(d) Aequitas Neo Exchange shall at least annually assess the performance by IIROC of the regulation services it provides to Aequitas Neo Exchange and self-assess the performance by Aequitas Neo Exchange of any regulation functions not performed by IIROC, and provide a written report to its Board and the Regulatory Oversight Committee, together with any recommendations for improvements. Aequitas Neo Exchange shall provide the Commission with copies of such

reports and advise the Commission of the views of its Board and the Regulatory Oversight Committee on the recommendations and any proposed actions arising therefrom within 30 days of the presentation of the report to the Board.

(e) Aequitas Neo Exchange shall notify the Commission of any violations of Ontario securities law of which it becomes aware in the ordinary course of its business or otherwise.

11. RULES, RULEMAKING AND FORM 21-101F1

Aequitas Neo Exchange shall comply with the process for review and approval of Rules and the information contained in Form 21-101F1 and the exhibits thereto, as set out in Schedule 5, as amended from time to time.

12. DUE PROCESS

(a) Aequitas Neo Exchange shall ensure that the requirements of Aequitas Neo Exchange relating to access to the trading and listing facilities of Aequitas Neo Exchange, the imposition of limitations or conditions on access, and denial of access are fair and reasonable, including in respect of notice, an opportunity to be heard or make representations, the keeping of a record, the giving of reasons and the provisions of appeals.

(b) Aequitas Neo Exchange shall, within ninety days of the effective date of recognition of Aequitas Neo Exchange as an exchange pursuant to this Order, establish written procedural requirements governing the process for appeals or review of decisions referred to in section 6.1 of the criteria for recognition and file the procedures with the Commission for approval.

(c) For greater clarity, the procedural requirements referred to in paragraph (b) shall be considered to be Rules and therefore subject to the rule review process established in accordance with Schedule 5.

13. FEES, FEE MODELS AND INCENTIVES

(a) Aequitas Neo Exchange shall not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a particular marketplace participant or any other particular person or company, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement for any service or product offered by Aequitas Neo Exchange that is conditional upon:

(A) the requirement to have Aequitas Neo Exchange be set as the default or first marketplace a marketplace participant routes to, or

(B) the router of Aequitas Neo Exchange being used as the marketplace participant's primary router;

(b) Except with the prior approval of the Commission, Aequitas Neo Exchange shall not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by Aequitas Neo Exchange that is conditional upon the purchase of any other service or product provided by Aequitas Neo Exchange or any affiliated entity, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies.

(c) Aequitas Neo Exchange shall obtain prior Commission approval before implementing any new, or amendments to, fees and fee models, including any new, or amendments to any, incentives relating to arrangements that provide for equity ownership in Aequitas for marketplace participants or their affiliated entities based on trading volumes of values on Aequitas Neo Exchange.

(d) Except with the prior approval of the Commission, Aequitas Neo Exchange shall not require another person or company to purchase or otherwise obtain products or services from Aequitas Neo Exchange or a significant shareholder as a condition of Aequitas Neo Exchange supplying or continuing to supply a product or service.

(e) If the Commission considers that it would be in the public interest, the Commission may require Aequitas Neo Exchange to submit for approval by the Commission a fee, fee model or incentive that has previously been filed with and/or approved by the Commission.

(f) Where the Commission decides not to approve the fee, fee model or incentive submitted under paragraph (e), any previous approval for the fee, fee model or incentive shall be revoked, if applicable, and Aequitas Neo Exchange shall no longer be permitted to offer the fee, fee model or incentive.

(g) Any fee, fee model or incentive, or amendment thereto, shall be filed in accordance with the Rule and Form 21-101F1 Filing Protocol attached as Schedule 5.

14. ORDER ROUTING

Aequitas Neo Exchange shall not support, encourage or incent, either through fee incentives or otherwise, Aequitas Neo Exchange marketplace participants to coordinate the routing of their orders to Aequitas Neo Exchange.

15. FINANCIAL REPORTING

(a) Within 90 days of its financial year end, Aequitas Neo Exchange shall deliver to the Commission audited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial year.

(b) Within 60 days of each quarter end, Aequitas Neo Exchange shall deliver to the Commission unaudited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial quarter.

(c) Aequitas Neo Exchange shall deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

16. FINANCIAL VIABILITY MONITORING AND REPORTING

(a) Aequitas Neo Exchange shall calculate the following financial ratios monthly:

(i) a current ratio, being the ratio of current assets to current liabilities;

(ii) a debt to cash flow ratio, being the ratio of total debt (including any line of credit draw downs, and the current and long-term portions of any loans, but excluding accounts payable, accrued expenses and other liabilities) to EBITDA (earnings before interest, taxes, stock-based compensation, depreciation and amortization) for the most recent 12 months; and

(iii) a financial leverage ratio, being the ratio of total assets to shareholders' equity,

in each case following the same accounting principles as those used for the unaudited non-consolidated financial statements of Aequitas Neo Exchange.

(b) Aequitas Neo Exchange shall report quarterly in writing to the Commission, along with the financial statements required to be delivered pursuant to this Schedule, the monthly calculations for the previous quarter of the financial ratios as required to be calculated under paragraph (a).

(c) If Aequitas Neo Exchange determines that it does not have, or anticipates that, in the next twelve months, it will not have:

(i) a current ratio of greater than or equal to 1.1/1,

(ii) a debt to cash flow ratio of less than or equal to 4.0/1, or

(iii) a financial leverage ratio of less than or equal to 4.0/1,

it will immediately notify Commission staff of the above ratio(s) that it is not maintaining, the reasons, along with an estimate of the length of time before the ratio(s) will be met.

(d) Upon receipt of a notification made by Aequitas Neo Exchange under paragraph (c), the Commission may, as determined appropriate, impose any of the terms and conditions set out in paragraph (e) below.

(e) If Aequitas Neo Exchange's current ratio, debt to cash flow ratio or financial leverage ratio falls below the levels outlined in subparagraphs 16(c)(i), 16(c)(ii) and 16(c)(iii) above for a period of more than three months, Aequitas Neo Exchange will:

(i) immediately deliver a letter advising the Commission staff of the reasons for the continued ratio deficiencies and the steps being taken to rectify the situation;

(ii) deliver to Commission staff, on a monthly basis, within 30 days of the end of each month:

(A) unaudited monthly financial statements and a status update on any pending capital raising transaction(s) including the amount, terms and name(s) of individuals/entities that have committed to providing funding and their commitment,

(B) a comparison of the monthly revenues and expenses incurred by Aequitas Neo Exchange against the projected monthly revenues and expenses included in Aequitas Neo Exchange's most recently updated budget for that fiscal year,

(C) for each revenue item whose actual amount was significantly lower than its projected amount, and for each expense item whose actual amount was significantly higher than its projected amount, the reasons for the variance, and

(D) a calculation of the current ratio, debt to cash flow ratio and financial leverage ratio for the month;

(iii) prior to making any type of payment to any director, officer, affiliated entity or shareholder that is in excess of the amount included in the most recent annual financial budget delivered to Commission staff, demonstrate to the satisfaction of the Commission staff that it will have sufficient financial resources to continue its operations after the payment; and

(iv) adhere to any additional terms and conditions imposed by the Commission or its staff, as determined appropriate,

until such time as Aequitas Neo Exchange has maintained each of its current ratio, debt to cash flow ratio and financial leverage ratio at the levels set out in subparagraphs 16(c)(i), 16(c)(ii) and 16(c)(iii) for a period of at least 6 consecutive months.

17. ADDITIONAL INFORMATION

(a) Aequitas Neo Exchange shall provide the Commission with:

(i) the information set out in Appendix A to this Schedule**,** as amended from time to time; and

(ii) any information required to be provided by Aequitas Neo Exchange to IIROC, including all order and trade information, as required by the Commission.

(b) Aequitas Neo Exchange shall comply with the reporting program set out in the *Automation Review* Program *for Market Infrastructure Entities in the Canadian Capital Markets*, as amended from time to time, and published on the Commission's website.

18. COMPLIANCE

Aequitas Neo Exchange shall carry out its activities as an exchange recognized under section 21 of the Act and in compliance with Ontario securities law.

19. GOVERNANCE REVIEW

(a) Aequitas Neo Exchange shall engage an independent consultant, or independent consultants, acceptable to the Commission to prepare a written report assessing the governance structure of Aequitas Neo Exchange (Governance Review) as follows:

(i) within one year from the completion of the financing in connection with the launch of Aequitas Neo Exchange;

(ii) within six months after Aequitas Neo Exchange meets or exceeds any of the trading thresholds referred to in subsection 6.7(1) of NI 21-101, or

(iii) at any other times required by the Commission.

(b) The written report shall be provided to the Board of Aequitas Neo Exchange promptly after the report's completion and then to the Commission within 30 days of providing it to the Boards.

(c) The scope of the Governance Review shall be approved by the Commission and shall include, at a minimum, the following:

(i) a review of the composition of the Board of Aequitas Neo Exchange, in particular whether its composition continues to meet the recognition criteria, including the requirement that there be fair, meaningful and diverse representation on the Board and any committees of the Board, including:

(A) appropriate representation of independent directors, and

(B) a proper balance among the interests of the different persons or companies using the services and facilities of Aequitas Neo Exchange;

(ii) a review of the impact of the composition requirements applicable to the Board of Aequitas Neo Exchange, including requirements imposed by all securities regulatory authorities, on their ability to meet the recognition criteria;

(iii) a review of the degree to which the governance structure of Aequitas Neo Exchange allows for appropriate input into the business and operations of Aequitas Neo Exchange by users of its services and facilities;

(iv) a review of how the Nominating Committee discharges its mandate and performs its role and functions; and

(v) a review of how the Regulatory Oversight Committee discharges its mandate and performs its role and functions, including how conflicts of interest and potential conflicts of interest are actually managed, whether they are managed effectively, if there are any identified deficiencies, what they were and how they were remedied and whether further measures are warranted.

20. PROVISION OF INFORMATION

(a) Aequitas Neo Exchange shall, and shall cause its affiliated entities, to promptly provide to the Commission, on request, any and all data, information and analyses in the custody or control of Aequitas Neo Exchange or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:

(i) data, information and analyses relating to all of its or their businesses; and

(ii) data, information and analyses of third parties in its or their custody or control.

(b) Aequitas Neo Exchange shall share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

21. COMPLIANCE WITH TERMS AND CONDITIONS

(a) Aequitas Neo Exchange shall certify in writing to the Commission, in a certificate signed by its CEO and general counsel, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:

(i) the steps taken to require compliance;

(ii) the controls in place to verify compliance;

(iii) the names and titles of employees who have oversight of compliance.

(b) If Aequitas Neo Exchange or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to the Aequitas Neo Exchange under the Schedules to the Order, such person shall, within two business days after becoming aware of the breach or possible breach, notify the Regulatory Oversight Committee of the breach or possible breach. The director, officer or employee of the recognized exchange shall provide to the Regulatory Oversight Committee details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(c) The Regulatory Oversight Committee shall, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by section 21(d).

(d) The Regulatory Oversight Committee shall promptly cause to be conducted an investigation of the breach or possible breach reported under section 21(b). Once the Regulatory Oversight Committee has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Aequitas Neo Exchange under the Schedules to the Order, the Regulatory Oversight Committee shall, within two business days of such determination, notify the Commission of its determination and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

APPENDIX A

Additional Reporting Obligations

1. Ad Hoc

(a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory obligation, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, or (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, listing agreements, data subscription agreements, etc.)

(b) Any plans by Aequitas Neo Exchange to enter into new businesses (directly or indirectly, including joint ventures) or to cease existing businesses, promptly after the Board has made the decision to implement those plans.

(c) Immediate notification of:

(i) the appointment of any new director or officer of Aequitas Neo Exchange , including a description of the individual's employment history; and

(ii) the receipt of notice of resignation from, or the resignation of, a director or officer or the auditor of Aequitas Neo Exchange , including a statement of the reasons for the resignation.

(d) Any minutes of the meetings of Board and Board committees of Aequitas Neo Exchange, promptly after their approval.

(e) Immediate notification if Aequitas Neo Exchange:

(i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;

(ii) becomes aware that it is the subject of a criminal or regulatory investigation; or

(iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.

(f) Any strategic plan for Aequitas Neo Exchange, within 30 days of approval by the Board.

(g) Any filings made by Aequitas Neo Exchange with a Canadian securities regulatory authority pursuant to a recognition order, exemption order or NI 21-101, filed concurrently.

(h) Copies of all notices, bulletins and similar forms of communication that Aequitas Neo Exchange sends to the Aequitas Neo Exchange marketplace participants or Aequitas Neo Exchange issuers.

(i) Prompt notification of any suspension or delisting of an Aequitas Neo Exchange issuer, including the reasons for the suspension or delisting.

(j) Prompt notification of any suspension or termination of a marketplace participant's status as an Aequitas Neo Exchange marketplace participant, including the reasons for the suspension or termination.

(k) Prompt notification of any original listing application received from a significant shareholder or any of its affiliates.

(l) Prompt notification of any application for exemption or waiver from requirements received from a significant shareholder or any of its affiliates.

2. Quarterly Reporting

(a) A list of the internal audit reports and risk management reports issued in the previous quarter that relate to the operations and business of Aequitas Neo Exchange, if such reports are produced.

(b) A quarterly report summarizing all exemptions or waivers granted during the period pursuant to the Rules to any Aequitas Neo Exchange marketplace participant or Aequitas Neo Exchange issuer, which shall include the following information:

(i) the name of the Aequitas Neo Exchange marketplace participant or Aequitas Neo Exchange issuer;

(ii) the type of exemption or waiver granted during the period;

(iii) the date of the exemption or waiver; and

(iv) a description of the recognized exchange's reason for the decision to grant the exemption or waiver.

(c) A quarterly report regarding original listing applications containing the following information:

(i) the name of any Aequitas Neo Exchange issuer whose original listing application was conditionally approved, the date of such approval, the type of listing, the category of listing and, if known, whether the issuer was denied an application to list its securities on another marketplace;

(ii) the name of any issuer whose original listing application was rejected and the reasons for rejection, by category of listing; and

(iii) the name of any issuer whose original listing application was withdrawn or abandoned and, if known, the reasons why the application was withdrawn or abandoned, by category of listing.

(d) The information required by section 2(c)(i) above should disclose whether the issuer is an Emerging Market Issuer, whether the listing involved an agent, underwriter or Canadian Securities Regulatory Authority, and any additional requirements imposed by Aequitas Neo Exchange pursuant to sections 2.10 and 2.11 of the Aequitas Neo Exchange Listing Manual.

(e) A quarterly report summarizing all significant incidents of non-compliance by Aequitas Neo Exchange issuers identified by Aequitas Neo Exchange during the period, together with a summary of the actions taken to address and resolve the incidents of non-compliance.

(f) Upon request, Aequitas Neo Exchange will provide to the Commission copies of any information that was provided to Aequitas and any shareholders.

3. Annual Reporting

At least annually, or more frequently if required by the Commission, an assessment of the risks, including business risks, facing Aequitas Neo Exchange and the plan for addressing such risks.

APPENDIX B

Listing Related Conditions

1. DEFINITIONS AND INTERPRETATION

1.1 For purposes of this Appendix B, "Competitor" means any person, the consolidated business and operations or the disclosed business plans of which are in competition, to a significant extent, with the listing functions, trading functions, market data services or other material lines of business of Aequitas or its affiliated entities.

1.2 For the purposes of this Appendix B, an individual is independent if the individual is independent as defined in section 1(b) of Schedule 2 to the Order.

2. UNDERLYING PRINCIPLES

2.1 Aequitas Neo Exchange shall report to the Commission certain matters provided for in this Appendix B (Listing-Related Conditions) regarding Aequitas Neo Exchange issuers that raise issues of conflict of interest or potential conflict of interest for Aequitas Neo Exchange.

2.2 The purpose of the Listing-Related Conditions is to ensure that Aequitas Neo Exchange follows appropriate standards and procedures regarding the initial and continued listing of Competitors, and that Competitors are treated fairly and not disadvantaged when listed on Aequitas Neo Exchange.

3. CONFLICTS COMMITTEE

3.1 Aequitas Neo Exchange shall establish a committee (Conflicts Committee) that shall review any matters brought before it regarding a conflict of interest or potential conflict of interest relating to the initial or continued listing of Competitors (each, a Conflicts Committee Matter) as follows:

(a) matters relating to the continued listing of a Competitor or of a listing of a different class or series of securities of a Competitor from a class or series already listed;

(b) any applications for exemptive relief or applications for approval made by a Competitor to Aequitas Neo Exchange;

(c) any other requests to Aequitas Neo Exchange made by a Competitor that require an exercise of discretion by Aequitas Neo Exchange; and

(d) any listings matter related to an Aequitas Neo Exchange issuer or a listing applicant that asserts that it is a Competitor.

3.2 Notwithstanding section 3.1, where a Competitor certifies to Aequitas Neo Exchange that information required to be disclosed to the Conflicts Committee or to Aequitas Neo Exchange in connection with an initial listing or continued listing matter of the Competitor is competitively sensitive and the disclosure of that information would, in its reasonable view, put it at a competitive disadvantage with respect to Aequitas Neo Exchange or its affiliated entities, Aequitas Neo Exchange shall refer the matter to the Commission's Director, Market Regulation requesting that the Commission's Director, Market Regulation review issues relating to the competitively sensitive information. The Conflicts Committee shall consider all other aspects of the matter in accordance with the procedures set out in section 3.8. In addition, at any time that a Competitor believes that it is not being treated fairly by Aequitas Neo Exchange as a result of the exchange being in a conflict of interest position, Aequitas Neo Exchange shall refer the matter to the Commission's Director, Market Regulation.

3.3 In any initial listing or continued listing matter of a Competitor, the Competitor may waive the application of these Listing Related Conditions by providing a written waiver to Aequitas Neo Exchange and to the Commission's Director, Market Regulation. Where a waiver is provided, Aequitas Neo Exchange shall deal with the initial listing or continued listing matter in the ordinary course, as if no Conflicts Committee Matter exists.

3.4 The Conflicts Committee shall be composed of: the general counsel or Chief Compliance Officer of the exchange (Committee Secretary), the senior officer responsible for listings for the exchange, the senior officer responsible for trading operations for the exchange, and two other persons who shall be independent of Aequitas Neo Exchange. At least one such independent member shall participate in meetings of the Conflicts Committee, in order for there to be a quorum.

3.5 Aequitas Neo Exchange shall provide instructions to relevant Aequitas Neo Exchange officers and staff so that they are able to identify a Conflicts Committee Matter that may exist or arise in the course of the performance of their functions. Without limiting the generality of the foregoing:

(a) Aequitas Neo Exchange shall maintain a list, in an electronic format, of all Competitors that are listed on Aequitas Neo Exchange. Aequitas Neo Exchange shall regularly, and in any event at least quarterly, update the list of Competitors. The Conflicts Committee shall review and approve the list of Competitors at least quarterly and, following approval, shall promptly provide the list to Aequitas Neo Exchange managers responsible for the:

(i) review of continuous disclosure;

(ii) review of requests/applications for exemptive relief;

(iii) performance of timely disclosure and monitoring functions relating to Aequitas Neo Exchange issuers; and

(iv) decision making of a discretionary nature regarding issuers listed on the exchange.

In maintaining this list, the exchange shall ensure that the relevant officers and staff responsible for listings for Aequitas Neo Exchange regularly prepare, review and update the list and promptly provide it to the Conflicts Committee and, upon request, to the Commission's Director, Market Regulation.

(b) Aequitas Neo Exchange shall provide instructions to relevant staff that any initial listing or continued listing matter or a complaint of a Competitor or of any Aequitas Neo Exchange issuer or listing applicant to the exchange that asserts that it is a Competitor shall be immediately brought to the attention of the Committee Secretary.

(c) Aequitas Neo Exchange shall provide to staff who review initial listing applications and to relevant officers and staff responsible for listings a summary of the material lines of business of Aequitas Neo Exchange and its affiliates, and shall update the list as these material lines of business change, in order that relevant officers and staff responsible for listings for the exchange may recognize a Competitor.

3.6 Unless a waiver of procedures pursuant to section 3.3 or section 4.1 has been provided to Aequitas Neo Exchange, where a Conflicts Committee Matter has been brought to the attention of the Committee Secretary, the Committee Secretary shall convene a meeting of the Conflicts Committee to be held following receipt of a substantially complete application from the Competitor, in no later than three business days.

The Committee Secretary or any member of the Conflicts Committee may also convene a meeting of the Conflicts Committee whenever he or she sees fit, in order to address any conflict issues that may not be related to any one specific matter or issuer.

3.7 Where a Conflicts Committee meeting is called in response to a Conflicts Committee Matter, Aequitas Neo Exchange shall immediately notify the Commission's Director, Market Regulation that it has received notice of a Conflicts Committee Matter. In addition to such notice, Aequitas Neo Exchange shall provide the Commission's Director, Market Regulation with: (i) a written summary of the relevant facts; and (ii) an indication of the required timing for dealing with the matter.

3.8 The Conflicts Committee shall consider the facts and form a determination regarding whether a conflict of interest exists or not, or is likely to arise or not, with respect to the Conflicts Committee Matter. The Conflicts Committee shall then proceed as follows depending on the circumstances:

(a) If the Conflicts Committee determines that a conflict of interest relating to Aequitas Neo Exchange's proposed course for dealing with the Competitor's listing on the exchange does not exist and is unlikely to arise, it shall notify the Commission's Director, Market Regulation of this determination. If the Commission's Director, Market Regulation approves such determination, the exchange shall deal with the matter in its usual course. When it has dealt with the matter, the exchange shall make a brief written record of such determination, including details of the analysis undertaken and the manner in which the matter was disposed of, and provide it to the Commission's Director, Market Regulation. If the Commission's Director, Market Regulation does not approve the determination and provides notice of such non-approval to the exchange, the exchange shall follow the procedures set out in section 3.8(b).

(b) If the Conflicts Committee determines that a conflict of interest relating to Aequitas Neo Exchange's proposed course for dealing with the Competitor's listing on the exchange does exist or is likely to arise or if the Commission's Director, Market Regulation provides the exchange with a non-approval notice pursuant to section 3.8(a), Aequitas Neo Exchange shall:

(i) formulate a written recommendation of how to deal with the matter, and

(ii) provide its recommendation to the Commission's Director, Market Regulation for his or her approval, together with a summary of the issues raised and details of any analysis undertaken.

If the Commission's Director, Market Regulation approves the recommendation, Aequitas Neo Exchange shall take steps to implement the terms of its recommendation.

3.9 Where the Commission's Director, Market Regulation has considered the Conflicts Committee Matter based on the information provided to him or her by the Conflicts Committee under section 3.8(b) and has determined that he or she does not agree with the recommendation made by Aequitas Neo Exchange, the Commission's Director, Market Regulation may:

(a) require Aequitas Neo Exchange to reformulate its recommendation; or

(b) direct Aequitas Neo Exchange to take such other action he or she considers appropriate in the circumstances.

3.10 Where the Commission's Director, Market Regulation is requested to review a matter pursuant to section 3.9 or 3.2, respectively, Aequitas Neo Exchange shall provide to the Commission's Director, Market Regulation any relevant information in its possession and, if requested by the Commission's Director, Market Regulation any other information in its possession, in order for the Commission's Director, Market Regulation to review or, if appropriate, make a determination regarding the matter, including any notes, reports or information of the exchange regarding the issue, any materials filed by the issuer or issuers involved, any precedent materials of the exchange, and any internal guidelines of the exchange. Aequitas Neo Exchange shall provide its services to assist the matter, if so requested by the Commission's Director, Market Regulation.

4. WAIVER OF PROCEDURES

Notwithstanding the provisions in section 3, the Commission's Director, Market Regulation may, in his or her discretion on a case by case basis, grant Aequitas Neo Exchange a waiver from the requirement to comply with the procedures outlined in section 3 of the Listing-Related Procedures regarding matters related to the listing of a Competitor on the exchange. Where such waiver is provided, Aequitas Neo Exchange shall deal with the matter in the ordinary course as if no Conflicts Committee Matter exists.

5. TIMELY DISCLOSURE AND MONITORING OF TRADING

Aequitas Neo Exchange shall use its best efforts to ensure that IIROC at all times is provided with the current list of the Aequitas Neo Exchange issuers that are Competitors.

6. MISCELLANEOUS

6.1 Information provided by a Competitor to the Conflicts Committee in connection with a Conflicts Committee Matter shall not be used by the exchange for any purpose other than addressing the Conflicts Committee Matter. Aequitas Neo Exchange shall not disclose any confidential information obtained under these Listing-Related Procedures to a third party other than the Commission unless:

(a) prior written consent of the other parties is obtained;

(b) it is required or authorized by law to disclose the information; or

(c) the information has come into the public domain otherwise than as a result of its breach of this clause.

6.2 Aequitas Neo Exchange shall provide disclosure on its website and in its Rules to the effect that an Aequitas Neo Exchange issuer can assert that it is a Competitor and shall outline the procedures for making such an assertion, including appeals procedures.

SCHEDULE 3

TERMS AND CONDITIONS APPLICABLE TO AEQUITAS

22. DEFINITIONS AND INTERPRETATION

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2. In addition:

23. PUBLIC INTEREST RESPONSIBILITIES

(a) Aequitas shall conduct its business and operations in a manner that is consistent with the public interest.

(b) The mandate of the board of Aequitas shall expressly include Aequitas's regulatory and public interest responsibilities.

24. SHARE OWNERSHIP RESTRICTIONS

(a) Without the prior approval of the Commission, and subject to terms and conditions considered appropriate by the Commission, no person or company and no combination of persons or companies acting jointly or in concert shall beneficially own or exercise control or direction over:

(i) more than 10% of any class or series of voting shares of Aequitas, and

(ii) more than 50% of any class or series of voting shares of Aequitas.

(b) The articles of Aequitas shall contain the share ownership restrictions and provisions respecting the enforcement of such restrictions which, without limiting the foregoing, may provide for the filing of declarations, the suspension of voting rights, the forfeiture of dividends, the refusal of the issue or registration of voting shares and the sale or redemption of voting shares held contrary to the restrictions and payment of net proceeds of the sale or redemption to the person entitled thereto.

25. RECOGNITION CRITERIA

Aequitas shall continue to meet the criteria for recognition set out in Schedule 1 to the Order.

26. BOARD OF DIRECTORS

(a) Aequitas shall ensure that at least one third of its Board members are independent.

(b) In the event that Aequitas fails to meet the requirements of paragraph (a) of this section, it shall immediately advise the Commission and take appropriate measures to remedy such failure.

(c) Aequitas shall ensure that the Board is subject to requirements that the quorum for the Board consists of a majority of the Board members, with at least three directors being independent.

27. NOMINATING AND GOVERNANCE COMMITTEE

Aequitas shall maintain a Nominating Committee that, at a minimum:

(a) is made up of at least three directors, at least 50% of which shall be independent;

(b) confirms the status of a nominee to the Board as independent before the name of the individual is submitted to shareholders as a nominee for election to the Board;

(c) confirms, on an annual basis, that the status of the directors that are independent has not changed;

(d) assesses and approves all nominees of management to the Board; and

(e) has a requirement that the quorum consist of at least 50% of independent directors.

28. CONFLICTS AND CONFIDENTIALITY PROCEDURES

(a) Aequitas shall establish, maintain and require compliance with policies and procedures that:

(i) identify and manage any conflicts of interest or potential conflicts of interest, perceived or real, arising from its ownership interest in Aequitas Neo Exchange, and

(ii) require that confidential information regarding marketplace operations, regulation functions, an Aequitas Neo Exchange marketplace participant or an Aequitas Neo Exchange issuer that is obtained by a partner, director, officer or employee of a significant shareholder through that individual's involvement in the management or oversight of the marketplace operations or regulation functions of Aequitas Neo Exchange:

(A) be kept separate and confidential from the business or other operations of the significant shareholder, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of marketplace operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to the significant shareholder or its affiliated entities.

(b) Aequitas shall cause Aequitas Neo Exchange to mandate that each Aequitas Neo Exchange dealer and affiliate of an Aequitas Neo Exchange dealer disclose its relationship with Aequitas Neo Exchange to:

(i) clients whose orders might be, and clients whose orders have been, routed to Aequitas Neo Exchange, and

(ii) entities for which the Aequitas Neo Exchange dealer or the affiliate of the Aequitas Neo Exchange dealer is acting or proposing to act as underwriter in connection with the issuance of securities to be listed on Aequitas Neo Exchange.

(c) Aequitas shall regularly review compliance with the policies and procedures established in accordance with sections 28(a) and (b), and shall document each review and any deficiencies and how those deficiencies were remedied. A report detailing the review(s) conducted shall be provided to the Commission on an annual basis.

(d) The policies established in accordance with paragraph sections 28(a) and (b) shall be made publicly available on the website of Aequitas or Aequitas Neo Exchange.

29. ALLOCATION OF RESOURCES

(a) Aequitas shall, for so long as Aequitas Neo Exchange carries on business as an exchange, allocate sufficient financial and other resources to Aequitas Neo Exchange to ensure that Aequitas Neo Exchange can carry out its functions in a manner that is consistent with the public interest and in compliance with Ontario securities law.

(b) Aequitas shall notify the Commission immediately upon being aware that it is or will be unable to allocate sufficient financial and other resources, as required under paragraph (a), to Aequitas Neo Exchange.

30. FEES, FEE MODELS AND INCENTIVES

(a) Aequitas shall ensure that any of its affiliated entities, including Aequitas Neo Exchange, does not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a particular marketplace participant or any other particular person or company, or

(ii) any discount, rebate, allowance, price concession or other similar arrangement for any service or product offered by the affiliated entity, including Aequitas Neo Exchange, that is conditional upon:

(A) the requirement to have Aequitas Neo Exchange be set as the default or first marketplace a marketplace participant routes to; or

(B) the router of Aequitas Neo Exchange being used as the marketplace participant's primary router.

(b) Aequitas shall ensure that any of its affiliated entities, including Aequitas Neo Exchange, does not, through any fee schedule, any fee model or any contract, agreement or other arrangement with any marketplace participant or any other person or company, provide:

(i) any discount, rebate, allowance, price concession or other similar arrangement on any services or products offered by the affiliated entity, including Aequitas Neo Exchange, that is conditional upon the purchase of any other service or product provided by the affiliated entity; or

(ii) any discount, rebate, allowance, price concession or other similar arrangement that is accessible only to, whether as designed or by implication, a class of marketplace participants or of any other persons or companies.

unless prior approval has been granted by the Commission.

(c) Aequitas shall ensure that Aequitas Neo Exchange obtains prior Commission approval before implementing any new, or amendments to, fees and fee models, including any new, or amendments to any, incentives relating to arrangements that provide for equity ownership in Aequitas for marketplace participants or their affiliated entities based on trading volumes of values on Aequitas Neo Exchange.

(d) Aequitas shall ensure that Aequitas Neo Exchange does not require a person or company to purchase or otherwise obtain products or services from Aequitas Neo Exchange or from a significant shareholder as a condition of Aequitas Neo Exchange supplying or continuing to supply a product or service unless prior approval has been granted by the Commission.

(e) Aequitas shall ensure that any affiliated entity does not require another person or company to obtain products or services from Aequitas Neo Exchange as a condition of the affiliated entity supplying or continuing to supply a product or service.

31. ORDER ROUTING

Aequitas shall not support, encourage or incent, either through fee incentives or otherwise, Aequitas Neo Exchange marketplace participants to coordinate the routing of their order to Aequitas Neo Exchange.

32. FINANCIAL REPORTING

(a) Within 90 days of its financial year end, Aequitas shall deliver to the Commission audited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial year.

(b) Within 60 days of each quarter end, Aequitas shall deliver to the Commission unaudited consolidated financial statements and unaudited non-consolidated financial statements without notes for its latest financial quarter.

(c) Aequitas shall deliver to the Commission its annual financial budget, together with the underlying assumptions, that has been approved by its Board, within 30 days from the commencement of each fiscal year.

33. PRIOR COMMISSION APPROVAL

Aequitas shall obtain prior Commission approval of, and before making any changes to any agreement between Aequitas and its shareholders.

34. REPORTING REQUIREMENTS

Aequitas shall provide the Commission with the information set out in Appendix A to this Schedule, as amended from time to time.

35. GOVERNANCE REVIEW

(a) Aequitas shall engage an independent consultant, or independent consultants, acceptable to the Commission to prepare a written report assessing the governance structure of Aequitas (Aequitas Governance Review) as follows:

(i) within one year from the completion of the financing in connection with the launch of Aequitas Neo Exchange;

(ii) within six months after Aequitas Neo Exchange meets or exceeds any of the trading thresholds referred to in subsection 6.7(1) of NI 21-101, or

(iii) at any other times required by the Commission.

(b) The written report shall be provided to the Board of Aequitas promptly after the report's completion and then to the Commission within 30 days of providing it to the Board.

(c) The scope of the Aequitas Governance Review shall be approved by the Commission and shall include, at a minimum, the following:

(i) a review of the composition of the Board of Aequitas, in particular whether its composition continues to meet the recognition criteria, including the requirement that there be fair, meaningful and diverse representation on the Board and any committees of the Board, including:

(A) appropriate representation of independent directors, and

(B) a proper balance among the interests of the different persons or companies using the services and facilities of Aequitas;

(ii) a review of the impact of the composition requirements applicable to the Board of Aequitas, including requirements imposed by all securities regulatory authorities, on their ability to meet the recognition criteria;

(iii) a review of the degree to which the governance structure of Aequitas allows for appropriate input into the business and operations of Aequitas by users of its services and facilities; and

(iv) a review of how the Nominating and Governance Committee discharges its mandate and performs its role and functions.

36. PROVISION OF INFORMATION

(a) Aequitas shall, and shall cause its affiliated entities to promptly provide to the Commission, on request, any and all data, information and analyses in the custody or control or Aequitas or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:

(i) data, information and analyses relating to all of its or their businesses;

(ii) data, information and analyses of third parties in its or their custody or control.

(b) Aequitas shall share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

37. COMPLIANCE WITH TERMS AND CONDITIONS

(a) Aequitas shall certify in writing to the Commission, in a certificate signed by its CEO and general counsel, within one year of the effective date of its recognition as an exchange pursuant to this Order and every year subsequent to that date, or at any times required by the Commission, that it is in compliance with the terms and conditions applicable to it in the Order and describe in detail:

(i) the steps taken to require compliance;

(ii) the controls in place to verify compliance;

(iii) the names and titles of employees who have oversight of compliance.

(b) If Aequitas or any of its directors, officers or employees become aware of a breach or a possible breach of any of the terms and conditions applicable to Aequitas under the Schedules to the Order, such person shall, within two business days after becoming aware of the breach or possible breach, notify the Board or committee designated by the Board and approved by the Commission of the breach or possible breach. The director, officer or employee of the recognized exchange shall provide to the Board or committee designated by the Board details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(c) The Board or committee designated by the Board shall, within two business days after being notified of the breach or possible breach, notify the Commission and confirm that the breach or possible breach is under investigation as required by section 37(d).

(d) The Board or committee designated by the Board shall promptly cause to be conducted an investigation of the breach or possible breach reported under section 37(b). Once the Board or committee designated by the Board has made a determination as to whether there has been a breach, or that there is an impending breach, of any terms and conditions applicable to Aequitas under the Schedules to the Order, the Board or committee designated by the Board shall, within two business days of such determination, notify the Commission of its determination and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

APPENDIX A

Additional Reporting Obligations

1. Ad Hoc

(a) Immediate notification of a decision to enter into a definitive agreement (including a binding letter of intent), memorandum of understanding or other similar agreement with any governmental or regulatory body, self-regulatory obligation, clearing agency, stock exchange, other marketplace or market, except in the case where the agreement or arrangement: (i) is primarily intended to restrict the use or disclosure of confidential information, (ii) is primarily for the purpose of facilitating discussions in connection with a possible definitive agreement, (iii) is necessary to support the provision of the existing exchange services, or (iv) relates to the provision of the existing exchange services and is also subject to the standard form agreements of the exchange (for example, listing agreements, data subscription agreements, etc.)

(b) Any plans by Aequitas or its affiliated entities to enter into new businesses (directly or indirectly, including joint ventures) or to cease existing businesses, promptly after the Board has made the decision to implement those plans.

(c) Immediate notification of:

  (i) the appointment of any new director or officer of Aequitas, including a description of the individual's employment history; and

  (ii) the receipt of notice of resignation from, or the resignation of, a director or officer or the auditor of Aequitas, including a statement of the reasons for the resignation.

(d) Any minutes of the meetings of Board and Board committees of Aequitas, promptly after their approval.

(e) Immediate notification if Aequitas:

  (i) becomes the subject of any order, directive or similar action of a governmental or regulatory authority;

  (ii) becomes aware that it is the subject of a criminal or regulatory investigation; or

  (iii) becomes, or it is notified in writing that it will become, the subject of a material lawsuit.

(f) Any strategic plan for Aequitas and its affiliated entities, within 30 days of approval by the Board.

(g) Any filings made by Aequitas with a Canadian securities regulatory authority pursuant to a recognition order, exemption order or NI 21-101, filed concurrently.

(h) Upon request, Aequitas will provide to the Commission copies of any information that was provided to its shareholders.

2. Quarterly Reporting

A list of the internal audit reports and risk management reports issued in the previous quarter that relate to the operations and business of Aequitas and its affiliated entities, if such reports are produced.

3. Annual Reporting

At least annually, or more frequently if required by the Commission, an assessment of the risks, including business risks, facing Aequitas and its affiliated entities and the plan for addressing such risks.

SCHEDULE 4

TERMS AND CONDITIONS APPLICABLE TO SIGNFICANT SHAREHOLDERS

38. DEFINITIONS AND INTERPRETATION

Terms used in this Schedule have the same meanings and interpretation as in section 1 of Schedule 2.

39. CONFLICTS OF INTEREST AND CONFIDENTIALITY

(a) Each significant shareholder shall establish, maintain and require compliance with policies and procedures that:

(i) identify and manage any conflicts of interest or potential conflicts of interest, real or perceived, arising from the involvement of a nominee by a significant shareholder to the Board of Aequitas or Aequitas Neo Exchange in the management or oversight of the marketplace operations or regulation functions of Aequitas Neo Exchange, and

(ii) require that confidential information regarding marketplace operations or regulation functions, or regarding an Aequitas Neo Exchange marketplace participant or an Aequitas Neo Exchange issuer that is obtained by such nominee on the Board of Aequitas Neo Exchange or Aequitas:

(A) be kept separate and confidential from the business or other operations of the significant shareholder, except with respect to information regarding marketplace operations where disclosure is necessary to carry out the individual's responsibilities for the management or oversight of exchange operations and the individual can and does exercise due care in his or her disclosure of the information, and

(B) not be used to provide an advantage to the significant shareholder or its affiliated entities.

(b) Each significant shareholder shall establish, maintain and require compliance, or ensure that its affiliates that are dealers establish, maintain or require compliance with policies and procedures that identify and manage any conflicts of interest or potential conflicts of interest, real or perceived, arising from its ownership interest in Aequitas, and indirectly in Aequitas Neo Exchange, including, but not limited to, conflicts of interest or potential conflicts of interest that arise from any interactions between either of Aequitas Neo Exchange and the significant shareholder, or between Aequitas Neo Exchange and the affiliate of the significant shareholder that is a dealer where Aequitas Neo Exchange may be exercising discretion in the application of its Rules that involves or affects the shareholder either directly and indirectly.

(c) Each significant shareholder shall regularly review compliance with the policies and procedures established in accordance with paragraphs (a) and (b), as applicable, and shall document each review of compliance.

40. ROUTING AND OTHER OPERATIONAL DECISIONS

(a) Each significant shareholder shall not enter into, and shall not cause any of its affiliates that are dealers to enter into, any arrangements, undertakings, commitments, understandings or agreements with Aequitas, Aequitas Neo Exchange, any other shareholder or any other marketplace participant with respect to coordination of the routing of orders between the significant shareholder or any of its affiliated entities and any other entity, including the coordination of the routing of orders to Aequitas Neo Exchange, except with respect to activities that are permitted by the requirements of Aequitas Neo Exchange or IIROC.

(b) For greater certainty, paragraph (a) is not intended to prohibit any temporary agreements or coordination between any shareholder or affiliate of a shareholder that is a dealer and any other shareholder or affiliate of a shareholder that is a dealer or any other person in the event of any failure, malfunction or material delay of the systems or equipment of a marketplace if and to the extent reasonably necessary to protect the integrity and liquidity of capital markets, provided that prior notice of the temporary agreement or coordination is provided to the Commission.

(c) Each significant shareholder shall not, and shall not cause any of its affiliated entities to, offer or pay any benefit, financial or otherwise to:

(i) its traders that would incent such traders to direct their orders to Aequitas Neo Exchange in preference to any other marketplace; or

(ii) its employees involved in and responsible for underwriting activities that would incent such employees to recommend to issuers or prospective issuers for whom the significant shareholder or affiliated entity is acting

or proposing to act as underwriter to list securities on Aequitas Neo Exchange in preference to any other marketplace.

(d) Each significant shareholder that is not a dealer shall provide a written directive to its traders that they shall not cause routing decisions to be made based on the founding shareholder's ownership interest in Aequitas.

(e) Each Aequitas Neo Exchange dealer and each of its affiliates that is a marketplace participant shall establish, maintain and require compliance with a written directive requiring its traders to base routing decisions on the best execution and order protection obligations, where applicable, without regard to any ownership interest in Aequitas. The written policy shall provide that where best execution and order protection obligations are satisfied and an order or orders are being routed on the basis of other factors, the dealer's routing decisions, including the use of algorithms, or those of its affiliated entities that are marketplace participants, shall not take into account any financial benefit that would accrue to the dealer by virtue of its equity ownership in Aequitas.

(f) Each Aequitas Neo Exchange dealer and each of its affiliates that is a marketplace participant shall establish, maintain and require compliance with a written directive requiring its employees involved in and responsible for underwriting activities to base any listing recommendations on what would be most advantageous for the issuer or prospective issuer, without regard to any ownership interest of the dealer, or of those affiliated entities that are marketplace participants on Aequitas Neo Exchange.

41. DISCLOSURE TO CLIENTS

(a) Each Aequitas Neo Exchange dealer shall or shall ensure that any of its affiliated entities that is an Aequitas Neo Exchange marketplace participant shall disclose its relationship with Aequitas and its affiliated entities to:

(i) clients whose orders might be, and clients whose orders have been, routed to Aequitas Neo Exchange; and

(ii) entities for whom the Aequitas Neo Exchange marketplace participant is acting or proposing to act as an underwriter in connection with the issuance of securities to be listed on Aequitas Neo Exchange.

(b) Each significant shareholder that is not a dealer shall ensure that any of its affiliated entities that is an Aequitas Neo Exchange marketplace participant shall disclose its relationship with Aequitas and its affiliated entities to:

(i) clients whose orders might be, and clients whose orders have been, routed to Aequitas Neo Exchange; and

(ii) entities for whom the Aequitas Neo Exchange marketplace participant is acting or proposing to act as an underwriter in connection with the issuance of securities to be listed on Aequitas Neo Exchange.

42. CONDITIONAL PROVISION OF PRODUCTS OR SERVICES

(a) An Aequitas Neo Exchange dealer shall not require another person or company to obtain products or services from Aequitas Neo Exchange or any of its affiliated entities as a condition of the Aequitas Neo Exchange dealer supplying or continuing to supply a product or service.

(b) A significant shareholder shall not cause its dealer affiliate to require another person or company to obtain products or services from Aequitas Neo Exchange or any of its affiliated entities as a condition of the significant shareholder supplying or continuing to supply a product or service.

43. NOTIFICATION OF NEW DEALER AFFILIATES

Each significant shareholder shall promptly notify the Commission if it creates or acquires an affiliate that is a dealer.

44. CERTIFICATIONS

(a) Each significant shareholder shall certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or chief compliance officer, within ten days of the date that is one year from the effective date of the recognition of Aequitas and Aequitas Neo Exchange as exchanges pursuant to this Order and every year subsequent to that date, or at other times required by the Commission that, based on their knowledge, having exercised reasonable diligence, the significant shareholder is in compliance with the terms and conditions applicable to it in this Schedule and describe the steps taken to require compliance.

(b) Each significant shareholder shall certify in writing to the Commission, in a certificate signed by its CEO and either its general counsel or chief compliance officer, within ten days of the date that is one year from the effective date of the

recognition of Aequitas and Aequitas Neo Exchange as exchanges pursuant to this Order and every year subsequent to that date, or at other times required by the Commission, that, based on their knowledge, having exercised reasonable diligence:

(i) the significant shareholder is not acting jointly or in concert with any other significant shareholder, or any affiliated entity or associated thereof, with respect to any voting shares of Aequitas;

(ii) despite subparagraph (b)(i), the shareholders may act jointly or in concert with any other shareholders under arrangements to nominate a director to the board of Aequitas or Aequitas Neo Exchange;

(iii) the significant shareholder has no agreement, commitment or understanding, written or otherwise, with any other significant shareholder, or any affiliated entity or associate thereof, with respect to the acquisition or disposition of voting shares of Aequitas, the exercise of any voting rights attached to any voting shares of Aequitas or the coordination of decisions or voting by its nominee director of Aequitas (if any) with the decisions or voting by the nominee of any other founding shareholder, other than what is included in the Aequitas shareholders' Agreement; and

(iv) since the last certification, the significant shareholder has not acted jointly or in concert with any other significant shareholder, or any affiliated entity or associate thereof, with respect to (i) any voting shares of Aequitas, including with respect to the acquisition or disposition of any voting shares of Aequitas or the exercise of any voting rights attached to any voting shares of Aequitas, or (ii) coordination of decisions or voting by its nominee director of Aequitas (if any) with the decisions or voting by the nominee director of any other significant shareholder.

45. COMPLIANCE WITH TERMS AND CONDITIONS

(a) If the significant shareholder or its partners, officers, directors or employees (or, in the case of a significant shareholder that is not a dealer, its relevant officers, directors or employees that are subject to policies and procedures implemented by that shareholder for the purpose of complying with the applicable terms and conditions of this Schedule) becomes aware that there has been a breach or possible breach of any of the terms and conditions applicable to it under this schedule of the Order, such person shall, promptly after becoming aware of the breach or possible breach, notify the Designated Recipient (as defined below) of such shareholder of the breach or possible breach. The partner, director, officer or employee of the significant shareholder shall provide to the Designated Recipient details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach.

(b) "Designated Recipient" means the person or body that the significant shareholder designates as having the responsibilities described in this section, which may be its Board, audit committee, governance committee (or chairperson of any of the foregoing), General Counsel, Chief Compliance Officer, an ombudsperson specifically designated by the shareholder to review compliance with corporate policies under the shareholder's established whistle-blowing procedures, or, with the period approval of the Commission, such other person or committee designated by the founding shareholder.

(c) The Designated Recipient shall promptly cause an investigation to be conducted of the breach or possible breach reported under paragraph (a) and shall promptly provide a report to the Commission and to Aequitas Neo Exchange after concluding such investigation if the Designated Recipient determines that a breach has occurred or that there is an impending breach. Any such report to the Commission by the Designated Recipient shall include details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or impending breach, and any actions that will be taken to address it.

46. EXPIRY OF TERMS AND CONDITIONS

The obligations of a significant shareholder to comply with the terms and conditions of this Schedule expire on the later of:

(a) the date on which, for a consecutive six month period, the significant shareholder owns less than 50% of the number of voting shares of Aequitas that it had beneficially owned or exercised control or direction over at the launch of the recognized exchange, and

(b) the date on which the nominee or partner, officer, director or employee of the significant shareholder has ceased to be a director on the board of Aequitas or Aequitas Neo Exchange.

SCHEDULE 5

PROCESS FOR THE REVIEW AND APPROVAL OF RULES AND THE INFORMATION CONTAINED IN FORM 21-101F1 AND THE EXHIBITS THERETO

1. Purpose

This Protocol sets out the procedures a recognized exchange (Exchange) must follow for any Rule or Change, both as defined in section 2 below, and describes the procedures for their review by Commission Staff (Staff) and approval by the Commission or the Director.

2. Definitions

For the purposes of this Protocol:

(a) *Change* means a Fee Change, a Housekeeping Change or a Significant Change.

(b) *Fee Change* means any new fee or fee model of the Exchange and any amendment to a fee or fee model.

(c) *Housekeeping Change* means an amendment to the information in Form 21-101F1 that

(i) does not have an impact on the Exchange's market structure, members, issuers, investors or the capital markets, or

(ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.

(d) *Housekeeping Rule* means a new Rule or an amendment to a Rule that

(i) does not have an impact on the Exchange's market structure, members, issuers, investors or the capital markets, or

(ii) is of a housekeeping or administrative nature and is comparable to the types of housekeeping changes listed in subsection 6.1(5)(b) of Companion Policy 21-101CP.

(e) *Public Interest Rule* means a Rule or an amendment to a Rule that is not a Housekeeping Rule.

(f) *Rule* includes a rule, policy and other similar instrument of the Exchange.

(g) *Significant Change* means an amendment to the information in Form 21-101F1 other than

(i) a Housekeeping Change,

(ii) a Fee Change, or

(iii) a Rule,

and for greater certainty includes the matters listed in subsection 6.1(4) of Companion Policy 21-101 CP.

(h) *Significant Change subject to Public Comment* means a Significant Change that

(i) is listed in paragraphs 6.1(4)(a), (b), (c) or (d) of Companion Policy 21-101 CP, or

(ii) in Staff's view, has an impact on the Exchange's market structure or members, or on issuers, investors or the capital markets or otherwise raises public interest concerns and should be subject to public comment.

3. Scope

(a) The Exchange and Staff will follow the process for review and approval set out in this Protocol for all Changes, new Rules and Rule amendments.

4. Board Approval

(a) The Exchange's board of directors, or a duly authorized committee of the board, must approve all Rules prior to their submission under this Protocol.

5. Waiving or Varying the Protocol

(a) The Exchange may file a written request with Staff to waive or vary any part of this Protocol. The request must provide reasons why granting the waiver is appropriate in the circumstances.

(b) Staff will use their best efforts to provide to the Exchange within five business days of receipt of its request either:

(i) written notice that Staff object to granting the waiver or variation; or

(ii) written notice that the waiver or variation has been granted by Staff.

6. Materials to be Filed and Timelines

(a) Prior to the implementation of a Fee Change, Public Interest Rule or Significant Change, the Exchange will file with Staff the following materials:

(i) a cover letter that, together with the notice for publication filed under paragraph 6(a)(ii), if applicable, fully describes:

(A) the proposed Fee Change, Public Interest Rule or Significant Change;

(B) the expected date of implementation of the proposed Fee Change, Public Interest Rule or Significant Change;

(C) the rationale for the proposal and any relevant supporting analysis;

(D) the expected impact of the proposed Fee Change, Public Interest Rule or Significant Change on the market structure, members and, if applicable, on investors, issuers and the capital markets;

(E) whether a proposed Public Interest Rule or Significant Change would increase or decrease systemic risk in the Canadian financial system and how any increase would be mitigated, if applicable;

(F) a discussion of the expected impact of the Fee Change, Public Interest Rule or Significant Change on the Exchange's compliance with Ontario securities law and in particular on requirements for fair access and maintenance of fair and orderly markets;

(G) details of any consultations undertaken in formulating the Fee Change, Public Interest Rule or Significant Change, including the internal governance process followed to approve the Rule or Change;

(H) if the Public Interest Rule or Significant Change will require members and service vendors to modify their own systems after implementation of the Rule or Change, a reasonable estimate of the amount of time needed to perform the necessary work, or an explanation as to why a reasonable estimate was not provided;

(I) a discussion of any alternatives considered; and

(J) if applicable, whether the proposed Fee Change, Significant Change or Public Interest Rule would introduce a fee model, feature or Rule that currently exists in other markets or jurisdictions;

(ii) for a proposed Public Interest Rule or Significant Change subject to Public Comment, a notice for publication that includes the information required under paragraph 6(a)(i) above, except that the following may be excluded from the notice:

(A) supporting analysis required under subparagraph 6(a)(i)(C) above that, if included in the notice, would result in the public disclosure of intimate financial, commercial or technical information;

(B) the information on systemic risk required under subparagraph 6(a)(i)(E) above;

(C) the information on the internal governance processes followed required under subparagraph 6(a)(i)(G) above;

(D) the reasonable estimate of time needed for members and service vendors to modify their own systems, or the explanation as to why a reasonable estimate was not provided, required under subparagraph 6(a)(i)(H), so long as the notice for publication contains a statement that the Exchange did not or could not make a reasonable estimate; and

(E) the discussion of alternatives required under subparagraph 6(a)(i)(I) above.

(iii) for a proposed Public Interest Rule, the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules, and if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and

(iv) for a proposed Fee Change or Significant Change, blacklined and clean copies of Form 21-101F1 showing the proposed Change.

(b) The Exchange will file the materials set out in subsection 6(a)

(i) at least 45 days prior to the expected implementation date of a proposed Public Interest Rule or Significant Change; and

(ii) at least seven business days prior to the expected implementation date of a proposed Fee Change.

(c) For a Housekeeping Rule, the Exchange will file with Staff the following materials:

(i) a cover letter that fully describes the Rule and indicates that it was classified as a Housekeeping Rule and provides an analysis of the rationale for the classification, and the date or proposed date of implementation of the Rule;

(ii) the text of the Rule and a blacklined version of the Rule indicating changes to any existing Rules;

(iii) if supplementary material relating to the Rule is contained in Form 21-101F1, blacklined and clean copies of Form 21-101F1; and

(iv) a notice for publication on the OSC website and in the OSC Bulletin that contains the information in paragraph (ii) above as well as the implementation date for the Rule, and indicates that the Rule has been classified as a Housekeeping Rule and was not published for comment.

(d) For a Housekeeping Change, the Exchange will file with Staff the following materials:

(i) a cover letter that indicates that the Change was classified as a Housekeeping Change and provides an analysis of the rationale for the classification and the expected or actual date of implementation of the Change; and

(ii) blacklined and clean copies of Form 21-101F1 showing the Change.

(e) The Exchange will file the materials set out in subsection 6(d) by the earlier of

(i) the Exchange's close of business on the 10th calendar day after the end of the month in which the Housekeeping Change was implemented; and

(ii) the date on which the Exchange publicly announces a Housekeeping Change, if applicable.

7. Review by Staff of notice and materials to be published for comment

(a) Within 5 business days of the receipt of the notice and materials filed by the Exchange relating to a Public Interest Rule or Significant Change subject to Public Comment in accordance with subsection 6(a), Staff will review the notice and materials to ensure that they contain an adequate level of detail, analysis and discussion to elicit meaningful public comment, and will promptly notify the Exchange of any deficiency requiring a 6463re filling of the notice and materials.

(b) Where the notice and materials are considered by Staff to be deficient, the Exchange will amend and resubmit the notice and materials accordingly, and the date of resubmission will serve as the filing date for the purposes of this Protocol.

(c) Where the notice and materials are considered by Staff to be adequate for publication, Staff will proceed with the processes set out in section 8.

8. Publication of a Public Interest Rule or Significant Change Subject to Public Comment

(a) As soon as practicable after the receipt of the notice and materials filed by the Exchange relating to a Public Interest Rule or Significant Change subject to Public Comment in accordance with subsection 6(a), Staff will publish in the OSC Bulletin and on the OSC website the notice prepared by the Exchange, along with a notice prepared by Staff, if necessary, that provides market participants with an opportunity to provide comments to Staff and to the Exchange within 30 days from the date the notice appears in the OSC Bulletin or on the OSC website, whichever comes first.

(b) If public comments are received

(i) the Exchange will forward copies of the comments promptly to Staff; and

(ii) the Exchange will prepare a summary of the public comments and a response to those comments and provide them to Staff promptly after the end of the comment period.

9. Review and Approval Process for Proposed Fee Changes, Public Interest Rules and Significant Changes

(a) Staff will use their best efforts to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change within

(i) 45 days from the date of filing of a proposed Public Interest Rule or Significant Change; and

(ii) seven business days from the date of filing of a proposed Fee Change.

(b) Staff will notify the Exchange if they anticipate that their review of the proposed Fee Change, Public Interest Rule or Significant Change will exceed the timelines in subsection 9(a).

(c) If Staff have material comments or require additional information to complete their review of a proposed Fee Change, Public Interest Rule or Significant Change, Staff will use best efforts to provide the Exchange with a comment letter promptly by the end of the public comment period for a Public Interest Rule or Significant Change subject to Public Comment, and promptly after the receipt of the materials filed under section 6 for all other Changes.

(d) The Exchange will respond to any comments received from Staff in writing.

(e) Unless Staff agree to an extension of time, if the Exchange fails to respond to Staff's comments within 120 days after the receipt of Staff's comment letter, the Exchange will be deemed to have withdrawn the proposed Fee Change, Public Interest Rule or Significant Change. If the Exchange wishes to proceed with the Fee Change, Public Interest Rule or Significant Change after it has been deemed withdrawn, the Exchange will have to be re-submit it for review and approval in accordance with this Protocol.

(f) Upon completion of Staff's review of a Fee Change, Public Interest Rule or Significant Change, Staff will submit the Change or Rule to the Director or, in the circumstances described in subsection 9(g), to the Commission, for a decision within the following timelines:

(i) for a Public Interest Rule or a Significant Change subject to Public Comment, the later of 45 days from the date that the related materials were published for comment and the date that Staff's comments and public comments, including any concerns identified, have been adequately addressed by the Exchange;

(ii) for any other Significant Change, the later of 45 days from the date of filing of the Change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange; or

(iii) for a Fee Change, the later of seven business days from the date of filing of the change and the date that Staff's comments and any concerns identified have been adequately addressed by the Exchange.

(g) A Fee Change, Public Interest Rule or Significant Change may be submitted to the Commission for a decision, within the timelines in subsection 9(f),

(i) if the proposed Fee Change, Public Interest Rule or Significant Change is complex or introduces a novel feature to the Exchange or the capital markets;

(ii) if comments received through the public comment process raise significant public interest concerns; or

(iii) in any other situation where, in Staff's view, Commission approval is appropriate.

(h) Staff will promptly notify the Exchange of the decision.

(i) If a Public Interest Rule or Significant Change subject to Public Comment is approved, Staff will publish the following documents in the OSC Bulletin and on the OSC website promptly after the approval:

(i) a notice indicating that the proposed Rule or Change is approved;

(ii) the summary of public comments and responses prepared by the Exchange, if applicable; and

(iii) if non-material changes were made to the version published for public comment, a brief description of these changes prepared by the Exchange and a blacklined copy of the revised Rule or Change highlighting the revisions made.

10. Review Criteria for a Fee Change, Public Interest Rule and Significant Change

(a) Staff will review a proposed Fee Change, Public Interest Rule or Significant Change in order to assess whether it is in the public interest for the Director or the Commission to approve the Rule or Change. In making this determination, Staff will have regard to the mandate of the Commission as set out section 1.1 of the *Securities Act* (Ontario). The factors that Staff will consider in making their determination also include whether:

(i) the Rule or Change would impact the Exchange's compliance with Ontario securities law;

(ii) the Exchange followed its established internal governance practices in approving the proposed Rule or Change;

(iii) the Exchange followed the requirements of this Protocol and has provided sufficient analysis of the nature, purpose and effect of the Rule or Change; and

(iv) the Exchange adequately addressed any comments received.

11. Effective Date of a Fee Change, Public Interest Rule or Significant Change

(a) A Fee Change, Public Interest Rule or Significant Change will be effective on the later of:

(i) the date that the Exchange is notified that the Change or Rule is approved;

(ii) if applicable, the date of publication of the notice of approval on the OSC website; and

(iii) the date designated by the Exchange.

12. Significant Revisions and Republication

(a) If, subsequent to its publication for comment, the Exchange revises a Public Interest Rule or a Significant Change subject to Public Comment in a manner that results in a material change to the proposed substance or effect of the Rule or Change, Staff will, in consultation with the Exchange, determine whether or not the revised Rule or Change should be published for an additional 30-day comment period.

(b) If a Public Interest Rule or Significant Change subject to Public Comment is republished under subsection 12(a), the request for comments will include a blacklined version marked to the originally published version, a summary of comments and responses prepared by the Exchange, and an explanation of the revisions and the supporting rationale for the revisions.

13. Withdrawal of a Fee Change, Public Interest Rule or Significant Change

(a) If the Exchange withdraws a Fee Change, Public Interest Rule or a Significant Change that was previously submitted, it will provide a written notice of withdrawal to Staff.

(b) If the notice of withdrawal relates to a Public Interest Rule or Significant Change subject to Public Comment, Staff will publish the notice of withdrawal in the OSC Bulletin and OSC website as soon as practicable.

(c) If a Public Interest Rule or Significant Change subject to Public Comment is deemed to have been withdrawn as provided in subsection 9(e), Staff will prepare and publish a notice informing market participants that the Exchange did not proceed with the Rule or Change.

14. Effective Date of a Housekeeping Rule or Housekeeping Change

(a) Subject to subsections 14(c) and 14(d), a Housekeeping Rule will be effective on the later of

(i) the date of the publication of the notice to be published on the OSC website in accordance with subsection 14(e), and

(ii) the date designated by the Exchange.

(b) Subject to subsections 14(c) and 14(d), a Housekeeping Change will be effective on the date designated by the Exchange.

(c) Staff will review the materials filed by the Exchange for a Housekeeping Change or Housekeeping Rule to assess the appropriateness of the categorization of the Rule or Change as housekeeping within five business days from the date that the Exchange filed the documents in accordance with subsections 6(c) and 6(d). The Exchange will be notified in writing if there is disagreement with respect to the categorization of the Rule or Change as housekeeping.

(d) If Staff disagree with the categorization of the Rule or Change as housekeeping, the Exchange will immediately repeal the Change, if applicable, file the proposed Rule as a Public Interest Rule or the proposed Change as a Significant Change, and follow the review and approval processes described in this Protocol as applying to a Public Interest Rule or Significant Change, including those processes applicable to a Significant Change subject to Public Comment if applicable.

(e) If Staff do not disagree with the categorization of the Rule, Staff will publish a notice to that effect in the OSC Bulletin and on the OSC website as soon as is practicable.

15. Immediate Implementation of a Public Interest Rule or Significant Change

(a) The Exchange may need to make a Public Interest Rule or Significant Change effective immediately where the Exchange determines that there is an urgent need to implement the Rule or Change to maintain fair and orderly markets, or because of a substantial and imminent risk of material harm to the Exchange, its members, other market participants, issuers or investors.

(b) When the Exchange determines that immediate implementation is necessary, it will advise Staff in writing as soon as possible but in any event at least five business days prior to the proposed implementation of the Public Interest Rule or Significant Change. The written notice will include the expected effective date of the Public Interest Rule or Significant Change and an analysis to support the need for immediate implementation. An application for an exemption from the 45-day advance filing requirements in National Instrument 21-101 must also be included as part of the written notice.

(c) If Staff do not agree that immediate implementation is necessary, Staff will promptly notify the Exchange, in writing, of the disagreement no later than the end of the third business day following filing of the notice under subsection 15(b). If the disagreement is not resolved, the Exchange will file the Public Interest Rule or Significant Change in accordance with the timelines in section 6.

16. Review of a Public Interest Rule or Significant Change Implemented Immediately

A Public Interest Rule or Significant Change that has been implemented immediately in accordance with section 15 will be published, if applicable, and reviewed and approved by the Director or by the Commission in accordance with the procedures set out in section 9, with necessary modifications. If the Director or the Commission does not approve the Public Interest Rule or Significant Change, the Exchange will immediately repeal the Rule or Change and inform its members of the decision.

17. Application of Section 21 of the *Securities Act* (Ontario)

The Commission's powers under subsection 21(5) of the *Securities Act* (Ontario) are not constrained in any way, notwithstanding a Rule or Change having been approved under this Protocol.

Chapter 25

Other Information

25.1 Consents

25.1.1 Pan African Oil Ltd. – s. 4(b) of the Regulation

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under the Business Corporations Act (Alberta).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, O. Reg. 289/00, as am., s. 4(b).

IN THE MATTER OF
R.R.O. 1990, REGULATION 289/00, AS AMENDED
(the "Regulation")
MADE UNDER THE BUSINESS CORPORATIONS ACT
(ONTARIO), R.S.O. 1990, c. B.16, AS AMENDED
(the "OBCA")

AND

IN THE MATTER OF
PAN AFRICAN OIL LTD.

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of Pan African Oil Ltd. (the "**Applicant**") to the Ontario Securities Commission (the "**Commission**") requesting the consent from the Commission, pursuant to subsection 4(b) of the Regulation, for the Applicant to continue in another jurisdiction pursuant to Section 181 of the OBCA (the "**Continuance**");

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

AND UPON the Applicant representing to the Commission that:

1. The Applicant was incorporated pursuant to the provisions of the OBCA under the name China Opportunity Inc. on July 24, 2007. On June 29, 2011, China Opportunity Inc. amended its articles and changed its name to Gondwana Gold Inc. On June 17, 2013, the Applicant amended its articles to change its name to Pan African Oil Ltd.

2. The head office of the Applicant is located at Suite 305, 602 – 11 Avenue SW, Calgary, Alberta T2R 1J8.

3. The Applicant's current registered office is located at Suite 400, 77 King Street West Toronto, Ontario M5K 0A1.

4. Following the proposed continuance, the registered office of the Applicant will be located at 1500, 850 – 2nd Street SW, Calgary, Alberta T2P 0R8.

5. The Applicant intends to apply to the Director under the OBCA pursuant to section 181 of the OBCA for authorization to continue under the *Business Corporations Act* (Alberta), R.S.A. 2000, c. B-9 (the "**ABCA**").

6. Pursuant to subsection 4(b) of the Regulation, an application for authorization to continue in another jurisdiction under Section 181 of the OBCA must, in the case of an "offering corporation" (as that term is defined in the OBCA), be accompanied by a consent from the Commission.

7. The Applicant is an "offering corporation" under the OBCA and is a reporting issuer under the *Securities Act* (Ontario), R.S.O. 1990, c. S.5, as amended (the "**Securities Act**"), and the securities legislation of each of the provinces of British Columbia and Alberta.

8. The authorized capital of the Applicant consists of an unlimited number of common shares ("**Common Shares**"), of which 58,299,497 were issued and outstanding as of the date hereof. All of the issued and outstanding Common Shares are listed for trading on the TSX Venture Exchange under the symbol "PAO".

9. The Applicant is not in default of any of the provisions of the OBCA, the Securities Act and the securities legislation of all other jurisdictions in which it is a reporting issuer, and the regulations and rules made thereunder (collectively, the "**Legislation**").

10. The Applicant is not a party to any proceeding or, to the best of its information, knowledge and belief, any pending proceeding under the Legislation.

11. A summary of the material provisions respecting the proposed Continuance was provided to the shareholders of the Applicant in the management information circular of the Applicant dated April 24,

2014 (the "**Circular**") in respect of the Applicant's annual general and special meeting of shareholders held on May 29, 2014 (the "**Meeting**"). The Circular was mailed on May 5, 2014 to shareholders of record at the close of business on April 24, 2014, was filed on May 5, 2014 on the System for Electronic Document Analysis and Retrieval and included full disclosure of the reasons for, and the implications of, the proposed Continuance and a summary of the material differences between the OBCA and the ABCA.

12. In accordance with the OBCA and the Applicant's constating documents, the special resolution of shareholders (the "**Continuance Resolution**") to be obtained at the Meeting in connection with the proposed Continuance required the approval of not less than two-thirds of the aggregate votes cast by the shareholders present in person or represented by proxy at the Meeting. Each shareholder was entitled to one vote for each Common Share held.

13. The Continuance Resolution was approved at the Meeting by 99.48% of the aggregate votes cast by shareholders of the Applicant in respect of the Continuance Resolution.

14. The Applicant's shareholders had the right to dissent with respect to the proposed Continuance pursuant to Section 185 of the OBCA, and the Circular disclosed full particulars of this right in accordance with applicable law.

15. The Continuance is proposed to be made as the head office of the Applicant is located in Calgary, Alberta.

16. Following the Continuance, the Applicant intends to remain a reporting issuer in Ontario and in each of the other jurisdictions where it is currently a reporting issuer.

17. The material rights, duties and obligations of a corporation governed by the ABCA are substantially similar to those of a corporation governed by the OBCA.

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

THE COMMISSION HEREBY CONSENTS to the continuance of the Applicant as a corporation under the ABCA.

DATED at Toronto on this 20th day of June, 2014.

"Edward P. Kerwin"
Commissioner
Ontario Securities Commission

"Deborah Leckman"
Commissioner
Ontario Securities Commission

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