The Ontario Securities Commission

OSC Bulletin

April 27, 2001

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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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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

April 27, 2001

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
Suite 1700, Box 55
20 Queen Street West
Toronto, Ontario
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Stephen N. Adams, Q.C.	—	SNA
Derek Brown	—	DB
Robert W. Davis, FCA	—	RWD
John A. Geller, Q.C.	—	JAG
Robert W. Korthals	—	RWK
Mary Theresa McLeod	—	MTM
R. Stephen Paddon, Q.C.	—	RSP

SCHEDULED OSC HEARINGS

Date to be announced	**Mark Bonham and Bonham & Co. Inc.** s. 127 Mr. A.Graburn in attendance for staff. Panel: TBA
May 3/2001 10:00 a.m.	**Jack Banks a.k.a. Jacques Benquesus and Larry Weltman** s. 127 Mr. Tim Mosely in attendance for staff. Panel: TBA
May 7/2001- May 18/2001 10:00 a.m.	**YBM Magnex International Inc., Harry W. Antes, Jacob G. Bogatin, Kenneth E. Davies, Igor Fisherman, Daniel E. Gatti, Frank S. Greenwald, R. Owen Mitchell, David R. Peterson, Michael D. Schmidt, Lawrence D. Wilder, Griffiths Mcburney & Partners, National Bank Financial Corp., (formerly known as First Marathon Securities Limited)** s. 127 Mr. I. Smith in attendance for staff. Panel: HIW / DB / MPC
May 28 and May 30 / 2001 10:00 a.m.	**Robert Bruce Kyle & Derivative Services Inc.** s. 8 (4) Ms. Johanna Superina in attendance for staff. Panel: JAG/PMM

ADJOURNED SINE DIE

Michael Bourgon

DJL Capital Corp. and Dennis John Little

Dual Capital Management Limited, Warren Lawrence Wall, Shirley Joan Wall, DJL Capital Corp., Dennis John Little and Benjamin Emile Poirier

First Federal Capital (Canada) Corporation and Monter Morris Friesner

Global Privacy Management Trust and Robert Cranston

Irvine James Dyck

M.C.J.C. Holdings Inc. and Michael Cowpland

Offshore Marketing Alliance and Warren English

Robert Thomislav Adzija, Larry Allen Ayres, David Arthur Bending, Marlene Berry, Douglas Cross, Allan Joseph Dorsey, Allan Eizenga, Guy Fangeat, Richard Jules Fangeat, Michael Hersey, George Edward Holmes, Todd Michael Johnston, Michael Thomas Peter Kennelly, John Douglas Kirby, Ernest Kiss, Arthur Krick, Frank Alan Latam, Brian Lawrence, Luke John Mcgee, Ron Masschaele, John Newman, Randall Novak, Normand Riopelle, Robert Louis Rizzuto, And Michael Vaughan

S. B. McLaughlin

Southwest Securities

Terry G. Dodsley

Wayne Umetsu

PROVINCIAL DIVISION PROCEEDINGS

Date to be announced	**Michael Cowpland and M.C.J.C. Holdings Inc.** s. 122 Ms. M. Sopinka in attendance for staff. Ottawa
Jan 29/2001 - Jun 22/2001	**John Bernard Felderhof** Mssrs. J. Naster and I. Smith for staff. Courtroom TBA, Provincial Offences Court Old City Hall, Toronto
May 4, 2001 1:30 p.m. Courtroom N	**1173219 Ontario Limited c.o.b. as TAC (The Alternate Choice), TAC International Limited, Douglas R. Walker, David C. Drennan, Steven Peck, Don Gutoski, Ray Ricks, Al Johnson and Gerald McLeod** s. 122 Mr. D. Ferris in attendance for staff. Provincial Offences Court Old City Hall, Toronto
Jan 29/2001 - Feb 2/2001 Apr 30/2001 - May 7/2001 9:00 a.m.	**Einar Bellfield** s. 122 Ms. K. Manarin in attendance for staff. Courtroom C, Provincial Offences Court Old City Hall, Toronto

Reference: John Stevenson
Secretary to the
Ontario Securities Commission
(416) 593-8145

1.1.2 NI 45-101 Rights Offerings

NOTICE OF COMMISSION APPROVAL OF NATIONAL INSTRUMENT 45-101 RIGHTS OFFERINGS

On April 3, 2001, the Commission made National Instrument 45-101 Rights Offerings (the "National Instrument") as a Rule under the Act, and adopted Companion Policy 45-101 CP to National Instrument 45-101 Rights Offerings (the "Companion Policy") as a Policy under the Act.

The National Instrument and Companion Policy were most recently published for comment on August 11, 2000 at (2000) 23 OSCB 5547.

The National Instrument was sent to the Minister on April 27, 2001. The National Instrument and Companion Policy are being published in Chapter 5 of the Bulletin.

1.1.3 NI 81-102 and NI 81-101

NOTICE OF AMENDMENTS TO NATIONAL INSTRUMENT 81-102 AND COMPANION POLICY 81-102CP MUTUAL FUNDS AND TO NATIONAL INSTRUMENT 81-101 AND COMPANION POLICY 81-101CP MUTUAL FUND PROSPECTUS DISCLOSURE, AND FORM 81-101F1 CONTENTS OF SIMPLIFIED PROSPECTUS AND FORM 81-101F2 CONTENTS OF ANNUAL INFORMATION FORM

The Commission is publishing in this issue of the Bulletin the amendments to National Instrument 81-102 and Companion Policy 81-102CP Mutual Funds, National Instrument 81-101 and Companion Policy 81-101CP Mutual Fund Prospectus Disclosure, Form 81-101F1 Contents of Simplified Prospectus and Form 81-101F2 Contents of Annual Information Form (collectively, the "Amendments").

The purpose and substance of the Amendments is to permit mutual funds to enter into securities lending, repurchase and reverse repurchase transactions, and to permit index mutual funds to better meet their investment objectives by allowing them to track their target indices without concentration limits, subject to enhanced disclosure requirements.

The Amendments come into force on May 2, 2001 and are published in Chapter 5 of this Bulletin.

April 27, 2001.

1.1.4 OSC Policy 57-603 Defaults by Reporting Issuers in Complying with Financial Statement Filing Requirements

NOTICE OF ONTARIO SECURITIES COMMISSION POLICY 57-603 DEFAULTS BY REPORTING ISSUERS IN COMPLYING WITH FINANCIAL STATEMENT FILING REQUIREMENTS

The Commission Is Publishing, in Chapter 5 of Today's Bulletin, Commission Policy 57-603 Defaults by Reporting Issuers in Complying with Financial Statement Filing Requirements and the Related Notice.

1.1.5 Multilateral Instrument 33-107

NOTICE FOR MULTILATERAL INSTRUMENT 33-107 NOTICE OF REQUEST BY MINISTER OF FINANCE FOR FURTHER CONSIDERATION

Multilateral Instrument 33-107, "Proficiency Requirements for Registrants Holding Themselves out as Providing Financial Planning and Similar Advice"

On February 9, 2001, the Commission delivered Multilateral Instrument ("the instrument) 33-107, "Proficiency Requirements for Registrants Holding Themselves Out as Providing Financial Planning and Similar Advice" to the Minister under section 143.3 of the Securities Act (Ontario).

On April 6, 2001 the Minister returned the Instrument to the Commission for further consideration of the balance struck in the Rule between compliance costs and investor protection. The Minister expressed support for the Commission's work towards creating a high, uniform proficiency standard for financial planning advice to better protect consumers and investors.

The Commission believes that there should be clarity, transparency and competence in the financial services offered by product vendors to consumers who entrust them with their retirement savings. The Commission believes that this will be achieved in part by attaching proficiency requirements to the use of titles by individuals licensed to sell financial products. These titles convey the impression that objective, comprehensive, integrated financial advice is being provided that is tailored to the customer's present and future financial circumstances. By the same token, registered firms should not be able to hold themselves out under the equivalent business titles or by using equivalent service descriptions, unless the financial planning advice is provided to customers by qualified individuals.

OSC staff propose to engage in a round of consultations with interested parties to explore concerns regarding the clarity and scope of the title and service description word pools and the two year experience requirement. The anticipated effective date of the Instrument remains February 15, 2002. The Commission hopes to publish a revised version of the Instrument for comment at the beginning of June. The Financial Services Commission of Ontario ("FSCO") will recommend to the Minister the adoption of a regulation in respect of agents licensed under the Insurance Act similar in substance to the Instrument for consideration at the same time as the revised Instrument.

The Commission is encouraged that the securities, mutual funds, insurance and banking industries continue to support the proficiency standard and a national exam. Representatives of the IDA, IFIC, CAIFA, and CBA have been working cooperatively to put in place a governance structure and common administrative and operational procedures to administer a national exam. The industry is preparing to deliver the FPPE across Canada twice in late 2001 to allow registrants and licensees to meet the proficiency requirements before the proposed February 15, 2002 implementation date of the Instrument.

The Commission will continue to demonstrate leadership in the implementation of the Rule and will encourage other securities and insurance regulators through the Canadian Securities Administrators and the Joint Forum of Financial Market Regulators to implement the amended Instrument.

The Commission is publishing this Notice in accordance with subsection 143.6 of the Act.

For further information contact:

Julia Dublin
Chair, CSA Financial Planning Committee
Ontario Securities Commission
(416) 593-8103

Tula Alexopoulos
Special Adviser, Domestic Policy
Ontario Securities Commission
(416) 593-8084

1.2. Notice of Hearing

1.2.1 Paul Gordon

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

AND

IN THE MATTER OF
PAUL GORDON

NOTICE OF HEARING
(Sections 127 and 127.1)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act") at its offices on the 17th Floor, 20 Queen Street West, Toronto, Ontario commencing on April 25, 2001 at 10:00 a.m. or as soon thereafter as the hearing can be held:

TO CONSIDER whether, pursuant to section 127(1) and 127.1 of the Act, it is in the public interest for the Commission to make an order that:

(a) the registration of Paul Gordon ("Gordon") be terminated or suspended or restricted for such period as the Commission may order;

(b) Gordon cease trading in securities permanently or for such period as the Commission may order;

(c) Gordon resign any positions Gordon holds as a director or officer of an issuer;

(d) prohibits Gordon from becoming or acting as a director or officer of any issuer permanently or for such period as the Commission may order;

(e) Gordon pay the costs of the Commission's investigation and this proceeding;

(f) Gordon be reprimanded; and/or

(g) to make such other order as the Commission may deem appropriate;

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

AND TAKE FURTHER NOTICE that any party to the proceeding may be represented by counsel if that party attends or submits evidence at the hearing;

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

April 20, 2001.

"John Stevenson"

1.2.2 Paul Gordon - Statement of Allegations

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

AND

IN THE MATTER OF
PAUL GORDON

STATEMENT OF ALLEGATIONS OF STAFF
OF THE ONTARIO SECURITIES COMMISSION

Factual Background

1. CCI Capital Canada Limited ("CCI") was, at the material time, a corporation registered pursuant to Ontario securities law as a mutual fund dealer.

2. Paul Gordon ("Gordon") is registered with the Commission to sell mutual fund securities. From January 1998 to September 1999 Gordon was sponsored by CCI to sell mutual fund securities.

Amber Coast Resort Corporation

3. Amber Coast Resort Corporation ("Amber Coast") is a corporation organized pursuant to the laws of Turks and Caicos Islands.

4. Amber Coast created two offerings for its securities which relied on separate exemptions from the prospectus and registration requirements of the Act. No prospectus for Amber Coast was ever filed with or receipted by the Commission.

5. On September 1, 1998, Gordon's sponsor, CCI, entered into an agreement to "place" $200,000 (U.S.) worth of units of Amber Coast by September 30, 1998 and an additional $400,000 (U.S.) worth of units by November 30, 1998 in exchange for fees and use of a luxury villa.

6. Although CCI was never registered as a limited market dealer, CCI encouraged its sales representatives, including Gordon, to sell units of Amber Coast to their clients.

7. Gordon sold units of Amber Coast to two of his clients. In total, those clients invested $20,000 (U.S.) in Amber Coast.

8. CCI paid referral fees of 5% of the monies invested to Gordon by way of commission cheques.

9. As he was in the business of trading in securities, Gordon required registration to sell limited market products in order to sell units of the Amber Coast offering. Gordon was not licensed to sell limited market products thus his sales to clients constituted trading without registration.

Conduct Contrary to the Public Interest

10. The conduct of Gordon was contrary to the public interest in that he sold shares of a distribution which relied on an exemption from the prospectus requirements. This trading required a limited market dealer licence which Gordon did not have. Accordingly, Gordon engaged in trading without registration in contravention of subsection 25(1) of the Act.

11. Such other allegations as Staff may make and the Commission may permit.

April 20, 2001.

1.3 News Releases

1.3.1 Paul Gordon

FOR IMMEDIATE RELEASE
April 23, 2001

PAUL GORDON, FORMER SALESPERSON OF CCI CAPITAL CANADA LIMITED

Toronto - The Ontario Securities Commission (the "Commission") on Friday issued a Notice of Hearing and related Statement of Allegations against Paul Gordon, former salesperson of CCI Capital Canada Limited. A hearing to consider a proposed settlement agreement between Staff and the respondent, has been set for April 25, 2001, and will commence at 10:00 a.m.

The hearing will be held in the main hearing room of the Commission located on the 17th Floor, 20 Queen Street West, Toronto, Ontario. Copies of the Notice of Hearing and Statement of Allegations are available on our website or from the Commission, 19th Floor, 20 Queen Street West, Toronto, Ontario.

References:

Rowena McDougall
Senior Communications Officer
(416) 593-8117

Michael Watson
Director, Enforcement Branch
(416) 593-8156

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Headline Media Group Inc. et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Issuer is a connected issuer, but not a related issuer, in respect of registrants that are underwriters in proposed distribution of securities by the issuer - Underwriters exempt from the independent underwriter requirement in the legislation provided that issuer not in financial difficulty.

Applicable Ontario Regulations

Regulation made under the Securities Act, R.S.O. 1990, Reg. 1015, as am., ss. 219(1), 224(1)(b) and 233.

Applicable Ontario Rules

Proposed Multi-Jurisdictional Instrument 33-105 *Underwriting Conflicts* (published for comment February 6, 1998).

IN THE MATTER OF
THE SECURITIES LEGISLATION OF ONTARIO, BRITISH COLUMBIA, ALBERTA, NEWFOUNDLAND AND QUEBEC

AND

IN THE MATTER OF THE
MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
GRIFFITHS MCBURNEY & PARTNERS
AND TD SECURITIES INC. AND
HEADLINE MEDIA GROUP INC.

MRRS DECISION DOCUMENT

WHEREAS the securities regulatory authority or regulator (the "Decision Maker") in each of Ontario, British Columbia, Alberta, Newfoundland and Quebec (collectively, the "Jurisdictions") has received an application from Griffiths McBurney & Partners ("GMP") and TD Securities Inc. ("TD" and, together with GMP, the "Filers") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation which restricts a registrant from acting as an underwriter in connection with a distribution of securities of an issuer made by means of prospectus, where the issuer is a connected issuer (or the equivalent) of the registrant unless a portion of the distribution at least equal to that portion underwritten by non-independent underwriters is underwritten by an independent underwriter (the "Independent Underwriter Requirement") shall not apply to the Filers in connection with the proposed public offering (the "Offering") of Class A Subordinate Voting Shares (the "Shares") of Headline Media Group Inc. (the "Issuer") pursuant to a prospectus;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission ("OSC") is the principal regulator for this application;

AND WHEREAS the Filers have represented to the Decision Makers that:

1. The head office of each of the Filers is in Toronto, Ontario.

2. The Issuer is a traditional and new media company that has four material wholly-owned subsidiaries: The Score Television Network Ltd. ("The Score"), PrideVision Inc. ("PrideVision"), St. Clair Group Investments Inc. ("St. Clair") and Headline Media Ventures Inc. ("HMVI"). The Score is a Canadian media company which operates a specialty television service providing sports news, information and highlights as well as live event sports programming. PrideVision, which intends to operate a specialty television service targeted to the interests of the gay community, has recently had its application for the specialty television service approved by the Canadian Radio-television and Telecommunications Commission and anticipates launching the specialty television service in September 2001. St. Clair is a Canadian sports and entertainment marketing services and media company. HMVI makes investments in entities involved in the development of content-enabling technologies, software and solutions.

3. The Issuer was amalgamated pursuant to the *Business Corporations Act* (Ontario) (the "OBCA") on November 30, 1979 under the name Old Canada Investment Corporation Limited. Prior to November 24, 2000, the Issuer operated as a closed end investment company. On November 24, 2000, pursuant to a reverse takeover transaction, the Issuer acquired The Score as its primary asset and the Issuer's business changed to that of a media company. At that time, the Issuer changed its name to Headline Media Group Inc. A certificate and articles of continuance dated November 24, 2000 continued the Issuer under the *Canada Business Corporations Act* (the "CBCA").

4. The Issuer is currently a reporting issuer in Ontario and Alberta and is not in default of its requirements under the Legislation.

5. The Issuer filed a preliminary prospectus ("the Preliminary Prospectus") qualifying the distribution of the Shares with the securities regulatory authority in each of the provinces of Canada on March 9, 2001, and will file a final prospectus (the "Final Prospectus") as soon as possible thereafter.

6. The Shares are currently listed for trading on The Toronto Stock Exchange.

7. The Issuer will enter into an underwriting agreement with the Filers, CIBC World Markets Inc. ("CIBC WM"), BMO Nesbitt Burns Inc. ("BMO") and Raymond James Ltd. ("RJ") (collectively, the "Underwriters") whereby the Issuer will agree to issue and sell the Shares, and the Underwriters will agree to purchase such shares.

8. The approximate proportionate share of the Offering underwritten by each of the Underwriters is expected to be as follows:

Underwriter Name	Proportionate Share of the Offering
GMP	40%
TD Securities	20%
CIBC WM	20%
BMO	10%
RJ	10%

9. GMP holds, on its own account and on account of certain partners, an aggregate of 1,666,667 Shares which were acquired on November 24, 2000 in exchange for 66,928.74 common shares that it held in the capital of The Score being valued, at the time of the Corporation's reverse takeover transaction, at approximately $74.70 per share.

10. TD Securities is a subsidiary of a Canadian chartered bank that is a lender to The Score pursuant to an amended and restated credit facility that provides The Score with a $15.0 million credit facility consisting of three tranches: a $6.5 million term loan due August 31, 2002, an additional term loan for up to $6.5 million due August 31, 2002 and a $2.0 million revolving operating line due August 31, 2002. A portion of the outstanding indebtedness under this credit facility may be reduced by the net proceeds of the Offering.

11. Accordingly, the Issuer may be considered a "connected issuer" of the Filers within the meaning of the Legislation. The Issuer is not a "related issuer" of the Filers within the meaning of the Legislation.

12. The Issuer is neither a "related issuer" nor a "connected issuer", as each term is defined in the Legislation, in respect of CIBC WM, BMO and RJ (the "Independent Underwriters"). The Independent Underwriters are all independent underwriters as defined in draft Multi-Jurisdictional Instrument 33-105 *Underwriting Conflicts* (the "Proposed Instrument").

13. Because the Issuer may be considered a connected issuer of the Filers, the underwriting syndicate may not comply with the Independent Underwriting Requirement.

14. The Filers are registered under the Legislation in the categories of "broker" and "investment dealer".

15. The nature and details of the relationships between the Issuer, the Filers, and the Independent Underwriters are described in the Preliminary Prospectus and will be described in the Final Prospectus.

16. The Filers will receive no benefit relating to the Offering other than the payment of their underwriting fees in connection therewith.

17. The decision to issue the Shares, including the determination of the terms of the distribution, were made through negotiations among the Issuer and the Underwriters.

18. The Independent Underwriters will underwrite an aggregate of 40% of the Offering and will participate in the due diligence relating to the Offering and in the structuring and pricing of the Offering. The extent of such participation is described in the Preliminary Prospectus and will be described in the Final Prospectus.

19. The Preliminary Prospectus contains and the Final Prospectus will contain the information required by Appendix C to the Proposed Instrument.

20. The Issuer is not a "specified party" as defined in the Proposed Instrument.

21. The certificate in the Preliminary Prospectus has been signed, and the certificate in the Final Prospectus will be signed, by each of the Underwriters as required by the Act.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (the "Decision");

AND WHEREAS each Decision Maker is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers, pursuant to the Legislation, is that the Independent Underwriter Requirement shall not apply to the Filers in connection with the Offering provided that the Issuer is not a "related issuer", as defined in the Proposed Instrument, to the Filers at the time of the Offering and is not a "specified party", as defined in the Proposed Instrument, at the time of the Offering.

April 12, 2001.

"Paul Moore" "R. Stephen Paddon"

2.1.2 Perkins Papers Ltd. - MRRS Decision

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., s.83.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO AND QUÉBEC

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
PERKINS PAPERS LTD.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Makers") in each of Ontario and Québec (the "Jurisdictions") has received an application from Perkins Papers Ltd. (the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Filer be deemed to have ceased to be a reporting issuer in each of the Jurisdictions;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Commission des valeurs mobilières du Québec is the principal regulator for this application;

AND WHEREAS the Filer has represented to the Decision Makers that:

1. The Filer is a corporation governed by the *Canada Business Corporations Act* and a reporting issuer in each of the Jurisdictions.

2. The head office of the Filer is located in Candiac, Québec.

3. The authorized share capital of the Filer consists of an unlimited number of Common Shares and an unlimited number of Preferred Shares; Cascades holds 37 874 305 Common Shares and there are no other registered shareholders of the Filer.

4. The Common Shares of the Filer were delisted from The Toronto Stock Exchange on January 8, 2001 and the Filer no longer has any of its securities listed or traded on any exchange or market.

5. The Filer is not in default of any of the requirements under the Legislation.

6. The Filer results from the amalgamation of 3715973 Canada Inc. with Perkins Papers Ltd, which had been a reporting issuer under the Legislation for at least twelve months prior to the amalgamation.

7. Following the completion of the amalgamation, Cascades Inc. became the sole shareholder of the Filer.

8. The Filer has no other securities, including debt securities, outstanding.

9. The Filer does not intend to seek public financing by way of an offering of securities.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively the "Decision");

AND WHEREAS 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;

THE DECISION of the Decision Makers under the Legislation is that the Filer is deemed to have ceased to be a reporting issuer in each of the Jurisdictions.

DATED at Montréal, on April 19th, 2001.

"Edvie Élysée"

2.1.3 International Business Machines Corporation et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief from the registration and prospectus requirements of the Act in respect of certain trades made in connection with the cross-border acquisition of a Canadian reporting issuer utilizing an exchangeable share structure.

Applicable Ontario Statutes

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

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA,
ONTARIO, NEW BRUNSWICK, NOVA SCOTIA,
PRINCE EDWARD ISLAND AND NEWFOUNDLAND

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
INTERNATIONAL BUSINESS MACHINES CORPORATION,
3040696 NOVA SCOTIA COMPANY AND IBM ACQUISITION INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland (collectively, the "Jurisdictions") has received an application from International Business Machines Corporation ("IBM"), 3040696 Nova Scotia Company ("IBM Holdings") and IBM Acquisition Inc. (the "Canadian Offeror") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that certain trades made following the completion of the offers (the "Offers") by the Canadian Offeror and IBM Acquisition II L.L.C. (the "US Offeror" and, collectively with the Canadian Offeror, the "Offeror") to purchase all of the issued and outstanding Class A Subordinate Voting Shares (the "Class A Shares") and Class B Multiple Voting Shares (the "Class B Shares" and, collectively with the Class A Shares, the "Shares") of LGS Group Inc. ("LGS") are not subject requirement contained in the Legislation to be registered to trade in a security (the "Registration Requirement") and the requirement contained in the Legislation to file a preliminary prospectus and a prospectus and receive receipts therefor (the "Prospectus Requirement"and together with the Registration Requirement, the "Registration and Prospectus Requirements");

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS IBM, IBM Holdings and the Canadian Offeror have represented to the Decision Makers as follows:

1. IBM is a corporation incorporated under the laws of the State of New York.

2. IBM is currently subject to the reporting requirements of the United States Securities Exchange Act of 1934, as amended. IBM is not a reporting issuer (as such term is defined in applicable Canadian securities legislation) in any of the provinces of Canada.

3. IBM's authorized share capital consists of 150,000,000 shares of preferred stock ("Preferred Shares") and 4,687,500,000 shares of common stock, par value U.S.$0.20 (the "IBM Common Stock"). As of December 31, 1999, IBM's issued capital consisted of 2,546,011 Preferred Shares and 1,876,665,245 shares of IBM Common Stock. The IBM Common Stock is listed on the New York Stock Exchange (the "NYSE"), the Chicago Stock Exchange and the Pacific Stock Exchange.

4. IBM Holdings is an indirect wholly-owned subsidiary of IBM, incorporated under the Companies Act (Nova Scotia) for the purpose of implementing the Offers.

5. IBM Canada is a corporation incorporated under the laws of Canada. IBM Canada is an indirect wholly-owned subsidiary of IBM.

6. The Canadian Offeror is a corporation incorporated under the laws of Canada and is an indirect wholly-owned subsidiary of IBM. The Canadian Offeror was incorporated on March 10, 2000 for the purpose of making the Offers. The Canadian Offeror has no material assets or liabilities and no operating history.

7. The authorized capital of the Canadian Offeror consists of an unlimited number of common shares and an unlimited number of exchangeable shares ("Exchangeable Shares"). The Canadian Offeror's issued capital consists of 100 common shares, all of which are owned by IBM Holdings and Exchangeable Shares.

8. LGS is a corporation incorporated under the laws of Canada.

9. LGS is a reporting issuer in all Provinces of Canada that have reporting issuer provisions in their securities legislation.

10. LGS's authorized share capital consists of an unlimited number of first preferred shares, issuable in series ("First Preferred Shares"), an unlimited number of second preferred shares, issuable in series ("Second Preferred Shares"), an unlimited number of Class A Shares, an unlimited number of Class B Shares and an unlimited number of Class C Multiple Voting Shares

("Class C Shares"). According to information provided to the Canadian Offeror by LGS, as of March 10, 2000, there were outstanding 10,041,573 Class A Shares, 2,852,000 Class B Shares and no First Preferred Shares, Second Preferred Shares or Class C Shares. In addition, as at that date the Corporation had outstanding Rights (as defined below) entitling holders to acquire an additional 1,859,429 Class A Shares. The Shares are listed on the TSE and The Nasdaq Stock Market, Inc.

11. The Offeror offered to purchase, upon the respective terms and subject to the respective conditions described in the take-over bid circular dated March 15, 2000 (the "Circular"), (i) all of the issued and outstanding Class A Shares (the "Class A Offer") and (ii) all of the issued and outstanding Class B Shares (the "Class B Offer" and together with the Class A Offer, the "Offers"), including, in the case of the Class A Offer, Class A Shares issuable upon the exercise of existing options, warrants, rights, or other entitlements (collectively, "Rights") to acquire Class A Shares and in the case of the Class B Offer, Class B Shares issuable upon the exercise of existing Rights, for consideration per Share consisting of C$19.00 (the "Purchase Price").

12. The Offers expired on April 5, 2000. At the time of expiry, the Offers had been accepted by the holders of not less than 90% of the issued and outstanding Class A Shares and by the holders of 100% of the issued and outstanding Class B Shares, other than the Shares held on the date of the Offers by or on behalf of the Offeror and its affiliates and associates (as such terms are defined in the Canada Business Corporations Act ("CBCA"), and such Shares have been taken up and paid for by the Offeror. The Offeror intends to effect a compulsory acquisition pursuant to the provisions of Section 206 of the CBCA and acquire the remaining Shares of the relevant class, on the same terms as the Shares acquired under the Offers.

13. Under the terms of the Offers, holders of Shares ("Shareholders") who are residents of Canada could elect to receive the Purchase Price in the form of Exchangeable Shares in lieu of cash (the "Share Option"). Shareholders who are not residents of Canada received the Purchase Price in the form of cash (the "Cash Option") from the Canadian Offeror or elected to receive shares of IBM Common Stock from the US Offeror. Shareholders who made no election were deemed to have elected the Cash Option. Eligible Shareholders (as defined in the Circular) who elected the Share Option received 0.1088 Exchangeable Shares for each Share purchased in the applicable Offer, which fraction was calculated by dividing the US dollar equivalent of the Purchase Price by the average closing price of a share of IBM Common Stock on the NYSE for the ten trading days ending immediately prior to April 5, 2000, the date on which the Offeror first took up and paid for the Shares under the Offers. The US dollar equivalent was determined by reference to the noon spot rate established by the Bank of Canada for the conversion of Canadian dollars into US dollars on the business day preceding such date.

14. The Canadian Offeror will not issue fractional Exchangeable Shares and any Shareholders who elected the Share Option will receive cash in lieu of such fractional shares which would otherwise be issued.

15. On February 15, 2000, Mr. Raymond Lafontaine and Mr. André Gauthier, 115523 Canada Inc. and 115525 Canada Inc. (collectively, the "Locked-up Shareholders") entered into a support agreement (the "Support Agreement") with IBM Canada pursuant to which the Locked-up Shareholders agreed to deposit under the Offers 305,952 Class A Shares and 2,852,000 Class B Shares, representing approximately 3.05% of the outstanding Class A Shares and 100% of the Class B Shares (2.57% and 100% on a fully-diluted basis).

16. The Exchangeable Shares were issued by the Canadian Offeror. The Exchangeable Shares are intended to be economically equivalent to shares of IBM Common Stock. The Exchangeable Shares are exchangeable, at any time at the option of the holder, on a one-for-one basis, for shares of IBM Common Stock. Holders of Exchangeable Shares are entitled to receive from the Canadian Offeror dividends (payable in Canadian dollars in the case of cash dividends) that are economically equivalent to any dividends paid on the IBM Common Stock. The Exchangeable Shares are subject to adjustment or modification in the event of a stock split or other changes to the IBM Common Stock so as to maintain at all times a one-to-one relationship between the Exchangeable Shares and shares of IBM Common Stock.

17. Subject to applicable law, and to the Retraction Call Right of IBM and IBM Holdings described below, holders of the Exchangeable Shares are entitled at any time to retract (that is, to require the Canadian Offeror to redeem) any or all such Exchangeable Shares owned by them and to receive in respect of each Exchangeable Share retracted, one share of IBM Common Stock, plus the "Additional Amount". The "Additional Amount" with respect to each Exchangeable Share is an amount equal to the full amount of all declared and unpaid dividends and other distributions, if any, on each such Exchangeable Share and all dividends and other distributions, if any, declared on IBM Common Stock that have not been declared on each Exchangeable Share, in each case with a record date prior to the effective date of any exchange of Exchangeable Shares for shares of IBM Common Stock by the holder.

18. In the event a holder of Exchangeable Shares requests that the Canadian Offeror retract any or all of such Exchangeable Shares held by him, her or it, the Canadian Offeror is required to immediately notify IBM and IBM Holdings of such retraction request. IBM or IBM Holdings will then have five business days in which to exercise a retraction call right (the "Retraction Call Right") to purchase all of the Exchangeable Shares submitted for retraction. If IBM or IBM Holdings exercises its Retraction Call Right, it must deliver or cause to be delivered, one share of IBM Common

Stock, plus the Additional Amount, in respect of each Exchangeable Share submitted for retraction, to the Canadian Offeror's transfer agent for delivery to the holder. If neither IBM nor IBM Holdings determines to exercise its Retraction Call Right, the Canadian Offeror is obligated to deliver to the holder one share of IBM Common Stock, plus the Additional Amount, in respect of each Exchangeable Share submitted for retraction unless it revokes its notice of retraction.

19. Subject to applicable law, and the Redemption Call Right of IBM and IBM Holdings described below, on any Optional Redemption Date (defined below), the Canadian Offeror may redeem all of the Exchangeable Shares then outstanding (other than those beneficially owned by IBM or its subsidiaries) in exchange for one share of IBM Common Stock, plus the Additional Amount, in respect of each Exchangeable Share redeemed. The "Optional Redemption Date" may be no earlier than April 6, 2010 unless at any time there are then less than 170,000 Exchangeable Shares outstanding (other than Exchangeable Shares held by IBM and its subsidiaries and subject to adjustment to such number of shares to reflect permitted changes to the Exchangeable Shares), in which event the Optional Redemption Date may be established as any date after such time.

20. If the Canadian Offeror elects to redeem the Exchangeable Shares, IBM and IBM Holdings will have the overriding right (the "Redemption Call Right") to purchase on the Optional Redemption Date all of the outstanding Exchangeable Shares (other than Exchangeable Shares beneficially owned by IBM or its subsidiaries) in exchange for one share of IBM Common Stock, plus the Additional Amount, for each such Exchangeable Share. If either IBM or IBM Holdings exercises its Redemption Call Right, the Canadian Offeror's right to redeem the Exchangeable Shares on such Optional Redemption Date will terminate.

21. Subject to applicable law and the Liquidation Call Right of IBM and IBM Holdings described below, in the event of the liquidation, dissolution or winding up of the Canadian Offeror, holders of the Exchangeable Shares will have preferential rights to receive from the Canadian Offeror one share of IBM Common Stock, plus the Additional Amount, for each Exchangeable Share they hold.

22. Upon the occurrence of any liquidation, dissolution or winding up of the Canadian Offeror, IBM and IBM Holdings will have the overriding right (a "Liquidation Call Right") to purchase all of the outstanding Exchangeable Shares (other than Exchangeable Shares beneficially owned by IBM or its subsidiaries) from the holders thereof on the effective date of such liquidation, dissolution or winding up, in exchange for one share of IBM Common Stock, plus the Additional Amount, for each such Exchangeable Share.

23. Except as required by law and the terms of the Exchangeable Shares, holders of Exchangeable Shares are not entitled to receive notice of or to attend any meetings of shareholders of IBM or the Canadian Offeror or to vote at any such meeting.

24. IBM, IBM Holdings, the Canadian Offeror and CIBC Mellon Trust Company (the "Trustee") have entered into an Exchange Trust Agreement which provides holders of Exchangeable Shares with the Automatic Exchange Right and the Exchange Right described below, and IBM, IBM Holdings and the Canadian Offeror have entered into a Support Agreement to give effect to the provisions of the Exchangeable Shares.

25. Upon the occurrence of the liquidation, dissolution or winding up of IBM, whether voluntary or involuntary (an "IBM Liquidation Event"), in order for the holders of the Exchangeable Shares to participate on a pro rata basis with the holders of IBM Common Stock in the liquidation, dissolution or winding up contemplated by a IBM Liquidation Event, all the outstanding Exchangeable Shares held by holders (other than IBM and its subsidiaries) will be automatically exchanged (the "Automatic Exchange Right") for shares of IBM Common Stock. To effect such exchange, IBM will purchase, on the fifth business day prior to the IBM Liquidation Event, all outstanding Exchangeable Shares (other than Exchangeable Shares beneficially owned by IBM or its subsidiaries) in exchange for one share of IBM Common Stock, plus the Additional Amount in respect of each Exchangeable Share.

26. Upon the institution of, or consent of the Canadian Offeror to, any proceeding to be adjudicated a bankrupt or insolvent or to be dissolved or wound up, and the failure by the Canadian Offeror to contest in good faith any such proceeding within 15 days of the Canadian Offeror becoming aware thereof, or the making by the Canadian Offeror of a general assignment for the benefit of its creditors, or an admission by the Canadian Offeror in writing that it is unable to pay its debts generally as they become due, or the Canadian Offeror being unable, pursuant to applicable law to redeem such shares when retracted by their holder (each a "Canadian Offeror Insolvency Event"), the Trustee on behalf of the holders of Exchangeable Shares, has the right to require IBM or IBM Holdings to purchase (the "Exchange Right") each Exchangeable Share then outstanding (other than Exchangeable Shares beneficially owned by IBM or its subsidiaries) in exchange for one share of IBM Common Stock, plus the Additional Amount.

27. Under the IBM Support Agreement, IBM has covenanted to do, among other things, the following to give effect to the provisions of the Exchangeable Shares (the "Exchangeable Share Provisions"):

    (a) IBM will take all necessary actions to ensure that, if any dividends are declared on the IBM Common Stock, the Canadian Offeror will have sufficient money or other assets or authorized securities available to enable the due declaration and payment of an equivalent dividend on the Exchangeable Shares;

(b) IBM will take all actions necessary to ensure that the record date and payment date for dividends on the Exchangeable Shares are the same as those established for the IBM Common Stock;

(c) IBM will take all actions and do all things necessary to ensure that the Canadian Offeror is able to pay to the holders of the Exchangeable Shares the required number of shares of IBM Common Stock, plus the Additional Amount per Exchangeable Share, in the event of a liquidation, dissolution or winding up of the Canadian Offeror, the receipt of a retraction request from a holder of Exchangeable Shares or a redemption of Exchangeable Shares by the Canadian Offeror; and

(d) IBM will not vote or otherwise take any action or omit to take any action causing the liquidation, dissolution or winding up of the Canadian Offeror.

28. Certain trades or potential trades in Exchangeable Shares and shares of IBM Common Stock will or may take place in connection with the various exchange and call rights created under the Exchangeable Share Provisions and the Exchange Trust Agreement. To the extent that there are no exemptions from the Registration and Prospectus Requirements for such trades (the "Non-Exempt Trades"), exemptive relief is required.

29. Holders of Shares made one investment decision when at the time they chose to tender their Shares to the Offers and accept Exchangeable Shares, as opposed to cash, in return and the subsequent Non-Exempt Trades arise directly out of the collection of rights acquired by holders of Shares who elected to receive Exchangeable Shares.

30. If not for tax considerations, Canadian shareholders of LGS could have received IBM Common Stock without the option of receiving Exchangeable Shares. The Exchangeable Shares were issued to provide Canadian Shareholders with securities on a tax deferred basis and to otherwise preserve the tax attributes applicable to Canadian shareholders of LGS.

31. The Circular disclosed that, in connection with the Offers, IBM, IBM Holdings and the Canadian Offeror will be making application for required relief from the Registration and Prospectus Requirements.

AND WHEREAS pursuant to the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Makers with the jurisdiction to make the decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that the Registration and Prospectus Requirements shall not apply to a Non-Exempt Trade provided that the first trade in a Jurisdiction of shares of IBM Common Stock acquired pursuant to this Decision Document shall be subject to the Prospectus Requirement in the Jurisdiction except where

A. immediately following the issuance of the Exchangeable Shares

(i) residents of the applicable Jurisdiction holding shares of IBM Common Stock, assuming that all shares of IBM Common Stock issuable on the exchange of Exchangeable Shares have been issued, represented less than 10% of the registered shareholders of IBM holding less than 10% of the outstanding shares of IBM Common Stock; or

(ii) residents of the applicable Jurisdiction beneficially owning shares of IBM Common Stock, assuming that all shares of IBM Common Stock issuable on the exchange of Exchangeable Shares have been issued, represented less than 10% of the beneficial shareholders of IBM holding less than 10% of the outstanding shares of IBM Common Stock; and

B. the first trade is executed through the facilities of a stock exchange or on a market outside of Canada and such first trade is made in accordance with the rules of the stock exchange or market.

April 28, 2000.

"J.A. Geller" "Morley P. Carscallen"

2.1.4 Rolland Inc. - MRRS Decision

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am., s.83.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO AND QUÉBEC

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
ROLLAND INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Makers") in each of Ontario and Québec (the "Jurisdictions") has received an application from Rolland Inc. (the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Filer be deemed to have ceased to be a reporting issuer in each of the Jurisdictions;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Commission des valeurs mobilières du Québec is the principal regulator for this application;

AND WHEREAS the Filer has represented to the Decision Makers that:

1. The Filer is a corporation governed by the *Canada Business Corporations Act* and a reporting issuer in each of the Jurisdictions.

2. The head office of the Filer is located in St-Jérôme, Québec.

3. The authorized share capital of the Filer consists of an unlimited number of Common Shares and an unlimited number of Preferred Shares; Cascades holds 21 306 930 Common Shares and there are no other registered shareholders of the Filer.

4. The Common Shares of the Filer were delisted from The Toronto Stock Exchange on January 8, 2001 and the Filer no longer has any of its securities listed or traded on any exchange or market.

5. The Filer is not in default of any of the requirements under the Legislation.

6. The Filer results from the amalgamation of 3715981 Canada Inc. with Rolland Inc., which had been a reporting issuer under the Legislation for at least twelve months prior to the amalgamation.

7. Following the completion of the amalgamation, Cascades Inc. became the sole shareholder of the Filer.

8. The Filer has no other securities, including debt securities, outstanding.

9. The Filer does not intend to seek public financing by way of an offering of securities.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively the "Decision");

AND WHEREAS 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;

THE DECISION of the Decision Makers under the Legislation is that the Filer is deemed to have ceased to be a reporting issuer in each of the Jurisdictions.

DATED at Montréal, on April 19th, 2001.

"Edvie Élysée"

2.1.5 Doubleclick Inc. et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Relief granted from the registration and prospectus requirements in respect of trades in connection with an acquisition of Canadian non-reporting issuer by public U.S. non-reporting issuer by way of a statutory arrangement where exemptions are not available for technical reasons. First trade is a deemed distribution unless executed on foreign exchange or NASDAQ.

Applicable Ontario Statutory Provisions

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

IN THE MATTER OF
THE SECURITIES
LEGISLATION OF BRITISH COLUMBIA AND ONTARIO

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR
EXEMPTION RELIEF APPLICATIONS

AND

IN THE MATTER OF
DOUBLECLICK INC., DOUBLE CLICK INTERNATIONAL
INTERNET ADVERTISING LTD.,
THUNDERBALL ACQUISITION I INC., THUNDERBALL
ACQUISITION II INC. AND
FLONETWORK INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Makers") in each of British Columbia and Ontario (the "Jurisdictions") has received an application from DoubleClick Inc. ("DoubleClick"), Double Click International Internet Advertising Ltd. ("DIIA"), Thunderball Acquisition I Inc. ("Holdco"), Thunderball Acquisition II Inc. ("Exchangeco") and FloNetwork Inc. ("FloNetwork") (collectively, the "Filer") for a decision pursuant to the securities legislation of the Jurisdictions (the "Applicable Laws") that the requirements contained in the Applicable Laws to be registered to trade in a security and to file a preliminary prospectus and a prospectus and receive receipts therefor (the "Registration and Prospectus Requirements") shall not apply to certain trades in securities made in connection with an acquisition (the "Transaction") of FloNetwork by DoubleClick pursuant to an arrangement agreement (the "Arrangement Agreement") made as of February 22, 2001 among DoubleClick, FloNetwork, Holdco and Exchangeco;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Filer has represented to the Decision Makers that:

1. DoubleClick will acquire all of the issued and outstanding securities of FloNetwork pursuant to the Arrangement Agreement and upon the completion of the Transaction, DoubleClick, through, Holdco, Exchangeco and DIIA (the "DoubleClick Affiliates") will own all of the issued and outstanding shares in the capital of FloNetwork and certain warrants to acquire shares in the capital of FloNetwork.

2. DoubleClick is a Delaware corporation. DoubleClick is currently subject to the reporting requirements of the United States *Securities Exchange Act of 1934*, as amended, and is not a reporting issuer in any province or territory of Canada.

3. DoubleClick's authorized capital consists of 5,000,000 shares of preferred stock, US$0.001 par value per share, and 400,000,000 shares of DoubleClick common stock (the "DoubleClick Common Shares"). The DoubleClick Common Shares are fully participating voting shares. As of March 6, 2001, no preferred stock was issued or outstanding and 128,454,449 DoubleClick Common Shares were issued and outstanding.

4. The DoubleClick Common Shares are quoted on the Nasdaq Stock Market-National Market System ("NASDAQ").

5. DIIA is an Irish corporation and is a direct wholly-owned subsidiary of DoubleClick. The authorized capital of DIIA consists of 500,000 ordinary shares of £1 each. As of March 6, 2001, there were 500,000 DIIA shares outstanding.

6. DIIA is not a reporting issuer in any province or territory of Canada.

7. Holdco is a Nova Scotia corporation. Holdco is a direct wholly-owned subsidiary of DIIA and an indirect wholly-owned subsidiary of DoubleClick. The authorized capital of Holdco consists of 100,000,000 common shares.

8. Holdco is not a reporting issuer in any province or territory of Canada..

9. Exchangeco is a Nova Scotia corporation. Exchangeco has been incorporated as a wholly-owned subsidiary of Holdco to hold all of the shares in the capital of the FloNetwork and certain FloNetwork warrants.

10. Upon completion of the Transaction the authorized capital of Exchangeco will consist of 100,000,000 common shares and 10,000,000 shares which are exchangeable for DoubleClick Common Shares (the "Exchangeable Share"). Upon completion of the Transaction, all of the issued and outstanding common shares of Exchangeco will be held directly by Holdco and the securityholders of FloNetwork who elect to receive Exchangeable Shares pursuant to the

Arrangement will own all the issued outstanding Exchangeable Shares.

11. Exchangeco is not a reporting issuer in any province or territory of Canada.

12. FloNetwork is incorporated under the laws of Ontario. The authorized capital of FloNetwork consists of an unlimited number of common shares, an unlimited number of Class A preferred shares, an unlimited number of Class B preferred shares, an unlimited number of Class C preferred shares and an unlimited number of Class D preferred shares (together, the "FloNetwork Shares"). As of February 22, 2001, there were 6,237,273 common shares, 550,000 Class A preferred shares, 8,640,000 Class B preferred shares, 2,650,423 Class C preferred shares and 12,033,983 Class D preferred shares outstanding.

13. FloNetwork has issued 4,000,000 Class B warrants convertible into 800,000 FloNetwork common shares and 12,033,983 Class D warrants convertible into 1,203,398 FloNetwork common shares (together, the "FloNetwork Warrants" and together with the FloNetwork Shares the "FloNetwork Securities"). FloNetwork has also issued a warrant (the "Transamerica Warrant") to Transamerica Commercial Finance Corporation Canada, a resident of the United States, which is convertible into 32,439 FloNetwork common shares.

14. FloNetwork is not a reporting issuer in any province or Territory of Canada.

15. As of February 22, 2001, FloNetwork had granted 1,904,520 options (the "FloNetwork Options") to purchase FloNetwork common shares under its share incentive plan to the directors, officers and employees of FloNetwork and its affiliates.

16. As of March 30, 2001, FloNetwork had 22 registered shareholders excluding current and former directors, officers and employees of FloNetwork. The FloNetwork shareholders, warrant holders and option holders all reside in the United States of America, the United Kingdom, the Republic of Ireland, the British West Indies, Bermuda, the Cayman Islands, the British Virgin Islands and the Provinces of British Columbia and Ontario.

17. The Transaction will be effected by way of an arrangement under section 182 of the *Business Corporations Act* (Ontario) (the "Arrangement"), which will require: (i) the approval of the holders of at least 66 2/3% of each of the FloNetwork common shares, Class A preferred shares, Class B preferred shares, Class C preferred shares and Class D preferred shares present in person or by proxy and voting as separate classes at the meeting (the "Meeting") of the holders of FloNetwork Shares which is expected to occur on or about April 17, 2001 (the "Meeting Date") for the purpose of approving the Arrangement, and (ii) the approval of the Superior Court of Justice (Commercial List), the application in respect of which is scheduled to be heard on the next business day following the Meeting Date.

18. Contemporaneously with the execution of the Arrangement Agreement, certain FloNetwork securityholders representing at least 86% of the FloNetwork common shares and 100% of each of the FloNetwork Class A, B, C and D preferred shares eligible to vote at the Meeting (the "FloNetwork Supporting Shareholders") entered into a shareholder agreement where the FloNetwork Supporting Shareholders undertook to take and not take certain actions in support of the Transaction. Pursuant to the above-noted shareholder agreement, the FloNetwork Supporting Shareholders undertook to vote or to cause to be voted all FloNetwork Shares owned by them in favour of the approval and adoption of the Transaction.

19. On or about April 2, 2001, FloNetwork delivered to the registered holders of the FloNetwork Shares a management proxy circular (the "Circular") which contains a detailed description of the business and affairs of DoubleClick and FloNetwork and of the Transaction and the Arrangement.

20. On the Arrangement becoming effective, the outstanding FloNetwork Securities (except those held by shareholders who exercise their rights of dissent in accordance with the Arrangement and Interim Order) will be exchanged for cash and Exchangeable Shares or cash and DoubleClick Common Shares. As well, on the Arrangement becoming effective, outstanding FloNetwork Options will be exchanged in the Transaction for options to purchase DoubleClick Common Shares (the "Replacement Options"). The Transamerica Warrant shall be assumed by DoubleClick in accordance with its terms and shall be converted into a warrant exercisable for DoubleClick Common Shares.

21. Each holder of FloNetwork Securities who receives cash and DoubleClick Common Shares pursuant to the Arrangement will receive such consideration from Exchangeco in exchange for his, her or its FloNetwork Securities. Each holder of FloNetwork Securities who receives cash and Exchangeable Shares pursuant to the Arrangement will receive such consideration from Exchangeco in exchange for his, her or its FloNetwork Securities. As a result of the foregoing, upon the completion of the Transaction, all of the then issued and outstanding FloNetwork Securities will be held by Exchangeco.

22. The Exchangeable Shares, together with the Support Agreement and the Exchange Trust Agreement described below, will provide holders thereof with a security of a Canadian issuer having economic and voting rights which are, as nearly as practicable, equivalent to those of a DoubleClick Common Share. The Exchangeable Shares will be exchangeable by a holder thereof for DoubleClick Common Shares on a share-for-share basis at the option of such holder (subject to a limitation on the minimum number of Exchangeable Shares which may be exchanged by a holder of Exchangeable Shares at any time) and will be

required to be exchanged upon the occurrence of certain events, as more fully described below. Exchangeable Shares will be received by certain holders of FloNetwork Securities on a Canadian tax-deferred rollover basis. Dividends will be payable on the Exchangeable Shares contemporaneously and in the equivalent amount per share as dividends on the DoubleClick Common Shares.

23. The Exchangeable Shares will rank prior to the common shares of Exchangeco with respect to the payment of dividends and the distribution of assets in the event of the liquidation, dissolution or winding-up of Exchangeco. The rights, privileges, restrictions and conditions attaching to the Exchangeable Shares (the "Exchangeable Share Provisions") will provide that each Exchangeable Share will entitle the holder to dividends from Exchangeco payable at the same time as, and in an amount equivalent to, each dividend paid by DoubleClick on a DoubleClick Common Share. Subject to the overriding call right of Holdco referred to below in this paragraph, on the liquidation, dissolution or winding-up of Exchangeco, a holder of Exchangeable Shares will be entitled to receive from Exchangeco for each Exchangeable Share held an amount equal to the current market price of a DoubleClick Common Share, to be satisfied by delivery of one DoubleClick Common Share, together with all declared and unpaid dividends on each such Exchangeable Share held by the holder on any dividend record date prior to the date of liquidation, dissolution or winding-up (such aggregate amount, the "Liquidation Price"). Upon a proposed liquidation, dissolution or winding-up of Exchangeco, Holdco will have an overriding call right to purchase all of the outstanding Exchangeable Shares from the holders thereof (other than DoubleClick or its affiliates) for a price per share equal to the Liquidation Price, to be satisfied by delivery of one DoubleClick Common Share, together with all declared and unpaid dividends on each such Exchangeable Share held by the holder on any dividend record date prior to the date of liquidation, dissolution or winding-up.

24. The Exchangeable Shares will not be listed for trading on any stock exchange or similar market.

25. The Exchangeable Shares will be non-voting (except as required by the Exchangeable Share Provisions or by applicable law) and will be retractable at the option of the holder (subject to certain limitations). Subject to the overriding call right of Holdco referred to below in this paragraph, upon retraction the holder will be entitled to receive from Exchangeco for each Exchangeable Share retracted an amount equal to the current market price of a DoubleClick Common Share, to be satisfied by delivery of one DoubleClick Common Share, together with, on the designated payment date therefor, all declared and unpaid dividends on each such retracted Exchangeable Share held by the holder on any dividend record date prior to the date of retraction (such aggregate amount, the "Retraction Price"). Upon being notified by Exchangeco of a proposed retraction of Exchangeable Shares, Holdco will have an overriding call right to purchase from the holder all of the Exchangeable Shares that are the subject of the retraction notice for a price per share equal to the Retraction Price, to be satisfied by delivery of one DoubleClick Common Share, together with, on the designated payment date therefor, all declared and unpaid dividends on each such retracted Exchangeable Share held by the holder on any dividend record date prior to the date of retraction.

26. Subject to the overriding call right of Holdco referred to below in this paragraph, Exchangeco may redeem all the Exchangeable Shares then outstanding at any time on or after the third anniversary of the closing of the Transaction (the "Redemption Date"). The board of directors of Exchangeco may accelerate the Redemption Date in certain circumstances, including: where there are a *de minimis* number of holders of Exchangeable Shares, where there is a change of control of DoubleClick and where the non-voting Exchangeable Shares are, in accordance with their terms, given voting rights. Upon such redemption, a holder will be entitled to receive from Exchangeco for each Exchangeable Share redeemed an amount equal to the current market price of a DoubleClick Common Share, to be satisfied by the delivery of one DoubleClick Common Share, together with all declared and unpaid dividends on each such redeemed Exchangeable Share held by the holder on any dividend record date prior to the date of redemption (such aggregate amount, the "Redemption Price"). Upon being notified by Exchangeco of a proposed redemption of Exchangeable Shares, Holdco will have an overriding call right to purchase from the holders all of the outstanding Exchangeable Shares (other than DoubleClick or its affiliates) for a price per share equal to the Redemption Price, to be satisfied by the delivery of one DoubleClick Common Share, together with all declared and unpaid dividends on each such redeemed Exchangeable Share held by the holder on any dividend record date prior to the date of redemption.

27. Upon the liquidation, dissolution or winding-up of DoubleClick, the Exchangeable Shares will be automatically exchanged for DoubleClick Common Shares pursuant to the Exchange Trust Agreement (described below), in order that holders of Exchangeable Shares may participate in the dissolution of DoubleClick on the same basis as holders of DoubleClick Common Shares. Upon the insolvency of Exchangeco, holders of Exchangeable Shares may put their shares to DoubleClick in exchange for DoubleClick Common Shares, as described below.

28. The overriding call rights of Holdco referred to above are subject to an overriding call right of DoubleClick, in certain circumstances, to purchase from the holders of Exchangeable Shares all of the outstanding Exchangeable Shares (other than those held by DoubleClick or its affiliates) (collectively the "DoubleClick Overriding Call Right") for a price per share equal to the Liquidation Price, Retraction Price or Redemption Price, as applicable, to be satisfied by delivery of one DoubleClick Common Share, together with all declared and unpaid dividends on each such Exchangeable Share held by the holder on any dividend record date prior to the date of such call.

29. Upon the exchange of an Exchangeable Share for a DoubleClick Common Share, the holder of the Exchangeable Share will no longer be a beneficiary of the trust created by the Exchange Trust Agreement that holds the DoubleClick Special Voting Share (as described below).

30. The DoubleClick Special Voting Share will be issued to and held by CIBC Mellon Trust Company (the "Trustee") for the benefit of the holders of Exchangeable Shares outstanding from time to time (other than DoubleClick and its affiliates) pursuant to an Exchange Trust Agreement to be entered into by DoubleClick, Holdco, Exchangeco and the Trustee contemporaneously with the closing of the Transaction. The DoubleClick Special Voting Share will have a number of votes attached thereto equal to the number of Exchangeable Shares outstanding, from time to time, and not owned by DoubleClick or its affiliates. Each voting right attached to the DoubleClick Special Voting Share must be voted by the Trustee pursuant to the instructions of the holder of the related Exchangeable Share. In the absence of any such instructions from a holder, the Trustee will not be entitled to exercise the related voting rights. Upon the exchange of an Exchangeable Share for a DoubleClick Common Share, the holder of the Exchangeable Share becomes a holder of a DoubleClick Common Share and the right of such holder to exercise votes attached to the DoubleClick Special Voting Share terminates.

31. Under the Exchange Trust Agreement, DoubleClick will grant to the Trustee, for the benefit of the holders of the Exchangeable Shares, a put right (the "Optional Exchange Right"), exercisable upon the insolvency of Exchangeco, to require DoubleClick to purchase from a holder of Exchangeable Shares all or any part of his or her Exchangeable Shares. The purchase price for each Exchangeable Share purchased by DoubleClick will be an amount equal to the current market price of a DoubleClick Common Share, to be satisfied by the delivery to the Trustee, on behalf of the holder, of one DoubleClick Common Share, together with an additional amount equivalent to the full amount of all declared and unpaid dividends on such Exchangeable Share held by such holder on any dividend record date prior to the closing of the purchase and sale.

32. Under the Exchange Trust Agreement, upon the liquidation, dissolution or winding-up of DoubleClick, DoubleClick will be required to purchase each outstanding Exchangeable Share, and each holder will be required to sell all of his or her Exchangeable Shares (such purchase and sale obligations are hereafter referred to as the "Automatic Exchange Right"), for a purchase price per share equal to the current market price of a DoubleClick Common Share, to be satisfied by the delivery to the Trustee, on behalf of the holder, of one DoubleClick Common Share, together with an additional amount equivalent to the full amount of all declared and unpaid dividends on each such Exchangeable Share held by such holder on any dividend record date prior to the closing of the purchase and sale.

33. The Exchange Trust Agreement also provides that DoubleClick will provide to the holders of Exchangeable Shares the same disclosure as it furnishes to the holders of DoubleClick Common Shares resident in the United States (as required by United States securities laws) which includes financial statements of DoubleClick prepared in accordance with generally accepted accounting principles of the United States.

34. Contemporaneously with the closing of the Transaction, DoubleClick, Holdco and Exchangeco will enter into a Support Agreement which will provide that DoubleClick will not declare or pay any dividend on the DoubleClick Common Shares unless Exchangeco simultaneously declares and pays an equivalent dividend on the Exchangeable Shares, and that DoubleClick will ensure that Holdco and Exchangeco will be able to honour the redemption and retraction rights and dissolution entitlements that are attributes of the Exchangeable Shares under the Exchangeable Share Provisions and the related redemption, retraction and liquidation call rights described above.

35. The Support Agreement will also provide that, without the prior approval of the holders of the Exchangeable Shares, actions such as distributions of stock dividends, options, rights and warrants for the purchase of securities or other assets, subdivisions, reclassifications, reorganizations and other changes cannot be taken in respect of the DoubleClick Common Shares generally without the same or an economically equivalent action being taken in respect of the Exchangeable Shares.

36. The Transaction and the completion thereof and the attributes of the Exchangeable Shares contained in the Exchangeable Share Provisions, the Exchange Trust Agreement and the Support Agreement involve or may involve a number of trades of securities in the Jurisdictions (collectively, the "Trades").

37. Following completion of the Arrangement, Canadian shareholders of DoubleClick will represent less than 10% of the holders of DoubleClick Common Shares and will hold less than 10% of the outstanding DoubleClick Common Shares (and for this purpose, DoubleClick Common Shares and Exchangeable Shares are considered to be of the same class).

38. There is no market, and none is expected to develop, for the Exchangeable Shares or the DoubleClick Common Shares in Canada.

AND WHEREAS pursuant to the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Applicable Laws provides the Decision Makers with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Applicable Laws is that, to the extent there are no exemptions available under the Applicable Laws from the Registration and

Prospectus Requirements in respect of any of the Trades, the Trades are not subject to the Registration and Prospectus Requirements, provided that the first trade in Exchangeable Shares or DoubleClick Common Shares received pursuant to the exemptive relief provided in this MRRS Decision Document shall deemed to be a distribution under the Applicable Laws unless such trade is executed through the facilities of NASDAQ or a stock exchange outside Canada and such trade is conducted in accordance with the rules and policies of NASDAQ or such exchange and in accordance with all laws applicable to NASDAQ or applicable to such stock exchange.

April 20, 2001.

"Paul Moore" "R. Stephen Paddon"

2.1.6 Saco SmartVision Inc. - MRRS Decision

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA,
ONTARIO, QUÉBEC, NEW BRUNSWICK, NOVA SCOTIA, PRINCE EDWARD ISLAND AND NEWFOUNDLAND

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
SACO SMARTVISION INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (collectively, the "Decision Makers") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland (the "**Jurisdictions**") has received an application from Saco SmartVision Inc. (the "**Filer**") for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") extending to May 19, 2001 the time limit for the filing with the securities regulatory authorities and the mailing to the registered holders of its securities, as the case may be, of the: (i) audited financial statements for the fiscal year ended November 30, 2000; (ii) annual report for the fiscal year ended November 30, 2000, where applicable; and iii) annual information form for the fiscal year ended November 30, 2000, where applicable (collectively the "**Annual Documents**"); and extending to May 29, 2001 the time limit for the filing with the securities regulatory authorities and the mailing to the registered holders of its securities of the financial statements for the quarter ended February 28, 2001 (the "**Quarterly Statements**");

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the *Commission des valeurs mobilières du Québec* is the principal regulator for this application;

AND WHEREAS the Filer has represented to the Decision Makers that:

1. the Filer was incorporated under the *Canada Business Corporations Act*;
2. the head office of the Filer is located in Montréal, Québec;
3. the Filer is a reporting issuer in each of the Jurisdictions;
4. the Filer's fiscal year end is November 30;
5. the Filer's first quarter ends on February 28;

6. the Filer is insolvent and on March 15, 2001 obtained an initial order under the *Companies' Creditors Arrangement Act*, providing a stay of all proceedings instituted against the Filer;

7. were the Filer required to issue financial statements at present in respect of the fiscal year ended November 30, 2000, it is advised by its auditors that such statements would have to be presented on a liquidation basis and that such statements could not be accompanied by an auditors' report, given the current state of uncertainty surrounding the Filer's financial situation;

8. the Filer is currently in the process of negotiating new financing, preparing a proposal or compromise for its creditors and a restructuring of its share capital, as well as negotiating revised banking arrangements with its primary lender;

9. if such negotiations are successful, the Filer will be able to continue its operations and issue audited financial statements in respect of the fiscal year ended November 30, 2000 presented on a going concern basis;

10. the annual information form for the fiscal year ended November 30, 2000 contains financial information and cannot be completed until such time as the financial statements for the fiscal year are complete;

11. an extension in the delay for the filing of the Quarterly Statements will allow the Filer to reflect the results of any proposal to its creditors and restructuring and refinancing proposed to its shareholders.

AND WHEREAS under the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS 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;

THE DECISION of the Decision Makers under the Legislation is to extend the time limits with respect to the filing with the securities regulatory authorities and the mailing to the registered holders of the securities until May 19, 2001 for the Annual Documents and until May 29, 2001 for the Quarterly Statements.

DATED in Montréal, on April 19th, 2001.

"Edvie Élysée"

2.1.7 TeleClone Incorporated - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - following a redemption and cancellation of securities, issuer has only one security holder - issuer deemed to have ceased being a reporting issuer.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am. s. 83.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA, SASKATCHEWAN, ONTARIO, QUEBEC,
NOVA SCOTIA AND NEWFOUNDLAND

AND

IN THE MATTER OF
TELECLONE INCORPORATED

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of the Provinces of Alberta, Saskatchewan, Ontario, Québec, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application from TeleClone Incorporated (the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the Filer be deemed to have ceased to be a reporting issuer, or its equivalent, under the Legislation;

AND WHEREAS, under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Filer has represented to the Decision Makers that:

1. the Filer was incorporated under the *Companies Act* (Nova Scotia) on October 28, 1997, is a reporting issuer in each of the Jurisdictions and is not in default of any of the requirements of the Legislation;

2. the Filer's head office is located in Toronto, Ontario;

3. the Filer's authorized capital consists of 60,000,000 class T shares (the "Class T Shares") and 100 class A shares (the "Class A Shares");

4. the Filer became a reporting issuer, or its equivalent, in each of the provinces and territories of Canada on June 11, 1998 pursuant to an initial public offering (the "IPO") of 7,250,000 Class T Shares which were listed on The Toronto Stock Exchange (the "TSE") following the IPO;

5. on August 14, 2000, the Filer redeemed all of its outstanding Class T Shares and the Class T Shares were subsequently cancelled and delisted from the TSE;

6. the Filer does not have any securities listed or quoted on any exchange or market;

7. TeleClone Holdings Inc. is the sole shareholder of all of the outstanding Class A Shares and, since August 14, 2000, has been the sole security holder of the Filer;

8. other than the Class A Shares, the Filer has no securities, including debt securities, outstanding; and

9. the Filer does not intend to seek public financing by way of an offering of its securities;

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation which provides the Decision Maker with the Jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the Filer is deemed to have ceased to be a reporting issuer, or its equivalent, under the Legislation.

April 18, 2001.

"Iva Vranic"

2.1.8 TD Securities Inc. & COM DEV International Ltd. - MRRS Decision

Headnote

MRRS - Issuer is a connected issuer, but not a related issuer, in respect of registrants that are underwriters in proposed distribution of units by the issuer - Underwriters exempt from the independent underwriter requirement in the legislation provided that issuer not in financial difficulty.

Applicable Ontario Regulations

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am.,ss. 219(1), 224(1)(b) and 233.

Applicable Ontario Rules

Proposed Multi-Jurisdictional Instrument 33-105 *Underwriting Conflicts* (published for comment February 6, 1998).

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
THE PROVINCES OF ALBERTA, BRITISH COLUMBIA, NEWFOUNDLAND,
QUEBEC AND ONTARIO

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
TD SECURITIES INC.
AND COM DEV INTERNATIONAL LTD.

MRRS DECISION DOCUMENT

WHEREAS the securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, British Columbia, Newfoundland, Quebec and Ontario (the "Jurisdictions") has received an application from TD Securities Inc. (the "Filer") for a decision, pursuant to the securities legislation of the Jurisdictions (the "Legislation"), that the requirement (the "Independent Underwriter Requirement") contained in the Legislation which restricts a registrant from acting as an underwriter in connection with a distribution of securities of an issuer made by means of a prospectus, where the issuer is a connected issuer (or the equivalent) of the registrant unless a portion of the distribution at least equal to that portion underwritten by non-independent underwriters is underwritten by an independent underwriter, shall not apply to the Filer in respect of a proposed distribution (the "Offering") of common shares (the "Offered Securities") of COM DEV International Ltd. (the "Issuer"), pursuant to a short form prospectus (the "Prospectus");

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the

"System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Filer has represented to the Decision Makers that:

1. The Issuer is a reporting issuer under the Legislation of each Jurisdiction and is not in default of any requirements of the Legislation.

2. The business of the Issuer is the design, manufacture and distribution of space and ground-based wireless communications products and subsystems.

3. The common shares of the Issuer are listed on The Toronto Stock Exchange.

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

5. The Issuer filed a preliminary short form prospectus dated April 12, 2001 (the "Preliminary Prospectus") in each province of Canada.

6. The Filer along with National Bank Financial Corp., Sprott Securities Inc., Yorkton Securities Inc. and Harris Partners Limited are proposing to act as underwriters in connection with the Offering.

7. The Issuer has a $35,000,000 operating facility (the "Operating Facility") with a Canadian chartered bank (the "Lender") which is an affiliate of the Filer. As at April 11, 2001, approximately $16.8 million was outstanding pursuant to the Operating Facility.

8. The nature of the relationship between the Issuer and the Filer has been described in the Preliminary Prospectus and will be described in the Prospectus.

9. The Lender did not and will not participate in the decision to make the Offering or in the determination of its terms.

10. The Filer will not benefit in any manner from the Offering other than the payment of its underwriting fees in connection with the Offering.

11. By virtue of the Operating Facility, the Issuer may, in connection with the Offering, be considered a connected issuer (or the equivalent) of the Filer.

12. The Issuer is not a related issuer (or the equivalent) of the Filer or of any of the other members of the underwriting syndicate.

13. The nature and details of the relationship between the Issuer and the Filer will be described in the Prospectus. The Prospectus will contain the information specified in Appendix "C" of draft Multi-Jurisdictional Instrument 33-105 *Underwriting Conflicts* (the "Proposed Instrument").

14. The Issuer is not a "specified party" as defined in the Proposed Instrument.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (the "Decision");

AND WHEREAS 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;

THE DECISION of the Decision Makers, under the Legislation, is that the Independent Underwriter Requirement shall not apply to the Filer in connection with the Offering provided the Issuer is not a related issuer, as defined in the Proposed Instrument, to the Filer at the time of the Offering and is not a specified party, as defined in the Proposed Instrument, at the time of the Offering.

April 23 ,2001.

"Paul M. Moore" "R. Stephen Paddon"

2.1.9 Denbridge Capital Corporation - MRRS Decision

Headnote

Mutual Reliance Review system for Exemptive Relief Applications - Relief from the registration and prospectus requirements of the securities legislation in connection with the distribution of securities by an issuer in satisfaction of certain debt.

Applicable Ontario Statutory Provisions

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

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am.

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF THE PROVINCES OF QUEBEC, ONTARIO AND BRITISH COLUMBIA

AND

IN THE MATTER OF
DENBRIDGE CAPITAL CORPORATION

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of the provinces of Quebec, Ontario and British Columbia (the "Jurisdictions") has received an application from Denbridge Capital Corporation (the "Filer") under the securities legislation of the Jurisdictions (the "Legislation") for an exemption from the registration requirements and prospectus requirements (the "Registration Requirements" and "Prospectus Requirements", respectively), each as defined in National Instrument 14-101 - *Definitions*, in respect of certain securities to be issued by the Filer in satisfaction of certain debt;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Filer has represented to the Decisions Makers that:

1. The Filer's head office is located at 130 Adelaide Avenue West, Suite 2320,Toronto, Ontario, M5H 3P5.

2. The Filer has been a reporting issuer in each of Quebec and Ontario for more than 12 months.

3. The common shares in the capital stock of the Filer (the "Common Shares") are listed and posted for trading on The Toronto Stock Exchange Inc. (the "TSE").

4. The Filer is an investment company whose objective is to invest in various companies during the start-up and growth phases of their economic development.

5. Currently, the Filer's sole investment is in Denbridge Digital Limited ("DDL"), in which it holds approximately an 86% equity interest. DDL's products include radar displays for fixed, mobile and portable marine and ATC (air traffic control) applications; radar tracking and vessel traffic management information systems; offshore platform protection systems, raw radar video compression, decompression and transmission systems; and wireless products that allow for remote data gathering of environmental data, traffic analysis, telecommunication capacity and compressed video/data transmission utilizing cellular technologies.

6. DDL requires an additional infusion of cash, and in order to be in a position to be able to raise such additional funds on behalf of DDL, the Filer plans to convert approximately $21 million of debt into equity (the "Debt Conversion") and thereby render itself free of all debt other than trade payables. Thereafter, the Filer plans to conduct a private placement of approximately $3 million (the "Private Placement") to finance the ongoing operations of DDL.

7. The Debt Conversion and the Private Placement shall have identical terms. Specifically, units will be issued on the basis of one unit (a "Unit") for each $0.075 converted or invested, as the case may be. Each Unit shall be comprised of one Common Share and one-half of a Common Share purchase warrant (a "Purchase Warrant"). Each whole Purchase Warrant shall entitle its holder to receive one Common Share at an exercise price of $0.09 at any time during the five-year period following its issuance.

8. Upon completion of the Debt Conversion and the Private Placement, the Common Shares issued in connection with the Debt Conversion will represent approximately 83% of the issued and outstanding Common Shares of the Filer.

9. Both the Debt Conversion and the Private Placement received the conditional approval of the TSE on November 3, 2000. As per the requirements of the TSE, the shareholders of the Filer approved the Debt Conversion and the Private Placement at a special meeting of shareholders held in Toronto on December 18, 2000 by a 99.60% and 99.89% majority, respectively.

10. The claims of the creditors (the "Creditors") to whom the Units are proposed to be issued in full settlement thereof arise from various different sources and have been incurred for value on commercially reasonable terms. None of the claims of the Creditors has been outstanding for less than 12 months. Six Creditors having claims in the aggregate amount of $4,835,831 do not act at arm's length with the Filer.

11. The following table sets out the number of Creditors residing in each of the Jurisdictions, the value of their claims and the proportion that each Jurisdiction

represents of the total value of outstanding debt being converted:

	Number of Creditors	Value of Claims ($)	Percentage (%) of Total Debt
Quebec	39	10,350,769	50.77
Ontario	7	2,777,383	13.62
British Columbia	3	649,542	3.19
Outside Canada	11	6,609,709	32.42
Total	60	20,387,403	100.00

12. The Filer is in financial difficulty and does not have sufficient capital available to satisfy the outstanding claims of the Creditors. The claims of the Creditors were incurred with the expectation that they would be satisfied in cash and not with Common Shares.

13. The Filer is currently in the process of meeting with each of the Creditors on an individual basis and has been advised by them that an important factor in having them agree to the Debt Conversion is that the Units, meaning the Common Shares, and the Common Shares issuable upon the exercise of the Purchase Warrants (the "Warrant Shares"), be freely tradeable following their issuance and not subject to any statutory hold period.

14. The Filer has not received the type of relief set out in this MRRS Decision Document from any of the Jurisdictions in the past 12 months.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "**Decision**");

AND WHEREAS 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;

THE DECISION of the Decision Makers under the Legislation is that the Registration Requirements and the Prospectus Requirements of the Legislation shall not apply to trades, by or on behalf of the Filer, of Common Shares, Purchase Warrants and Warrant Shares to the Creditors in connection with the Debt Conversion provided that:

(i) the first trade in a Jurisdiction of Purchase Warrants distributed in reliance on this Decision shall be deemed a distribution to the public under the Legislation of such Jurisdiction; and

(ii) the first trade in a Jurisdiction of Common Shares distributed in reliance on this Decision and Warrant Shares acquired upon the exercise of Purchase Warrants distributed in reliance on this Decision shall be deemed to be a distribution to the public under the Legislation of such Jurisdiction (the "Applicable Legislation") unless:

(a) at the time of the first trade, the Filer is and has been a reporting issuer under the Applicable Legislation for the 12 months immediately preceding the trade or, if the Filer is not a reporting issuer under the Applicable Legislation, the Filer has filed all continuous disclosure documents filed by it in the Jurisdictions in which it is a reporting issuer, for a period of at least 12 months immediately preceding the date of the trade, with the Decision Maker of the Jurisdiction;

(b) no unusual effort is made to prepare the market or create a demand for the Common Shares;

(c) no extraordinary commission or consideration is paid to a person or company in respect of the trade;

(d) if the seller of the securities is an insider or officer of the Filer, the seller has no reasonable grounds for believing that the Filer is in default of any requirement of the Applicable Legislation; and

(e) except in Quebec, the trade is not a trade from the holdings of any person, company or combination of persons or companies that holds a sufficient number of securities of the Filer so as to affect materially the control of the Filer or more than twenty percent of the outstanding voting securities of the Filer, except where there is evidence showing that the holding of those securities does not affect materially the control of the Filer.

April 24, 2001.

"Paul M. Moore" "Stephen N. Adams"

2.1.10 Avaya Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - relief granted from the registration and prospectus requirements for trades in options, and shares acquired on the exercise of options, under an employee stock option plan - relief from the issuer bid requirements in respect of the purchase by the issuer of shares tendered by Ontario employees, officers and directors in payment of the exercise price - exemption not available because of the method of calculation of market price under the plans.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5m as amended, ss. 93(3)(e), 95 to 100 and 104(2)(c).

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ONTARIO, BRITISH COLUMBIA, ALBERTA,
MANITOBA AND QUÉBEC

AND
IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW
SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
AVAYA INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "**Decision Maker**") in each of Ontario, British Columbia, Alberta, Manitoba and Québec (the "**Jurisdictions**") has received an application from Avaya Inc. (the "**Company**") for a decision under the securities legislation of the Jurisdictions (the "**Legislation**") that:

(a) the requirements contained in the securities legislation in each of the Jurisdictions other than Ontario to be registered to trade in a security (the "**Registration Requirements**") shall not apply to certain trades under the Company's Long Term Incentive Plan for Management Employees ("**LTIP**"), 2000 Employee Stock Purchase Plan ("**ESPP**") and Broad-Based Stock Option Plan ("**BBSOP**") (collectively, the "**Plans**") to eligible employees of the Company and its affiliates (the "Participants") and the subsequent first trades in the Company's common shares ("**Shares**" or individually, a "**Share**") by Participants resident in the Provinces of British Columbia, Alberta, Manitoba and Québec; and

(b) the requirements relating to delivery of an offer and issuer bid circular and any notices of change or variation thereto, minimum deposit periods and withdrawal rights, taking up and paying for securities tendered to an issuer bid, disclosure, restrictions upon purchases of securities, bid financing, identical consideration and collateral benefits (collectively, the "**Issuer Bid Requirements**") shall not apply to certain acquisitions by the Company of Shares pursuant to the LTIP in each of British Columbia, Alberta, Manitoba, Ontario and Québec.

(c) the requirements contained in the securities legislation of Québec to file and obtain a receipt for a preliminary prospectus shall not apply to trades in securities under the Plans.

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "**System**") the Commission des valeurs mobilières du Québec is the principal regulator for this application;

AND WHEREAS the Company has represented to the Decision Makers that:

1. The Company, a newly formed Delaware corporation, emerged as a result of the spin-off of the Enterprise Networks Group by Lucent Technologies Inc. ("**Lucent**") which was announced in March 2000 (the "**Spin-Off**"). The Spin-Off became effective as of September 30, 2000.

2. As a result of the Spin-Off, the Company commenced operations on September 30, 2000 as an independent company. The Company was incorporated to acquire and carry on the enterprise communications business previously carried on by the Enterprise Networks Group of Lucent.

3. The Company is registered with the Securities Exchange Commission in the United States of America under the United States *Securities Exchange Act of 1934* (the "**Exchange Act**") and is not exempt from the reporting requirements of the Exchange Act pursuant to Rule 12G 3-2 made thereunder.

4. The authorized capital of the Company consists of 1,500,000,000 Shares and 200,000,000 preferred shares. As of September 30, 2000, approximately 282,027,939 Shares of the Company were distributed pursuant to the Spin-Off. Each shareholder of Lucent common stock received 1 Share of the Company for every 12 shares of Lucent common stock held as of the close of business on September 20, 2000.

5. The Company is not a reporting issuer or equivalent in any of the Jurisdictions and has no present intention of becoming a reporting issuer in any of the Jurisdictions

6. Shares subject to the Plans are listed and posted for trading in the United States on the New York Stock Exchange (the "**NYSE**").

7. Effective as of September 30, 2000, the Company and its Canadian affiliates employed approximately 390 employees in the Jurisdictions who are eligible to participate in the Plan (304 in Ontario, 36 in British Columbia, 16 in Alberta, 2 in Manitoba and 32 in Québec).

8. In order to continue offering similar compensation packages for its eligible employees as were offered prior to the Spin-Off, the Company has adopted equity incentive plans for its eligible employees which are comparable to those which were offered by Lucent to its employees prior to the Spin-Off.

The Plans

1. The Plans were established to provide eligible employees of the Company and its affiliates with an opportunity to share in the ownership of the Company and to recognize the relationship between the Company's performance and the commitment of its eligible employees.

2. All eligible employees, as determined in accordance with the terms of the Plans, of the Company and its affiliates may participate in the Plans.

3. Pursuant to the LTIP and the BBSOP, eligible employees of the Company and its affiliates are granted options to purchase Shares ("**Options**"), which Options are non-transferable otherwise than by will or the laws of descent.

4. Additional awards which may be granted pursuant to the LTIP and BBSOP include Shares or preferred shares of the Company, Options to purchase preferred shares of the Company and stock appreciation rights.

5. Pursuant to the ESPP, eligible employees of the Company and its affiliates may have certain payroll deductions contributed to a periodic deposit account on behalf of such eligible employee, which cash amounts will be utilized to effect purchases of Shares of the Company on behalf of the eligible employee at prices below their fair market value (which amount is equal to 85% of the average of the high and low sale prices for Shares on the NYSE on the date on which the option is exercised and the stock subject to the option is purchased).

6. Participation in the Plans is voluntary and eligible employees are not induced to participate in the Plans by expectation of or as a condition of employment or continued employment with the Company or an affiliate.

7. All Participants will receive an information package concerning the Plans. In addition, Participants that are resident in the Jurisdictions who acquire Shares under the Plans will be provided with all disclosure material relating to the Company which is provided to holders of Shares resident in the United States.

8. The direct and indirect shareholders of the Company in each Jurisdiction, as at September 30, 2000, do not hold more than 10% of the outstanding Shares or preferred shares of the Company nor do such shareholders constitute more than 10% of all shareholders of the Company. If at any time during the effectiveness of the Plans the direct and indirect shareholders of the Company in any one Jurisdiction hold, in aggregate, greater than 10% of the total number of issued and outstanding Shares or preferred shares or if such shareholders constitute more than 10% of all shareholders of the Company, the Company will apply to the relevant Decision Maker for an order with respect to further trades to and by the Participants in that Jurisdiction in respect of Shares or preferred shares acquired under the Plans.

9. The Company has engaged agents to act as administrators under the Plans (the "**Agents**" or individually, "**Agent**") to administer the operation of the Plans, including the exercise of Options by Participants under the LTIP and BBSOP, the sale by Participants of Shares acquired pursuant to the exercise of Options under the LTIP and BBSOP, the sale of Shares acquired pursuant to the ESPP and if the Shares issued pursuant to the ESPP are acquired on the open market, the acquisition of such Shares.

10. Under both the LTIP and BBSOP, Salomon Smith Barney Inc. will act as Agent. Under the ESPP, Merrill Lynch & Co., Inc. will act as Agent. The Agents are not registrants under the Legislation but are registered to trade in securities under applicable legislation in the United States.

11. Pursuant to the LTIP, the acquisition of Shares by the Company in certain circumstances from LTIP participants in the Jurisdictions may constitute an "issuer bid" as defined under the Legislation. The terms of the LTIP permit LTIP participants to tender Shares to the Company as payment of the option price for Options granted pursuant to the LTIP.

12. There is no market in the Jurisdictions for the Shares and none is expected to develop.

13. The Legislation of certain of the Jurisdictions does not contain exemptions from the Prospectus Requirements and/or Registration Requirements for intended trades in Options, Shares or other awards ("**Awards**") under the Plans.

14. Where a U.S. registrant sells Shares on behalf of a Participant, neither the Participant nor the U.S. registrant is able to rely on the exemption from the Registration Requirements contained in the Legislation of certain of the Jurisdictions for trades made by a person acting solely through a registered dealer under the Legislation.

15. The Legislation of certain of the Jurisdictions deems any trade in Shares acquired under the Plans to be a distribution unless, among other things, the Company is a reporting issuer and has been a reporting issuer for the 12 months immediately preceding the trade.

16. The exemptions in the Legislation from the Issuer Bid Requirements may not be available for certain acquisitions by the Company of the Shares in accordance with the terms of the LTIP, since certain acquisitions may occur at a price that exceeds the "market price", as that term is defined in the Legislation. Under the LTIP, the Company will acquire such tendered Shares at the Shares' fair market value, which shall be an amount equal to the average of the high and

low sales price of a Share as reported on the NYSE on the date of exercise (or on the next preceding day when sales were reported if no sales of Shares were reported on the date of exercise).

AND WHEREAS under the System this Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS 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;

The Decision of the Decision Makers pursuant to the Legislation is that:

1. The Registration Requirements shall not apply to trades in Awards which may be made under the Plans where such trades are in accordance with the provisions of the Plans, as applicable.

2. The Registration Requirements shall not apply to the trades made by Agents or by Participants under the Plans through the Agents in Awards (or other securities issuable upon the exercise of the rights attaching to such Awards) acquired under the Plans where such trades are in accordance with the provisions of the Plans, as applicable.

3. An intended trade in Shares acquired by Participants under the Plans is a deemed distribution or a primary distribution to the public unless such trade is executed through the facilities of a stock exchange or on an organized market outside of Canada and in accordance with the laws applicable to such exchange or market.

4. Acquisitions of Shares by the Company from LTIP participants as a means of satisfying the exercise price for Options granted pursuant to the LTIP shall be exempt from the Issuer Bid Requirements where such acquisitions are effected in accordance with the provisions of the LTIP.

The further decision of the Decision Maker in the Province of Québec to file and obtain a receipt for a preliminary prospectus and prospectus shall not apply to trades in securities under the Plans where such trades are in accordance with the provisions of the Plans, as applicable.

December 8, 2000.

"Guy Lemoyne" "Viateur Gagnon"

2.1.11 iPerformance Fund Corp. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Trades in units of pooled funds to investor and his or her registered retirement plans not subject to the registration and prospectus requirement provided the aggregate acquisition cost is not less than the prescribed amount - trades of additional units of pooled funds to existing unitholders holding, together with his or her registered plans, units having an aggregate acquisition cost or net asset value of not less than the prescribed amount not subject to registration and prospectus requirement - trades by pooled funds of units to existing unitholders pursuant to the reinvestment of distributions by pooled funds not subject to registration and prospectus requirement - trades in units of pooled funds not subject to requirement to file reports of trade within 10 days of trades provided prescribed reports filed and fees paid within 30 days of financial year end of pooled funds.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 25, 53, 72(3), 74(1), 147.

Applicable Ontario Rules

Rule 45-501 *Exempt Distributions* (1998) 21 OSCB 6548.

Rule 81-501 *Mutual Fund Reinvestment Plans* (1998) 21 OSCB 2713.

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, ONTARIO NEW BRUNSWICK, NOVA SCOTIA, PRINCE EDWARD ISLAND, NEWFOUNDLAND, YUKON, NORTHWEST TERRITORIES AND NUNAVUT

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
***i*PERFORMANCE FUND CORP.**

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland, Yukon, Northwest Territories and Nunavut (the "Jurisdictions") has received an application from *i*Performance Fund Corp. (the "Applicant") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that:

(a) certain trades in units ("Units") of open-end unit trusts established, or to be established from time to time, by the Applicant or an affiliate of the Applicant (the "Funds") shall not be subject to the registration and prospectus requirements of the Legislation of the Jurisdictions other than British Columbia;

(b) trades in additional Units ("Additional Units") of the Funds to an investor upon:

(i) the subsequent subscription of an investor shall not subject to the registration and prospectus requirements of the Legislation; and

(ii) the reinvestment of distributions by a Fund shall not be subject to the registration and prospectus requirements of the Legislation of, New Brunswick, Newfoundland, Prince Edward Island and Yukon Territory; and

(c) trades in Units are not subject to the requirements of the Legislation of the Jurisdictions other than Manitoba relating to the filing of forms and the payment of fees within 10 days of each trade;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Applicant has represented to the Decision Maker that:

1. The Applicant has applied for registration under the *Securities Act* (Ontario) as an adviser in the categories of investment counsel and portfolio manager. Until such time as the registration has been approved by the applicable regulatory authority, the Applicant will act under the registration of its controlling shareholder, Hirsch Asset Management Corp., which is a mutual fund dealer, investment counsel and portfolio manager in Ontario.

2. The Applicant intends to establish one or more Funds pursuant to declarations of trust for which the Applicant will act as the trustee and manager.

3. Each Fund is or will be a "mutual fund" as defined in the Legislation.

4. None of the Funds currently intends to become a reporting issuer, as such term is defined in the Legislation, and the Units of the Funds will not be listed on any stock exchange.

5. Each Fund will be divided into Units which will evidence each investor's undivided interest in the assets of the Fund.

6. It is intended that Units of the Funds will be qualified for investment by a trust governed by a self-administered registered retirement savings plan or registered retirement income fund ("Registered Plans").

7. The initial distribution of Units of a Fund (the "Initial Investment") to an investor and the Registered Plans of the investor will have an aggregate acquisition cost to the investor and the investor's Registered Plans (an investor alone, an investor's Registered Plan alone, or any combination of the foregoing, a "Unitholder") of at least the amount prescribed by the Legislation (the "Prescribed Amount") in connection with exemptions from the prospectus and registration requirements (the "Private Placement Exemptions") which require the investor to purchase securities of an issuer having a minimum acquisition cost.

8. Where the Prescribed Amount of an Initial Investment in a fund is met through the aggregation of the acquisition costs of Units of a Fund by some or all of an investor and an investor's Registered Plans, the Private Placement Exemptions would not be available and exemptive relief required.

9. Following an Initial Investment, it is proposed that a Unitholder be able to subscribe and pay for Additional Units of a Fund in increments of less than the Prescribed Amount, provided that at the time of such subsequent acquisition the Unitholder holds Units of the Fund with an aggregate acquisition cost or aggregate net asset value of at least the Prescribed Amount.

10. Each Fund proposes to distribute Additional Units by way of automatic reinvestment of distributions to Unitholders of the Fund.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS 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;

THE DECISIONS of the Decision Makers pursuant to the Legislation are that:

(A) an Initial Investment in Units of a Fund shall not be subject to the registration and prospectus requirements of the Legislation provided that:

(i) the aggregate acquisition cost to a Unitholder of the Initial Investment is not less than the Prescribed Amount; and

(ii) this paragraph (A) will cease to be in effect in a Jurisdiction 90 days after the coming into force, subsequent to the date of this Decision, of any legislation, regulation or rule in the Jurisdiction relating, in whole or in part, to the distribution of mutual fund securities under exemptions from the registration and prospectus requirements;

(B) a trade in Additional Units pursuant to a subsequent subscription and payment by a Unitholder shall not be

subject to the registration and prospectus requirements of the Legislation in Manitoba, Ontario, New Brunswick, Newfoundland, Prince Edward Island and Yukon Territory provided that:

(i) at the time of trade of Additional Units, the Applicant or an affiliate is registered under the Securities Act (Ontario) as an adviser in the categories of investment counsel and portfolio manager;

(ii) at the time of the trade of Additional Units of a Fund, the Unitholder then owns Units of the Fund having an aggregate acquisition cost or an aggregate net asset value of not less than the Prescribed Amount;

(iii) this paragraph (B) will cease to be in effect in a Jurisdiction 90 days after the coming into force, subsequent to the date of this Decision, of any legislation, regulation or rule in the Jurisdiction relating, in whole or in part, to the distribution of mutual fund securities under exemptions from the registration and prospectus requirements;

(C) trades in Additional Units of a Fund pursuant to the reinvestment of distributions of the Fund shall not subject to the registration and prospectus requirements of the Legislation in Manitoba, New Brunswick, Newfoundland, Prince Edward Island and Yukon Territory provided that:

(i) no sales commissions or other charge in respect of such issuance of Additional Units is payable; and

(ii) each Unitholder who receives Additional Units has received, not more than 12 months before such issuance, a statement describing (a) the details of any deferred or contingent sales charges or redemption fee that is payable at the time of the redemption of a Unit, (b) any rights that the Unitholder has to make an election to receive cash instead of Units in the payment of the net income or net realized capital gains distributed by the Fund, (c) instructions on how the right referred to in subclause (b), if any, can be exercised and (d) the fact the no prospectus is available for the Fund as Units are offered pursuant to prospectus exemptions only;

(D) the first trade of Units acquired under an exemption from the registration and prospectus requirements provided in this Decision is deemed to be a distribution or primary distribution to the public in a Jurisdiction unless otherwise exempt under the Legislation of the Jurisdiction or unless at the time of the first trade:

(i) the Fund is a reporting issuer or the equivalent under the applicable Legislation;

(ii) if the seller of the Units is in a special relationship (as defined in the applicable Legislation) with the Fund, the seller has reasonable grounds to believe that the Fund is not in default of any requirement of the applicable Legislation;

(iii) no unusual effort is made to prepare the market or to create a demand for the Units and no extraordinary commission or consideration is paid in respect of such trades; and

(iv) the Units have been held for a period of at least eighteen months from the date they were acquired by the seller of the Units.

(E) the requirements contained in the Legislation of the Jurisdictions other than Manitoba to file a report of trades in Units and pay the associated fee shall not apply to a trade in Units of a Fund made in reliance on the exemptions from the registration and prospectus requirements contained in this Decision or in reliance on the Private Placement Exemptions provided that within 30 days of the end of each financial year of each Fund, such Fund:

(i) files with the applicable Decision Maker a report in respect of all trades in Units of the Fund during such financial year, in a form proscribed by applicable Legislation; and

(ii) remits to the applicable Decision Maker the fee prescribed by the applicable Legislation.

April 16, 2001.

"J.A. Geller" "Stephen N. Adams"

2.1.12 Sterling Financial Corporation et al. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - trades made in connection with restructuring of existing investment in a related group of companies exempt from prospectus and registration requirements - investors have significant net worth, are sophisticated and have access to professional and financial advice - first trade in common shares acquired on exercise of warrants deemed a distribution - resale subject to conditions analogous with restrictions that would have been imposed by application legislation.

Applicable Ontario Statutes

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 25, 35(1)5, 53, 72(1)(d) and 72(5).

Applicable Ontario Rules

Rule 45-501 Exempt Distributions.
Rule 72-501 Prospectus Exemption for First Trade Over a Market Outside Ontario.

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ONTARIO, BRITISH COLUMBIA, ALBERTA, MANITOBA AND QUEBEC

AND

IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF
STERLING FINANCIAL CORPORATION

AND

PREFERRED EQUITY LIMITED
PARTNERSHIP UNITHOLDERS

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Ontario, British Columbia, Alberta, Manitoba and Quebec (the "Jurisdictions") has received an application from Sterling Financial Corporation ("Sterling") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the requirements contained in the Legislation to be registered to trade in a security and to file and obtain a receipt for a preliminary prospectus and a prospectus (the "Registration and Prospectus Requirements") shall not apply to the distribution by Sterling of common share purchase warrants, Series I and Series II (the "Warrants") exercisable for common shares of Sterling ("Sterling Common Shares") and the distribution of promissory notes (the "Notes") of Senior Preferred Hotels Limited Partnership ("Senior Partnership") to Preferred Equity Limited Partnership H Unitholders ("H Unitholders");

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS Sterling has represented to the Decision Makers as follows:

1. Sterling is a hotel investment company and real estate lender whose activities are primarily conducted in the United States. Sterling's corporate headquarters are located at 6900 East 2nd Street, Scottsdale, Arizona, 85251. Sterling's registered office is located at Suite 703, 123 Edwards Street, Toronto, Ontario, M5G 1E2.
2. Sterling was originally incorporated under the name Goldvue Mines Limited under the laws of Ontario by Letters Patent dated September 7, 1944 and during the next few decades changed its name several times. On February 8, 1988, the company changed its name to Samoth Capital Corporation. On May 29, 2000, the company changed its name to Sterling Financial Corporation.
3. In 1996, Sterling, then called Samoth Capital Corporation, invested in under-valued, mid-market hotel properties in growth-oriented markets and secured an interest in the cash flows of such properties. Sterling acquired eight hotels in June, 1996 and fifteen hotels in March 1997. These acquisitions increased Sterling's portfolio to 28 hotels in Florida, Kansas, Missouri, New Mexico and Texas. Sterling also acted as a mezzanine lender in the multi-family residential and master planned community sectors of the real estate industry in Arizona, California, Florida, Nevada, Texas and British Columbia.
4. In late 1997 and 1998, the U.S. limited service hotel industry deteriorated and, along with it, the value of Sterling's portfolio. Sterling subsequently reduced its portfolio to ten hotels. Today, Sterling continues its focus on real estate lending, the development and re-development of commercial and retail real estate, investing in master-planned communities and multi-family projects.
5. Sterling is a reporting issuer in the provinces of Ontario, British Columbia, Saskatchewan, Manitoba, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Quebec, as a result of filing a final prospectus and obtaining a receipt for same in June, 1994.
6. Sterling is not on the list of defaulting reporting issuers pursuant to the Legislation maintained by the Jurisdictions.
7. Sterling Common Shares are listed for trading on The Toronto Stock Exchange (the "TSE") under the symbol SCF.

8. As of April 2, 2001, there were 36,534,784 Sterling Common Shares issued and outstanding on the TSE.

9. Preferred Equities Limited Partnership ("PELP") was formed pursuant to the laws of the province of British Columbia by the filing of a Declaration of Partnership in the Office of the Registrar of Companies on June 3, 1996, with Preferred Equities Ltd. ("Preferred Equities") registered as the General Partner. PELP's head office is 6900 East 2nd Street, Scottsdale, Arizona, 85251, and its registered address is Suite 2900, 595 Burrard Street, Vancouver, British Columbia, V7Y 1B6.

10. Preferred Equities is a non-reporting company incorporated under the laws of British Columbia on March 21, 1996, whose issued and outstanding shares are owned by Samoth Equity Corporation, a wholly-owned subsidiary of Sterling.

11. PELP was formed to invest in two specific projects: the indirect acquisition of an interest in eight hotels and one office building and an interest in the Ventana Project (defined herein).

12. Each of the eight hotels and office building are owned by a separate limited partnership (the "Limited Partnerships"). Master Preferred Hotels Limited Partnership (the "Master Partnership"), whose general partner is Master Preferred Hotels, Inc. ("Master Preferred Hotels"), an indirect, wholly-owned subsidiary of Sterling, is the limited partner of each of the Limited Partnerships. The limited partnership units of the Master Partnership are owned by Senior Partnership, whose general partner is Senior Preferred Hotels, Inc. ("Senior Preferred Hotels"), an indirect, wholly-owned subsidiary of Sterling. The limited partnership units in the Senior Partnership are owned by PELP and Preferred Equity (U.S.) Limited Partnership (the "U.S. Partnership"), a limited partnership for U.S. investors whose general partner is Preferred Equity US, Inc., an indirect, wholly-owned subsidiary of Sterling. Since the acquisition of the hotel portfolio in 1996, three hotels and the office buildings have been sold.

13. Senior Partnership is a limited partnership formed under the laws of Delaware and it is not a reporting issuer in Canada or in the United States.

14. Pursuant to a July 29, 1996 private placement (the "Private Placement"), PELP offered units in PELP (the "Offering"), raising gross proceeds of US$7,200,000, to finance (i) the purchase of units in the Senior Partnership which indirectly owns the Limited Partnerships and (ii) the loan to assist in the funding of the construction of an apartment development in Las Vegas, Nevada (the "Ventana Project").

15. The Offering consisted of hotel units (the "H Units"), which relate to the investment in the hotels and office building Limited Partnerships and the Ventana Project units (the "V Units"). A subscriber whose subscription was accepted became a limited partner in PELP.

16. The H Units or V Units entitle the unitholder to either hotel distributable cash ("Hotel Distributable Cash") or the Ventana Project distributable cash ("Ventana Project Distributable Cash"). The Hotel Distributable Cash means all revenue related to PELP's interest in the Senior Partnership earned by PELP after deducting all expenses related to PELP. The Ventana Distributable Cash of PELP is defined as all revenue related to PELP's interest in the Ventana Loan earned by PELP after deducting all expenses related to PELP's interest in the Ventana Loan. The Ventana Project was completed in 1999 and all Ventana Project Distributable Cash has been paid to V Unitholders. No further distributions are owing to the V Unitholders.

17. The Offering offered investors investment benefits in both projects and the combination in a single Offering provided investors with the opportunity to obtain a blend of early return of capital, profit distribution, continuing cash flow and equity growth.

18. The Private Placement was made pursuant to exemptions from the prospectus requirements afforded by subsection 74(2)(4) of the *Securities Act* (British Columbia), subsection 128(b) of the Rules to the *Securities Act* (British Columbia), subsection 72(1)(d) of the *Securities Act* (Ontario), subsection 107(1)(d) of the *Securities Act* (Alberta), section 58 of the *Securities Act* (Manitoba) and section 43 of the *Securities Act* (Quebec).

19. Within 90 days of each fiscal year of PELP, PELP provides each H Unitholder with unaudited annual financial statements of PELP.

20. In each of the calendar years 1999, 2000, 2001, 2002 and 2003, on a date to be determined by Preferred Equities, in consultation with Sterling, H Unitholders were to have the option to exchange (the "Exchange Feature") up to 25% of the H Units outstanding as at December 31, 1998 into Sterling Common Shares (then common shares of Samoth Capital Corporation), based upon the then current market value of PELP's interest in the Senior Partnership.

21. On October 25, 1999, Sterling (then known as Samoth Capital Corporation) obtained exemptive relief from the Decision Maker in each of the Jurisdictions that the Registration and Prospectus Requirements do not apply to the exchange of Sterling Common Shares for H Units.

22. PELP then provided notice of the Exchange Feature to all H Unitholders on November 4, 1999. However, none of the H Unitholders chose to exercise their option under the Exchange Feature and no H Units have been converted. The present value of PELP's interest in the Senior Partnership makes the Exchange Feature of little value such that an H Unitholder would receive few, if any, Sterling Shares upon its exercise.

23. The H Unitholders subsequently became disappointed with the performance of their investment and made certain claims and allegations related to management of PELP and the sale by PELP of its limited partnership units. Accordingly, the H Unitholders formed a

committee (the "Committee") to conduct negotiations and retained legal counsel to act on its behalf.

24. Sterling, the Senior Partnership, the U.S. Partnership and the Committee have reached an agreement in principle relating to a settlement agreement and release (the "Settlement Agreement"), whereby:

(a) each of the H Unitholders agrees to convey to the U.S. Partnership all of their right, title and interest in the H Units owned by such H Unitholders;

(b) the Senior Partnership agrees to deliver a promissory note (the "Note") to each of the H Unitholders in an aggregate amount of US$5,400,000;

(c) the Notes have the following material attributes:

(i) the Notes are for a term of 5 years and interest at 5% per annum is to be paid annually;

(ii) if a real estate asset owned by one of the limited partnerships is sold, the net sale proceeds received in excess of any tax liability with respect to same is to be applied to the outstanding principal, subject to the prior payment of three outstanding loan facilities;

(iii) the Notes are secured by a Pledge and Security Agreement which grants a security interest in certain limited partnership units owned by Senior Partnership in Master Partnership and by a guarantee executed by Sterling limited to the amount of any new liens which may rank prior to the Pledge and Security Agreement;

(d) the Senior Partnership agrees to grant to each of the H Unitholders a security interest in all of the issued and outstanding limited partnership interests in Master Preferred Hotels, L.P.;

(e) the Senior Partnership agrees to pay to each of the H Unitholders, such H Unitholder's pro rata share of a US$49,000 fund, as a reimbursement of any costs incurred by such H Unitholder in respect of the Settlement Agreement;

(f) Sterling agrees to issue to H Unitholders, in aggregate, 900,000 common share purchase warrants, Series I and Series II (the "Warrants"), to purchase a total of 720,000 Sterling Common Shares at an exercise price of Cdn$1.50 per share for the Series I warrants and a total of 180,000 Sterling Common Shares at an exercise price of Cdn$2.00 per share for the Series II warrants, each series to be exercisable for a period of five years;

(g) the Warrants will be issued pursuant to a Share Purchase Warrant Indenture between Sterling and a Canadian trust company;

(h) the H Unitholders agrees to release Sterling and the various limited partnerships from any and all claims.

25. The Settlement Agreement is presently being considered by the H Unitholders and will not become effective until all H Unitholders have agreed to the terms of the Settlement Agreement.

26. As at April 2, 2001, 57 Canadian H Unitholders held a total of 598 H Units. Pursuant to the Settlement Agreement, it is proposed that Notes and Warrants will be distributed as follows:

(a) **Ontario** - 8 H Unitholders will receive in aggregate US$1,560,000 principal amount of Notes, 208,000 Warrants, Series I and 52,000 Warrants, Series II (of which 3 H Unitholders will receive a Note with a principal amount of less than US$98,175, which is equivalent to Cdn$150,000);

(b) **British Columbia** - 46 H Unitholders will receive in aggregate US$2,782,500 principal amount of Notes, 371,000 Warrants, Series I and 92,750 Warrants, Series II (of which 32 H Unitholders will receive a Note with a principal amount of less than US$63,486.50, which is equivalent to Cdn$97,000);

(c) **Alberta** - 1 H Unitholder will receive in aggregate US$52,500 (Cdn$80,220) principal amount of Notes, 7,000 Warrants, Series I and 1,750 Warrants, Series II;

(d) **Quebec** - 1 H Unitholder will receive in aggregate US$37,500 (Cdn$57,300) principal amount of Notes, 5,000 Warrants, Series I and 1,250 Warrants, Series II;

(e) **Manitoba** - 1 H Unitholder will receive in aggregate US$52,500 (Cdn$80,220) principal amount of Notes, 7,000 Warrants, Series I and 1,750 Warrants, Series II.

26. All of the H Unitholders have a significant net worth, are sophisticated investors and have access to professional and financial advice.

27. Pursuant to the Settlement Agreement, 11 U.S. residents who are H Unitholders in the U.S. Partnership will receive in aggregate US$915,000 principal amount of Notes, and 122,000 Warrants, Series I and 30,500 Warrants, Series II.

28. The aggregate amount of US$5,400,000 of Notes to be issued to the Canadian and U.S. H Unitholders to be exchanged for their H Units is less than the approximately US$7,200,000 originally paid by those H Unitholders for their Units, partly as a result of payments made to the H Unitholders by way of return

of capital upon the sale of certain properties and partly as a result of negotiations between the parties. The amount of the Note received by each H Unitholder may be taken to approximate the value of the H Units exchanged by such H Unitholder for the Note.

29. Sterling has applied to the TSE for listing approval of the additional Sterling Common Shares to satisfy the exercise of the Warrants.

30. The Sterling Common Shares issuable upon the exercise of the Warrants have not been registered under the United States *Securities Act* of 1933 or the securities laws of any U.S. state.

31. Sterling and the H Unitholders wish to conclude the Settlement Agreement they have reached and although the H Units were originally distributed pursuant to available exemptions, the aggregate acquisition cost of the Notes and the Warrants to each of the H Unitholders prevents Sterling and the H Unitholders from relying on statutory exemptions from the Registration and Prospectus Requirements contained in the Legislation.

AND WHEREAS pursuant to the System this Mutual Reliance Review System Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS 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;

THE DECISION of the Decision Makers pursuant to the Legislation is that the Registration and Prospectus Requirements shall not apply to:

A. the issuance of the Notes by the Senior Partnership to H Unitholders in accordance with paragraph 24 above, provided, however, that the first trade or resale of such Notes will be a deemed distribution or a primary distribution to the public under the Legislation of each Jurisdiction; and

B. the issuance of the Warrants by Sterling to the H Unitholders in accordance with paragraph 24 above, provided, however, that the first trade or resale of the Sterling Common Shares acquired upon the exercise of such Warrants will be a deemed distribution or primary distribution to the public under the Legislation of the Jurisdiction in which such distribution or resale takes place (the "Applicable Legislation") unless at the time of such resale or first trade:

(i) Sterling is a reporting issuer and is not in default of any of the requirements under the Applicable Legislation;

(ii) if the seller is in a special relationship with Sterling (where such expression is defined in the Applicable Legislation) the seller has reasonable grounds to believe that Sterling is not in default of any requirement of the Applicable Legislation;

(iii) no unusual effort is made to prepare the market or to create a demand for the Sterling Common Shares, and no extraordinary commission or consideration is paid in respect of such first trade; and

(iv) disclosure of the exempt trade is made to the Decision Maker(s) in accordance with the provisions (if any) of the Applicable Legislation,

then, in all Jurisdictions other than Quebec, such first trade is a distribution or a primary distribution to the public only if it is a trade made from the holdings of any person, company or combination of persons or companies holding a sufficient number of any securities of Sterling to affect materially the control of Sterling (any holding of any person, company or combination of persons or companies holding more than 20% of the outstanding voting securities of Sterling shall, in the absence of evidence to the contrary, be deemed to affect materially the control of Sterling).

April 25, 2001.

"Derek Brown" "Howard I. Wetson"

2.2 Orders

2.2.1 CTM Cafes Inc. - s. 144

Headnote

Section 144 - revocation of cease trade order upon remedying, to the extent possible, its default in respect of disclosure requirements under the Act.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5. as am., ss. 127(1)2, 127(5), 127(8), 144.

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

AND

IN THE MATTER OF

CTM CAFES INC.
(the "Issuer")

ORDER
(Section 144)

WHEREAS the securities of the Issuer are currently subject to a Temporary Order made by the Director on behalf of the Ontario Securities Commission (the "Commission") dated December 12, 2000 pursuant to paragraph 2 of subsections 127(1) and 127(5) of the Act and extended by a further Order of the Director dated December 22, 2000 made under subsection 127(8) of the Act (collectively, the "Cease Trade Order") directing that trading in the securities of the Issuer cease;

AND WHEREAS the Cease Trade Order was made by reason of the Issuer's failure to file with the Commission audited annual statements for the year ended June 30, 2000 and interim statements for the three-month period ended September 30, 2000;

AND WHEREAS the Issuer has made an application to the Director pursuant to Section 144 of the Act for a revocation of the Cease Trade Order;

AND WHEREAS the Issuer has represented to the Director that:

1. The Issuer was formed pursuant to the "Business Corporations Act" (Ontario) by Articles of Incorporation dated December 11, 1995 under the name 1159918 Ontario Limited. Pursuant to Articles of Amendment dated August 8, 1996, the Issuer filed further Articles of Amendment to, among other things, changed its name to Norvane Explorations Inc. On June 30, 1998, the Issuer again filed Articles of Amendment changing the name of the Issuer to its present name, CTM Cafes Inc. In addition, at this time, the shares of the Issuer were consolidated on a 1 "new" for 2 "old" basis.

2. The Issuer is authorized to issue an unlimited amount of common shares. Currently there are 15,808,771 shares issued and outstanding.

3. The Corporation became a reporting issuer in the Province of Ontario on January 14, 1997.

4. The Issuer plans to carry on with its existing business which is the café business, being a purveyor of fine gourmet coffees. Currently the Issuer has seven franchised café s in operation; as well as a roasting facility.

5. The Issuer's consolidated financial statements for the fiscal year ended June 30, 2000 together with the auditor's reports thereon, were filed on SEDAR on January 29, 2001 and mailed to the shareholders of the Issuer on March 20, 2001.

6. The Issuer's interim statements for the three-month period ending September 30, 2000 and for the six-month period ending December 31, 2000 were filed on SEDAR on March 29, 2001 and mailed to those on the supplemental mailing list.

7. The Issuer intends to hold an Annual and Special Meeting of its shareholders on April 24, 2001 pursuant to a management proxy circular dated March 12, 2001 which was mailed to the shareholders of the Issuer on March 20, 2001 and filed on SEDAR March 21, 2001.

AND WHEREAS the undersigned Manager has considered the application and the recommendation of staff of the commission;

AND WHEREAS the undersigned Manager considers that it would not be prejudicial to the public interest to revoke the Cease Trade Order;

NOW THEREFORE, it is ordered under Section 144 of the Act, that the Cease Trade Order be and is hereby revoked.

April 18, 2001.

"John Hughes"

2.2.2 Borealis Infrastructure Trust - s. 147 & 80(b)(iii)

Headnote

Section 15.1 of Rule 41-501 - relief from certain requirements of Rule 41-501 where preliminary prospectus and prospectus filed in accordance with National Instrument 44-101.

Subsection 5.1(1) of National Instrument 41-101 – relief from requirements of 41-101 where preliminary prospectus and prospectus filed in accordance with National Instrument 44-101.

Section 147 – relief from the requirement that a period of ten days elapse between the issuance of a receipt for a preliminary prospectus and the issuance of a receipt for (final) prospectus.

Paragraph 80(b)(iii) – relief from the requirement to mail annual comparative financial statements concurrently with the filing of such financial statements, subject to conditions.

Subsection 59(2) of Schedule I – waiver of fees.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5. as am, ss. 65(1), 78, 79, 80(b)(iii), 147.

Regulation Cited

Schedule I to General Regulation, Ont. Reg. 1015 R.R.O 1990, as am., s.59(2).

Rules Cited

National Instrument 41-101 Prospectus Disclosure Requirements (2000) 23 OSCB (Supp) 759.

Commission Rule 41-501 General Prospectus Requirements (2000) 23 OSCB (Supp) 765.

National Instrument 44-101 Short Form Prospectus Distributions (2000) 23 OSCB (Supp) 867.

IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, C.S.5, AS AMENDED (the "Act"),
ONTARIO REGULATION 1015, R.R.O. 1990, AS AMENDED (the "Regulation")
NI 44-101 SHORT FORM PROSPECTUS DISTRIBUTIONS
(the "Short Form Rule"),
NI 41-101 PROSPECTUS DISCLOSURE REQUIREMENTS
(the "Disclosure Rule")
and COMMISSION RULE 41-501 GENERAL PROSPECTUS REQUIREMENTS
(the "General Prospectus Rule")

AND

IN THE MATTER OF
BOREALIS INFRASTRUCTURE TRUST

ORDER AND DECISION
(Section 147 and Paragraph 80(b)(iii) of the Act, Section 15.1 of the General Prospectus Rule, Subsection 5.1(1) of the Disclosure Rule and Subsection 59(2) of Schedule I to the Regulation)

WHEREAS Borealis Infrastructure Trust (the "**Applicant**") filed a preliminary shelf prospectus dated April 4, 2001 (the "**Preliminary Prospectus**") in accordance with the Short Form Rule relating to the qualification of up to $500 million (aggregate principal amount) of Borealis -- Enersource Series Bonds (the "**Offering**") and received a receipt therefor dated April 6, 2001;

AND WHEREAS the Applicant intends to file a (final) prospectus (the "**Prospectus**") in accordance with the Short Form Rule and is desirous of receiving a receipt therefor forthwith;

AND WHEREAS the Applicant has applied for certain relief from the provisions of the Act, the Disclosure Rule and the General Prospectus Rule and for relief from the requirement to pay fees in connection with such application;

AND WHEREAS pursuant to an assignment dated April 12, 1999, as amended on September 7, 1999, February 15, 2000 and January 23, 2001, the Commission assigned certain of its powers and duties under the Act to each "Director", as that term is defined in subsection 1(1) of the Act;

AND WHEREAS on April 12, 1999 the Executive Director issued a determination and designation which designated, *inter alia*, each Manager in the Corporate Finance Branch of the Commission as a "Director" for the purposes of subsection 1(1) of the Act;

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

IT IS HEREBY DECIDED pursuant to section 15.1 of the General Prospectus Rule that the General Prospectus Rule, other than section 13.9 thereof, does not apply to the Preliminary Prospectus and the Prospectus;

AND IT IS FURTHER DECIDED pursuant to subsection 5.1(1) of the Disclosure Rule that the Disclosure Rule does not apply to the Preliminary Prospectus and the Prospectus;

AND IT IS HEREBY ORDERED pursuant to section 147 of the Act that the Offering is exempt from the requirement contained in subsection 65(1) of the Act that a period of ten days elapse between the issuance by the Director of a receipt for the Preliminary Prospectus and the issuance of a receipt for the Prospectus;

AND IT IS FURTHER ORDERED pursuant to paragraph 80(b)(iii) of the Act that section 79 of the Act does not apply to the Applicant insofar as it requires the Applicant to send financial statements filed under section 78 of the Act to each holder of its securities concurrently with their filing, if:

(a) the Applicant files those financial statements earlier than 140 days from the end of its last financial year because it is required to do so, in

connection with the Offering, by the Short Form Rule; and

(b) the financial statements are sent within the time period specified in the Act for filing;

AND IT IS HEREBY DECIDED pursuant to subsection 59(2) of Schedule I to the Regulation that the Applicant be exempt from the requirement under the Act to pay fees in connection with the making of this application.

April 19, 2001.

"Margo Paul"

2.2.3 John Hancock Canadian Corporation - s. 147

Headnote

Section 15.1 of Rule 41-501 -- relief from certain requirements of Rule 41-501 where preliminary prospectus and prospectus filed in accordance with National Instrument 44-101.

Subsection 5.1(1) of National Instrument 41-101 -- relief from requirements of 41-101 where preliminary prospectus and prospectus filed in accordance with National Instrument 44-101.

Section 147 -- relief from the requirement that a period of ten days elapse between the issuance of a receipt for a preliminary prospectus and the issuance of a receipt for (final) prospectus.

Subsection 59(2) of Schedule I -- waiver of fees.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5. as am, ss. 65(1), 147.

Regulation Cited

Schedule I to General Regulation, Ont. Reg. 1015 R.R.O 1990, as am., s.59(2).

Rules Cited

National Instrument 41-101 Prospectus Disclosure Requirements (2000) 23 OSCB (Supp) 759.

Commission Rule 41-501 General Prospectus Requirements (2000) 23 OSCB (Supp) 765.

National Instrument 44-101 Short Form Prospectus Distributions (2000) 23 OSCB (Supp) 867.

IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, C.S.5, AS AMENDED (the "Act"),
ONTARIO REGULATION 1015, R.R.O. 1990, AS AMENDED (the "Regulation")
NI 44-101 SHORT FORM PROSPECTUS DISTRIBUTIONS
(the "Short Form Rule"),
NI 41-101 PROSPECTUS DISCLOSURE REQUIREMENTS
(the "Disclosure Rule")
and COMMISSION RULE 41-501 GENERAL PROSPECTUS REQUIREMENTS
(the "General Prospectus Rule")

AND

IN THE MATTER OF
JOHN HANCOCK CANADIAN CORPORATION

ORDER AND DECISION
(Section 147 of the Act,
Section 15.1 of the General Prospectus Rule,
Subsection 5.1(1) of the Disclosure Rule and

Subsection 59(2) of Schedule I to the Regulation)

WHEREAS John Hancock Canadian Corporation (the "**Applicant**") filed a preliminary prospectus dated April 11, 2001 (the "**Preliminary Prospectus**") in accordance with the Short Form Rule relating to the qualification of Senior Notes (Unsecured) due May 31, 2011, (the "**Offering**") and received a receipt therefor dated April 11, 2001;

AND WHEREAS the Applicant intends to file a (final) prospectus (the "**Prospectus**") in accordance with the Short Form Rule and is desirous of receiving a receipt therefor forthwith;

AND WHEREAS the Applicant has applied for certain relief from the provisions of the Act, the Disclosure Rule and the General Prospectus Rule and for relief from the requirement to pay fees in connection with such application;

AND WHEREAS pursuant to an assignment dated April 12, 1999, as amended on September 7, 1999, February 15, 2000 and January 23, 2001, the Commission assigned certain of its powers and duties under the Act to each "Director", as that term is defined in subsection 1(1) of the Act;

AND WHEREAS on April 12, 1999 the Executive Director issued a determination and designation which designated, *inter alia*, each Manager in the Corporate Finance Branch of the Commission as a "Director" for the purposes of subsection 1(1) of the Act;

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

IT IS HEREBY DECIDED pursuant to section 15.1 of the General Prospectus Rule that the General Prospectus Rule, other than section 13.9 thereof, does not apply to the Preliminary Prospectus and the Prospectus;

AND IT IS FURTHER DECIDED pursuant to subsection 5.1(1) of the Disclosure Rule that the Disclosure Rule does not apply to the Preliminary Prospectus and the Prospectus;

AND IT IS HEREBY ORDERED pursuant to section 147 of the Act that the Offering is exempt from the requirement contained in subsection 65(1) of the Act that a period of ten days elapse between the issuance by the Director of a receipt for the Preliminary Prospectus and the issuance of a receipt for the Prospectus;

AND IT IS HEREBY DECIDED pursuant to subsection 59(2) of Schedule I to the Regulation that the Applicant be exempt from the requirement under the Act to pay fees in connection with the making of this application.

April 17, 2001.

"Margo Paul"

2.2.4 Hyal Pharmaceutical Corporation - s. 144

Headnote

Section 144 B revocation of cease trade order upon remedying of default, updating of public disclosure record and full disclosure information together with all outstanding financial statements being mailed to shareholders.

Statutes Cited

Securities Act, R.S.O., c. S.5, as am. ss. 127 and 144.

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990 Reg. 1015 as am.

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

AND

IN THE MATTER OF
HYAL PHARMACEUTICAL CORPORATION

ORDER
(Section 144)

WHEREAS the securities of Hyal Pharmaceutical Corporation (the "Corporation") are subject to a Temporary Order of the Director dated March 3, 2000 made under section 127 of the Act and extended by an Order of the Director dated March 15, 2000 (collectively referred to as the "Cease Trade Order") directing that trading in securities of the Corporation cease;

AND WHEREAS, pursuant to section 144 of the Act, the Corporation has made an application to the Ontario Securities Commission (the "Commission") for an order revoking the Cease Trade Order;

AND UPON considering the application and recommendation of the staff of the Commission:

AND UPON the Corporation having represented to the Commission that:

1. The Corporation was incorporated under the laws of the Province of Ontario and its head office is located in British Columbia;

2. The Corporation is a reporting issuer in each of the Provinces of British Columbia, Alberta, Ontario, Quebec and Nova Scotia;

3. The share capital of the Corporation consists of an unlimited number of common shares and an unlimited number of preferred shares, issuable in series, of which there are approximately 31,788,776 common shares and no preferred shares issued and outstanding;

4. The common shares of the Corporation were delisted from The Toronto Stock Exchange on August 21, 2000 and are currently subject to the Cease Trade Order issued by the Ontario Securities Commission for a failure to comply with the continuous disclosure reporting obligations;

5. By order of the Ontario Superior Court of Justice, Commercial List (the "Court") dated August 16, 1999, PricewaterhouseCoopers Inc. (the "Trustee") was appointed the receiver and manager of the Corporation. Under a Court order dated August 26, 1999, the marketing plan of the Trustee was approved and the Trustee was directed to proceed in implementing the marketing process for the Corporation's assets;

6. As a result of its review of the Corporation, the Trustee concluded that the Corporation possessed two main assets, being certain intellectual property rights and certain tax benefits;

7. Following its marketing efforts, the Trustee received an offer from SkyePharma PLC ("SkyePharma") to purchase certain assets of the Corporation;

8. The sale to SkyePharma was completed and approved by the Court on October 24, 1999. The assets subject to the sale were essentially the fixed assets, inventory, patents and intellectual property of the Corporation;

9. On April 19, 2000 the Corporation filed a proposal under the *Bankruptcy and Insolvency Act* (Canada) (the "Proposal") and on the same date the Proposal was filed with the official receiver;

10. The Proposal has been made to effect a restructuring of the indebtedness of the Corporation in order to satisfy the claims of the Corporation's creditors;

11. On or about April 27, 2000, a copy of the Proposal, a copy of the Trustees Report to the Creditors, a condensed Statement of Assets and Liabilities, an Operations Forecast for the three years from May 1, 2000 to May 1, 2003, a list of the creditors affected by the Proposal, a proof of claim and general proxy form with attached instructions and a voting letter were mailed to the unsecured creditors of the Corporation (the "Unsecured Creditors") along with the notice of the general meeting of creditors which was held on May 9, 2000. The foregoing materials contained prospectus level disclosure regarding the Corporation and the Proposal and have been filed with the Commission;

12. On May 9, 2000 the creditors of the Corporation approved the Proposal;

13. On May 31, 2000 all of the distributions contemplated by the Proposal were approved by the Court, as required under the BIA. The order approving the Proposal stated that the terms of the Proposal were fair, reasonable and calculated to benefit the general body of creditors;

14. As a consequence of the implementation of the Proposal, virtually all of the debt of the Corporation will either be compromised or assumed. All of the Unsecured Creditors are at arm's length to the Corporation;

15. The Corporation is currently up-to-date with its continuous disclosure obligations and is not in default of any requirement of the Act or rules or regulation made thereunder;

16. The shareholders of the Corporation have approved certain transactions at a meeting of shareholders held on March 16, 2001 all as set out in the management information circular dated February 14, 2001; and

17. Until the Cease Trade Order is revoked, shareholders of the Corporation will not be able to trade the shares they hold in the Corporation, nor will the Corporation be able to carry out the transactions which have been approved by the shareholders of the Corporation.

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

IT IS ORDERED, pursuant to section 144 of the Act, that the Cease Trade Order be and is hereby revoked.

April 17, 2001.

"John Hughes"

2.2.5 Northern Telephone Company Limited and Bell Canada - s. 9.1

Headnote

Going private transaction - valuation requirement - amalgamation of issuer with corporation holding 99.92% of issuer's shares - shares of issuer's public shareholders to be redeemed for cash - Ontario public shareholders own .045% of issuer's shares - issuer has statutory exemption from minority vote - cost of complying with valuation requirement equivalent to cost of shares being redeemed - issuer's auditor to value issuer's shares and provide price range - special committee of independent directors to recommend redemption price - information circular for shareholders' meeting to include additional information on valuation, including relationship of issuer and valuator, and to include summary of valuation - copy of valuation to be provided to requesting shareholders - exemption from valuation requirement granted.

Ontario Rules Considered

Rule 61-501 - Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions, ss. 4.4 and 9.1.

IN THE MATTER OF
ONTARIO SECURITIES COMMISSION
RULE 61-501

AND

IN THE MATTER OF
NORTHERN TELEPHONE COMPANY LIMITED AND
BELL CANADA

Rule 61-501
(section 9.1)

UPON the application (the "Application") of Northern Telephone Company Limited (the "Applicant") to the Director for a decision pursuant to section 9.1 of Ontario Securities Commission Rule 61-501 ("Rule 61-501") that, in connection with the proposed redemption by the Applicant of all of the common shares in the share capital of the Applicant not held directly or indirectly by Bell Canada (the "Transaction"), the Applicant be exempt from the requirement to obtain a formal valuation for the Transaction under section 4.4 of Rule 61-501 (the "Valuation Requirement");

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

AND UPON the Applicant and Bell Canada having represented to the Director as follows:

1. The Applicant is incorporated pursuant to the *Business Corporations Act* (Ontario) (the "OBCA") and is a reporting issuer in the Provinces of Ontario and Quebec.

2. The Applicant's share capital is comprised of common shares (the "Common Shares") and preferred shares (the "Preferred Shares"). The Common Shares were listed and traded on the Canadian unlisted market until October 2000.

3. There are currently several series of redeemable Preferred Shares issued and outstanding. The Applicant intends to redeem the Preferred Shares prior to the completion of the Transaction in accordance with their terms.

4. As of January 17, 2001, there are 3,776,141 Common Shares outstanding, of which 3,773,332, or 99.92%, are held by 3588378 Canada Inc. ("Holdco"), a numbered company incorporated under the *Canada Business Corporations Act* with its head office situated in the Province of Quebec. Bell Canada owns all the outstanding shares of Holdco. The remaining 2,809 Common Shares, or 0.08% of the outstanding Common Shares, are publicly held securities owned by persons other than Bell Canada (the "Public Shareholders"). Forty-six residents of Ontario hold approximately 1,689, or 0.045%, of all the outstanding Common Shares.

5. Between 1995 and 2000, there were eleven trades of the Common Shares on the Canadian unlisted market. For the last two years during which the Common Shares were publicly traded, there is no trading history available for the Common Shares.

6. It is the Applicant's and Bell Canada's intention to consolidate the ownership of the Common Shares pursuant to the Transaction, such that there will no longer be any public ownership of the Common Shares. As a result, the Transaction is a "going private transaction" within the meaning of Rule 61-501.

7. Prior to the implementation of the Transaction, Bell Canada will incorporate a numbered corporation under the OBCA ("Newco"). Bell Canada will transfer the Common Shares it holds through Holdco to Newco (the "Rollover"). The Rollover is a technical prerequisite to the completion of the Transaction intended to permit an amalgamation under the OBCA between two corporations, each of which is governed by the OBCA.

8. The Transaction will occur as follows:

   (a) the Applicant will convene a special meeting (the "Special Meeting") of the holders of the Common Shares (the "Northern Shareholders") and put before them a resolution to amalgamate the Applicant with Newco to form a new entity ("Amalco"). The creation of Amalco will require the adoption of a special resolution, namely a two-thirds majority approval by Northern Shareholders. Bell Canada has indicated its intention to vote the Common Shares held by Holdco in favour of the special resolution authorizing the creation of Amalco;

   (b) upon the amalgamation being effected, all of the outstanding shares of Newco will be exchanged for common shares of Amalco and all of the Common Shares held by Newco will be cancelled;

(c) upon the amalgamation being effected, the Common Shares held by the Public Shareholders will be exchanged on a share for share basis for redeemable preferred shares of Amalco (the "Redeemable Amalco Shares"); and

(d) all Redeemable Amalco Shares will be redeemed for cash immediately after the amalgamation at a redemption price equal to the value of the Common Shares as determined by the valuation process referred to in paragraphs 10 and 11 below.

9. As Bell Canada owns 99.92% of the Common Shares, the Applicant and Bell Canada are, pursuant to section 4.8 of Rule 61-501, exempt from the minority approval requirement set out in section 4.7 of Rule 61-501.

10. The value of the Common Shares will be determined on the basis of a two-part valuation (the "Valuation") performed by Deloitte & Touche Inc. ("Deloitte"), the Applicant's current auditor. Deloitte is not an "independent valuator" within the meaning of Rule 61-501.

11. Based upon a preliminary valuation of the Common Shares, Deloitte has determined that the approximate value of the Common Shares is between $15.00 and $20.00 per Common Share (the "Valuation Range"). Upon completion of a final valuation of the Common Shares by Deloitte, the Applicant will determine a specific redemption price per Common Share within the Valuation Range.

12. On February 21, 2001, the Applicant established a special committee of independent directors to consider the Valuation Range and make recommendations to the Applicant's board of directors on or about April 6, 2001 in respect of the redemption price for the Common Shares.

13. The Applicant will include in the information circular to be provided to the Northern Shareholders in connection with the Special Meeting:

(a) a description of the relationship between Deloitte and the Applicant or any interested party;

(b) a description of the compensation paid or to be paid to Deloitte;

(c) a summary of the Valuation that provides sufficient detail to allow the Northern Shareholders to understand the principal judgments and principal underlying reasoning of Deloitte so as to form a reasoned judgment of the valuation opinion or conclusion;

(d) the valuation date;

(e) an address where a copy of the Valuation is available for inspection; and

(f) a statement to the effect that a copy of the Valuation will be sent to any Northern Shareholder upon request and without charge.

14. In the event that the Applicant had to comply with the Valuation Requirement, the preparation of a formal valuation would cost approximately $50,000. The cost of preparing the Valuation is approximately $30,000.

15. Based on a redemption price of $17.50 per Common Share (the midpoint of the Valuation Range) and the fact that there are currently 2,809 Common Shares held by the Public Shareholders, the estimated cost of the redemption of the Redeemable Amalco Shares will be $49,157.50 (*i.e.* 2,809 x $17.50 = $49,157.50). Based on a redemption price of $20.00 per Common Share (the upper end of the Valuation Range), the estimated cost of the redemption of the Redeemable Amalco Shares will be $56,180.

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

IT IS DECIDED pursuant to section 9.1 of Rule 61-501 that, in connection with the Transaction, the Applicant shall be exempt from the Valuation Requirement, provided that the Applicant complies with the other applicable provisions of Rule 61-501.

April 5, 2001.

"Ralph Shay"

2.2.6 Lucent Technologies Inc. - cl. 104(2)(c)

Headnote

Clause 104(2)(c) - relief from the issuer bid requirements of the Act in connection employee incentive plan where the plan permits the tender of shares by employees in payment of the exercise price of options previously granted, the acquisition of shares by the company to satisfy withholding tax obligations, and the acquisition of options by the company in the event of a change in control - "employee" issuer bid exemption under the Act is not available due to the acquisition price of the securities.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., ss 95, 96, 97, 98, 100 and 104(2)(c).

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

AND

IN THE MATTER OF
LUCENT TECHNOLOGIES INC.

ORDER
(Clause 104(2)(c))

UPON the application (the "Application") of Lucent Technologies Inc. (the "Company") to the Ontario Securities Commission (the "Commission") for an order pursuant to clause 104(2)(c) of the Act exempting the Company from sections 95, 96, 97, 98 and 100 of the Act and the regulations made thereunder (the "Issuer Bid Requirements") with respect to certain acquisitions by the Company of securities of its own issue pursuant to the Company's 1996 Long Term Incentive Program (the "Plan");

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

AND UPON the Company having represented to the Commission as follows:

1. The Company is a leading global supplier of communications networking equipment, holding strong leadership positions in Internet infrastructure for service providers, optical networking, wireless networks, communications networking support and services, communications integrated circuits, and optoelectronic components.

2. The Company is incorporated under the laws of the State of Delaware and is registered with the Securities Exchange Commission in the United States of America under the United States *Securities Exchange Act of 1934* and is not exempt from the reporting requirements of the Exchange Act pursuant to Rule 12G 3-2 made thereunder.

3. The authorized share capital of the Company consists of 10,000,000,000 common shares ("Shares") and 250,000,000 preferred shares. As at October 1, 2000, there were 3,384,332,104 Shares issued and outstanding.

4. The Company is not a reporting issuer under the Act and has no present intention of becoming a reporting issuer under the Act.

5. Shares subject to the Plan are listed and posted for trading in the United States on the New York Stock Exchange (the "NYSE"). There is no market in Ontario for the Shares and none is expected to develop.

6. As at January 20, 2001, there is one person eligible to participate in the Plan in Ontario.

7. The Plan was established by the Company to encourage selected key employees of the Company and its affiliates to acquire a proprietary and vested interest in the growth and performance of the Company, to generate an increased incentive to contribute to the Company's future success and prosperity, and to attract and retain individuals with exceptional managerial talent.

8. The Plan was, and will be available in Ontario only to employees of subsidiaries in which the Company owns more than 50% of the voting interests and for the purposes of this application, the term "subsidiary" shall be so construed as it applies to employees of the Company and its subsidiaries resident in Ontario.

9. The Plan is open to all employees who are also officers of the Company or its subsidiaries.

10. Grants of awards under the Plan in Ontario were first made in 1997 and continued annually thereafter until August of 2000.

11. Options to purchase Shares were granted to selected employee-officers of the Company resident in Ontario. Since the commencement of the Plan, only 3 individuals in Ontario have received any grants thereunder. As of February 1, 2001, only 1 individual, who is no longer resident in Canada, has exercised any option to purchase Shares under the Plan. Of the 3 employee-officers who received grants, only 1 remains in Ontario and is no longer eligible for grants under the Plan as she no longer holds the title of employee-officer (although she remains an employee).

12. As there are no employee-officers resident in Ontario at the present time, no further grants are contemplated. Grants will no longer be made in Ontario until such time as there are employee-officers of the Company or a subsidiary resident in Ontario.

13. Participation in the Plans by employee-officers ("Plan Participants") is voluntary and Plan Participants will not be induced to participate in the Plan by expectation of or as a condition of employment or continued employment with the Company.

14. The Plan is administered by the Corporate Governance and Compensation Committee (or any successor committee) of the Board of Directors of the Company (the "Committee").

15. The total number of Shares reserved for issuance under the Plan is 128,000,000 Shares.

16. The direct and indirect shareholders of the Company in Ontario, as at January 20, 2001, do not hold more than 10% of the outstanding Shares of the Company. If at any time during the effectiveness of the Plan the direct and indirect shareholders of the Company in Ontario hold, in aggregate, greater than 10% of the total number of issued and outstanding Shares, the Company will apply to the Commission for an order with respect to further trades to and by the Plan Participants in Ontario in respect of Shares acquired under the Plan.

17. Plan Participants resident in Ontario who acquire any awards under the Plan will be provided with all disclosure material relating to the Company which is provided to holders of awards (as described herein) resident in the United States.

18. The Committee, at its discretion, may grant an award to a Plan Participant. An award may consist of (i) employee stock options ("Options" or individually, an "Option") which may or may not be incentive stock options (as defined herein), (ii) currently or on a deferred basis, interest or dividends or interest or dividend equivalents with respect to the number of Shares covered by an award under the Plan, (iii) other awards payable in Shares, other securities of the Company, cash or other property as may be determined by the Committee ("Other Stock Unit Awards"), (iv) awards which are granted or Shares issued through the assumption of, or in substitution or exchange for, employee benefit awards or the right or obligation to make future employee benefit awards, in connection with the acquisition of another corporation or business entity in lieu of Options ("Substitute Awards"), (v) awards of restricted stock ("Restricted Stock"), or (vi) performance based awards ("Performance Awards") (all of the above awards collectively referred to herein as "Awards"). Awards may be granted for no consideration, for such minimum consideration as is required by applicable law or for such other consideration as the Committee may determine.

19. The exercise price per Share under the Options shall be determined by the Committee in its sole discretion; provided that except in the case of Options pursuant to a Substitute Award, such exercise price shall not be less than the fair market value of a Share on the date of the grant of Options. Fair market value is equal to the average of the high and low sales price of a Share as reported on the NYSE on the date of grant (or on the next preceding day when sales were reported if no sales of Shares were reported on the date of grant) ("Fair Market Value").

20. The term of each Option shall be fixed by the Committee in its sole discretion; provided that no Incentive Stock Option (defined as an Option that meets the requirements of Section 422 of the United States Internal Revenue Code) shall be exercisable after the expiration of ten years from the date the Option is granted.

21. The Plan provides that the exercise of Options and the payment of the exercise price (the "Exercise Price") in order to acquire Shares of the Company may be effected pursuant to the payment of cash, the surrender of Shares to the Company or other consideration at the Fair Market Value on the exercise date equal to the total Option price, or, by combination of cash, Shares or other consideration.

22. Awards of Restricted Stock ("Restricted Stock Award") may be issued hereunder to Plan Participants either alone or in addition to other Awards granted under the Plan. The provisions of Restricted Stock Awards need not be the same with respect to each recipient. Any Restricted Stock Award issued hereunder may be evidenced in such manner as the Committee in its sole discretion shall deem appropriate, including, without limitation, book-entry registration or issuance of a stock certificate or certificates. In the event any stock certificate is issued in respect of a Restricted Stock Award, such certificate shall be registered in the name of the Plan Participant, and shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to such Award. Except as otherwise determined by the Committee, upon termination of employment for any reason during the restriction period, any portion of a Restricted Stock Award still subject to restriction shall be forfeited by the Plan Participant and reacquired by the Company.

23. Performance Awards in the form of performance units or performance shares may be issued to Plan Participants either alone or in addition to other Awards granted under the Plan. The performance criteria to be achieved during any performance period and the length of the performance period shall be determined by the Committee upon the grant of each Performance Award or at any time thereafter. Except as otherwise provided, Performance Awards will be distributed only after the end of the relevant performance period (that period, established by the Committee at the time any Performance Award is granted or at any time thereafter, during which any performance goals specified by the Committee with respect to such Award are to be measured). Performance Awards may be paid in cash, Shares, other property or any combination thereof, in the sole discretion of the Committee at the time of payment. The performance levels to be achieved for each performance period and the amount of the award to be distributed shall be conclusively determined by the Committee. Performance Awards may be paid in a lump sum or in installments following the close of the performance period.

24. The Company is authorized to withhold from any Award granted or payment due under the Plan the amount of withholding taxes due in respect of an Award or payment under the Plan and to take such other action as may be necessary in the opinion of the Company to satisfy all obligations for the payment of such taxes.

The Committee shall be authorized to establish procedures for election by Plan Participants to satisfy such withholding taxes by delivery of, or directing the Company to retain, Shares. The number of Shares withheld by the Company will be based upon the Fair Market Value of such Shares on the date of acquisition.

25. During the 60-day period from and after a "change in control" of the Company (as defined in the Plan), a Plan Participant holding an Option may be permitted by the Committee to elect to surrender all or part of the Option to the Company and to receive a cash amount from the Company equal to the amount by which the "change in control price" (as defined in the Plan) exceeds the exercise price of the option multiplied by the number of shares granted under the Option (the "Spread").

26. The Company has engaged the services of PaineWebber Incorporated (the "Agent"), which is a corporation registered to trade in securities under applicable legislation in the United States but is not a registrant under the Act, to maintain the accounts in which the Shares issued under the Plan are to be held by each Plan Participant and to provide day-to-day brokerage services to Plan Participants.

27. Pursuant to the Plan, the acquisition of Shares by the Company in certain circumstances from Plan Participants may constitute an "issuer bid" as defined under the Act. The terms of the Plan permit Plan Participants to tender Shares to the Company (i) to satisfy the Exercise Price for Options granted, and (ii) to satisfy government withholding tax obligations. The Plan also permits the tendering of Options in exchange for the Spread in the event of a change in control of the Company. The issuer bid exemptions contained in the Act may not be available for such acquisitions, since certain acquisitions may occur at a price that exceeds the "market price", as that term is defined in the Regulations to the Act.

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

IT IS ORDERED pursuant to clause 104(2)(c) of the Act that the acquisition by the Company of Shares and Options from Plan Participants is exempt from the Issuer Bid Requirements, provided that such acquisition is made in accordance with the terms of the Plan.

April 10, 2001.

"Paul M. Moore" "Robert W. Davis"

2.2.7 AGA Foodservice Group plc - s. 104(2)(c)

Headnote

Cash "Dutch Auction" issuer bid made in Ontario in two stages - First stage of issuer bid is technically take-over bid by investment advisors of issuer - Second stage could be construed as indirect issuer bid in Ontario - Issuer bid made in accordance with the laws of the United Kingdom, the rules and regulations of the London Stock Exchange and the Listing Rules of the UK Listing Authority - *De minimis* exemptions unavailable because nine Ontario shareholders own 5.79% of the issuer's shares, which exceeds the 2% threshold for each exemption - Issuer bid exempted from the issuer bid and take-over bid requirements of Part XX, subject to certain conditions.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as amended, ss. 93(1)(e), 93(3)(h), 95, to100 and 104(2)(c).

Recognition Orders Cited

In the Matter of the Recognition of Certain Jurisdictions (Clauses 93(1)(e) and 93(3((h) of Act) (1997) 20 OSCB 1035.

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

AND

IN THE MATTER OF
AGA FOODSERVICE GROUP PLC

ORDER
(Section 104(2)(c))

UPON the application (the "Application") of AGA Foodservice Group plc ("AGA") and Dresdner Kleinwort Wasserstein and Hoare Govett Limited (collectively the "Investment Advisors") to the Ontario Securities Commission (the "Commission") for an order pursuant to clause 104(2)(c) of the Act exempting AGA and the Investment Advisors from the requirements of sections 95 through 100 of the Act (the "Issuer Bid and Take-over Bid Requirements") in connection with the proposed tender offer (the "Offer") by AGA and the Investment Advisors to the holders of AGA ordinary shares (the "AGA Shares"), whereby the Investment Advisors will purchase issued and outstanding AGA Shares (the "Initial Offer") and, immediately thereafter, AGA will purchase from the Investment Advisors for cancellation the AGA Shares so purchased by the Investment Advisors (the "Subsequent Offer");

AND UPON considering the Application of AGA and the Investment Advisors and the recommendation of the staff of the Commission;

AND UPON AGA and the Investment Advisors having represented to the Commission that:

1. AGA is a company incorporated under the laws of England and Wales and the AGA Shares are listed on the London Stock Exchange (the "LSE").

2. AGA is not a reporting issuer under the securities legislation of any province or territory in Canada and none of the AGA Shares are listed for trading on any Canadian stock exchange.

3. As at April 9, 2001, AGA had 257,429,877 AGA Shares issued and outstanding.

4. The Investment Advisors are regulated in the United Kingdom by The Securities and Futures Authority Limited and are acting exclusively on behalf of AGA in connection with the Offer.

5. On March 9, 2001, AGA (then called Glynwed International plc) sold its worldwide pipe systems business to Etex Group S.A. for cash consideration of £786 million. Through the Offer, AGA proposes to return to the holders of AGA Shares up to £386 million of such amount.

6. The Offer is an all-cash offer and will be implemented in two stages. During the Initial Offer, the Investment Advisors will purchase, as principal, issued and outstanding AGA Shares for up to a total value of £386 million. In the Subsequent Offer, the Investment Advisors will sell the AGA Shares they purchased in the Initial Offer to AGA at the Strike Price (as defined in paragraph 8(c) below). AGA will then cancel such AGA Shares.

7. The Offer is conditional upon the passing of a resolution at AGA's Extraordinary General Meeting to be held on May 10, 2001 authorizing the making of the Offer and upon at least 12,871,492 AGA Shares, representing approximately five percent of AGA's issued and outstanding share capital, being validly tendered by May 10, 2001.

8. The Initial Offer will be made according to a modified Dutch auction procedure as follows:

   (a) AGA Shares may be tendered in a price range which will be set with reference to the market price of the AGA Shares in the week prior to the mailing of the circular in connection with the Offer (the "Price Range"). AGA Shares may only be tendered within the Price Range.

   (b) In the alternative, holders of AGA Shares (the "AGA Shareholders") may elect to tender their AGA Shares at the Strike Price (as defined below).

   (c) The strike price (the "Strike Price") payable for AGA Shares will be the lowest price per AGA Share which, following scaling down but before rounding down (as described in paragraph 8(e)(iii) below), will allow the Investment Advisors to purchase AGA Shares with an aggregate purchase value not exceeding £386 million or, if AGA Shares with a value (at the Strike Price) of less than £386 million are tendered, the highest price within the Price Range at which AGA Shares are tendered.

   (d) All AGA Shares validly acquired by the Investment Advisors under the Offer, whether tendered at a specified price equal to or below the Strike Price or elected to be tendered at the Strike Price, will be purchased at the Strike Price.

   (e) Valid tenders at or below the Strike Price will be accepted as follows:

      (i) all tenders made at a specified price below the Strike Price will be accepted in full;

      (ii) tenders of up to 1000 AGA Shares elected to be tendered at the Strike Price will be accepted in full, but only in respect of those shareholders with a registered holding of 1000 AGA Shares or less on May 10, 2001 who elect to make a tender at the Strike Price in respect of all the AGA Shares in their holdings; and

      (iii) tenders elected at the Strike Price in respect of more than 1000 AGA Shares will be subject to being scaled down pro rata (with any fractions being rounded down) in the event that the number of shares tendered at the Strike Price would result in the Investment Advisors paying more than a total consideration of £386 million for the purchased AGA Shares.

   (f) Tenders above the Strike Price will be rejected.

9. The Offer is being made in compliance with the laws of the United Kingdom, the rules and regulations of the LSE and the Listing Rules of the UK Listing Authority, and not pursuant to any exemption from such requirements.

10. *The City Code on Take-overs and Mergers* (the "City Code") does not apply to the Offer.

11. As at April 9, 2001 there were only nine AGA Shareholders whose last address as shown on the books of AGA is in Ontario (collectively, the "Ontario AGA Shareholders"), holding, in the aggregate, 14,918,128 AGA Shares, representing 5.795% of the issued and outstanding AGA Shares.

12. As at April 9, 2001, one of the nine Ontario AGA Shareholders owned 14,910,000 AGA Shares, representing 5.79% of the issued and outstanding AGA Shares.

13. The Offer is being made on the same terms and conditions to the Ontario AGA Shareholders as it is being made to AGA Shareholders resident in the United Kingdom.

14. The Offer may technically be a take-over bid within the meaning of subsection 89(1) of the Act as the Initial Offer is being made to the Ontario AGA Shareholders.

15. The Offer may also be construed as an indirect issuer bid within the meaning of subsection 89(1) of the Act and section 92 of the Act.

16. Although the Commission has recognized the laws of the United Kingdom for the purposes of clauses 93(1)(e) and 93(3)(h) of the Act, AGA and the Investment Advisors cannot rely upon the exemption in clause 93(1)(e) and 93(3)(h) from the Issuer Bid and Take-over Bid Requirements because the Ontario AGA Shareholders hold, in the aggregate, more than 2% of the issued and outstanding AGA Shares and the City Code does not apply to the Offer.

17. All materials relating to the Offer which are provided to holders of AGA Shareholders resident in the United Kingdom will be concurrently sent to the Ontario AGA Shareholders and be filed with the Commission.

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

IT IS ORDERED pursuant to clause 104(2)(c) of the Act that, in connection with the Offer, AGA and the Investment Advisors are exempted from the Issuer Bid and Take-over Bid Requirements, provided that:

(a) the Offer and any amendments thereto are made in compliance with the laws of the United Kingdom, the rules and regulations of the LSE and the Listing Rules of the UK Listing Authority, and not pursuant to an exemption from such requirements; and

(b) all materials relating to the Offer and any amendments thereto that are sent by or on behalf of AGA and the Investment Advisors to AGA Shareholders residing in the United Kingdom are also concurrently sent to the Ontario AGA Shareholders and copies of such materials are filed with the Commission.

April 19, 2001

"Paul M. Moore" "R. Stephen Paddon"

2.2.8 Opus 2 Ambassador Growth Portfolio et al. - s. 117

Headnote

Relief from the requirements of clause 111(2)(b) and subsection 111(3), clauses 117(1)(a) and 117(1)(d) in respect of passive fund-of-fund structures. Future-oriented relief granted.

Statutes Cited

Securities Act (Ontario), R.S.O. 1990, c.S. 5, as am ss. 111(2)(b), 111(3), 117(1)(a) and 117(1)(d).

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

AND

IN THE MATTER OF

OPUS 2 AMBASSADOR GROWTH PORTFOLIO
OPUS 2 AMBASSADOR BALANCED PORTFOLIO
OPUS 2 AMBASSADOR CONSERVATIVE PORTFOLIO
OPUS 2 AMBASSADOR GROWTH RSP PORTFOLIO
OPUS 2 AMBASSADOR BALANCED RSP PORTFOLIO
OPUS 2 AMBASSADOR CONSERVATIVE RSP PORTFOLIO

AND

OPUS 2 DIRECT.COM INC.

ORDER

UPON the application of Opus 2 Direct.com Inc. ("Opus 2"), the future manager of the Opus 2 Ambassador Growth Portfolio, Opus 2 Ambassador Balanced Portfolio, Opus 2 Ambassador Conservative Portfolio, Opus 2 Ambassador Growth RSP Portfolio, Opus 2 Ambassador Balanced RSP Portfolio and Opus 2 Ambassador Conservative RSP Portfolio (the "Current Top Funds") and other mutual funds managed by Opus 2 after the date of this ruling having an investment strategy that invests in other mutual funds managed by Opus 2 (together with the Current Top Funds, the "Top Funds"), to the Ontario Securities Commission (the "Commission") for an order that the following requirements and restrictions contained in the Act (the "Applicable Requirements") shall not apply to the Top Funds or Opus 2, as the case may be, in respect of certain investments to be made by a Top Fund in an Underlying Fund (as defined herein) from time to time:

1. the restrictions contained in the Act prohibiting a mutual fund from knowingly making or holding 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 securityholder; and

2. the requirements contained in the Act requiring a management company to file a report relating to a purchase or sale of securities between the mutual fund

and any related person or company, or any transaction in which, by arrangement other than an arrangement relating to insider trading in portfolio securities, the mutual fund is a joint participant with one or more of is related persons or companies;

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

AND UPON Opus 2 having represented to the Commission as follows:

1. Opus 2 is a corporation organized under the laws of Ontario and will be the manager of each of the Top Funds. Opus 2 is or will be the manager of each of the Underlying Funds (as defined herein). The head office of Opus 2 is located in Ontario.

2. Each of the Top Funds and Underlying Funds is or will be an open-end mutual fund trust established under the laws of Ontario by a declaration of trust.

3. Each of the Top Funds and Underlying Funds is or will be qualified for sale in the Provinces of Ontario and New Brunswick by means of a simplified prospectus and annual information form filed in accordance with the legislation applicable in each of these Provinces.

4. Each of the Top Funds and Underlying Funds is or will be a reporting issuer in the Provinces of Ontario and New Brunswick.

5. To achieve its investment objective, each of the Top Funds will invest fixed percentages (the "Fixed Percentages") of its assets (other than cash and cash equivalents) in securities of specified Underlying Funds, subject to a variation of 2.5% above or below the Fixed Percentages (the "Permitted Ranges") to account for market fluctuations. The Underlying Funds will have investment objectives that Opus 2 considers to align with the investment objectives of the Top Funds.

6. Opus 2 is currently the manager of Opus 2 Direct Canadian Growth Equity Pool, Opus 2 Direct Canadian Value Equity Pool, Opus 2 Direct Canadian Fixed Income Pool, Opus 2 Direct U.S. Growth Equity Pool, Opus 2 Direct U.S. Value Equity Pool, Opus 2 Direct Foreign Equity (E.A.F.E.) Pool and Opus 2 Direct Foreign Equity (RSP) Pool (the "Current Underlying Funds") and may in the future establish other mutual funds (together with the Current Underlying Funds, the "Underlying Funds").

7. The Current Top Funds invest in other mutual funds managed by McDonald Investment Management Inc. ("MIM"), the present manager of the Top Funds, subject to the terms of an order dated November 10, 1997 (the "Existing Order") and exemptive relief from National Policy No. 39 dated November 27, 1997 (the "Existing Waiver"). MIM and Opus 2 have entered into a transaction agreement (the "Merger") which provides, inter alia, that following the date upon which the required regulatory and unitholder approvals are obtained (the "Effective Date"), management of the Top Funds will change from MIM to Opus 2, the existing underlying funds will be merged into certain of the Underlying Funds, the Top Funds will be renamed, and the investments of the Top Funds in the Underlying Funds will be adjusted. The Effective Date is expected to be Friday, May 4, 2001.

8. Opus 2 wishes to revoke and replace the terms of the Existing Waiver and Existing Order so that the Top Funds may invest in the Underlying Funds in substantially the same manner as the Top Funds currently invest as described in paragraph 7.

9. The Current Top Funds will invest in the Current Underlying Funds as follows:

- Opus 2 Ambassador Growth Portfolio

  - 22.5% Opus 2 Direct Canadian Value Equity Pool
  - 22.5% Opus 2 Direct Canadian Growth Equity Pool
  - 25% Opus 2 Direct Foreign Equity (E.A.F.E.) Pool
  - 15% Opus 2 Direct U.S. Value Equity Pool
  - 15% Opus 2 Direct U.S. Growth Equity Pool

- Opus 2 Ambassador Balanced Portfolio

  - 20% Opus 2 Direct Canadian Fixed Income Pool
  - 17.5% Opus 2 Direct Canadian Value Equity Pool
  - 17.5% Opus 2 Direct Canadian Growth Equity Pool
  - 20% Opus 2 Direct Foreign Equity (E.A.F.E.) Pool
  - 12.5% Opus 2 Direct U.S. Value Equity Pool
  - 12.5% Opus 2 Direct U.S. Growth Equity Pool

- Opus 2 Ambassador Conservative Portfolio

  - 40% Opus 2 Direct Canadian Fixed Income Pool
  - 12.5% Opus 2 Direct Canadian Value Equity Pool
  - 12.5% Opus 2 Direct Canadian Growth Equity Pool
  - 15% Opus 2 Direct Foreign Equity (E.A.F.E.) Pool
  - 10% Opus 2 Direct U.S. Value Equity Pool
  - 10% Opus 2 Direct U.S. Growth Equity Pool

- Opus 2 Ambassador Growth RSP Portfolio

  - 22.5% Opus 2 Direct Canadian Value Equity Pool
  - 22.5% Opus 2 Direct Canadian Growth Equity Pool
  - 25 % Opus 2 Direct Foreign Equity (RSP) Pool
  - 15% Opus 2 Direct U.S. Value Equity Pool
  - 15% Opus 2 Direct U.S. Growth Equity Pool

- Opus 2 Ambassador Balanced RSP Portfolio

  - 20% Opus 2 Direct Canadian Fixed Income Pool
  - 17.5% Opus 2 Direct Canadian Value Equity Pool
  - 17.5% Opus 2 Direct Canadian Growth Equity Pool
  - 15% Opus 2 Direct Foreign Equity (RSP) Pool

- 12.5% Opus 2 Direct U.S. Value Equity Pool
- 12.5% Opus 2 Direct U.S. Growth Equity Pool
- 5% Opus 2 Direct Foreign Equity (E.A.F.E.) Pool

■ Opus 2 Ambassador Conservative RSP Portfolio

- 40% Opus 2 Direct Canadian Fixed Income Pool
- 12.5% Opus 2 Direct Canadian Value Equity Pool
- 12.5% Opus 2 Direct Canadian Growth Equity Pool
- 10% Opus 2 Direct Foreign Equity (E.A.F.E.) Pool
- 10% Opus 2 Direct U.S. Value Equity Pool
- 10% Opus 2 Direct U.S. Growth Equity Pool
- 5% Opus 2 Direct Foreign Equity (RSP) Pool

10. The simplified prospectus for each of the Top Funds will disclose the investment objectives, portfolio advisor, risks and restrictions of the Top Fund and the Underlying Funds, the Fixed Percentages and the Permitted Ranges.

11. The appropriateness of each Top Fund's selection of Underlying Funds and of the Fixed Percentages will be reviewed on an ongoing basis to ensure that a particular Underlying Fund or Fixed Percentage continues to be appropriate for a Top Fund's investment objectives.

12. Except to the extent set forth herein and specific approvals granted by applicable Canadian securities regulators pursuant to National Instrument 81-102 Mutual Funds ("NI 81-102"), the investments by the Top Funds in the Underlying Funds will be structured to comply with the investment restrictions of the Act and NI 81-102.

13. In the absence of this order, pursuant to the Act, each of the Top Funds is prohibited from knowingly making or holding 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 securityholder. As a result, in the absence of this order each of the Top Funds is required to divest itself of any such investments.

14. In the absence of this order, the Act requires Opus 2 to file a report on every purchase or sale of securities of the Underlying Funds by a Top Fund.

15. The investments by each of the Top Funds in the securities of the Underlying Funds will represent the business judgment of "responsible persons" (as defined in the Act), uninfluenced by considerations other than the best interests of each of the Top Funds.

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

IT IS ORDERED by the Commission pursuant to the Act that the Existing Order is hereby revoked;

AND IT IS ORDERED by the Commission pursuant to the Act that the Applicable Requirements shall not apply to the Top Funds from making and holding an investment in securities of the Underlying Funds or require Opus 2 to file a report relating to the purchase or sale of such securities.

PROVIDED THAT the order does not take effect until the Effective Date of the Merger;

AND PROVIDED IN EACH CASE THAT:

1. the order will terminate one year after the publication in final form of any legislation or rule of the Commission dealing with matters in section 2.5 of NI 81-102.

2. the order shall only apply if, at the time a Top Fund makes or holds an investment in its Underlying Funds, the following conditions are satisfied:

   (a) the securities of both the Top Fund and the Underlying Fund are being offered for sale in the Province of Ontario pursuant to a simplified prospectus and annual information form which have been filed with and accepted by the Commission;

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

   (c) the simplified prospectus discloses the intent of the Top Fund to invest in securities of the Underlying Funds, the names of the Underlying Funds, the Fixed Percentages and the Permitted Ranges within which such Fixed Percentages may vary;

   (d) the investment objective of the Top Fund discloses that the Top Fund invests in securities of other mutual funds;

   (e) the Underlying Funds are not mutual funds whose investment objective includes investing directly or indirectly in other mutual funds;

   (f) the Top Fund invests its assets (exclusive of cash and cash equivalents) in the Underlying Funds in accordance with the Fixed Percentages disclosed in the simplified prospectus;

   (g) the Top Fund's holding of securities in the Underlying Funds does not deviate from the Permitted Ranges;

   (h) any deviation from the Fixed Percentages is caused by market fluctuations only;

   (i) if an investment by the Top Fund in any of the Underlying Funds has deviated from the Permitted Ranges as a result of market fluctuations, the Top Fund's investment portfolio was re-balanced to comply with the Fixed Percentages on the next day on which the net

asset value was calculated following the deviation;

(j) if the Fixed Percentages and the Underlying Funds which are disclosed in the simplified prospectus have been changed, either the simplified prospectus has been amended in accordance with securities legislation to reflect this significant change, or a new simplified prospectus reflecting the significant change has been filed within ten days thereof, and the securityholders of the Top Fund have been given at least 60 days' notice of the change;

(k) there are compatible dates for the calculation of the net asset value of the Top Fund and the Underlying Funds for the purpose of the issue and redemption of the securities of such mutual funds;

(l) no sales charges are payable by the Top Fund in relation to its purchases of securities of the Underlying Funds;

(m) no redemption fees or other charges are charged by an Underlying Fund in respect of the redemption by the Top Fund of securities of the Underlying Fund owned by the Top Fund;

(n) no fees or charges of any sort are paid by the Top Fund and the Underlying Funds, by their respective managers or principal distributors, or by any affiliate or associate of any of the foregoing entities, to anyone in respect of the Top Fund's purchase, holding or redemption of the securities of the Underlying Funds;

(o) the arrangements between or in respect of the Top Fund and the Underlying Funds are such as to avoid the duplication of management fees;

(p) any notice provided to securityholders of an Underlying Fund as required by applicable laws or the constating documents of that Underlying Fund has been delivered by the Top Fund to its securityholders;

(q) all of the disclosure and notice material prepared in connection with a meeting of securityholders of the Underlying Funds and received by the Top Fund has been provided to its securityholders, the securityholders have been permitted to direct a representative of the Top Fund to vote its holdings in the Underlying Fund in accordance with their direction, and the representative of the Top Fund has not voted its holdings in the Underlying Funds except to the extent the securityholders of the Top Fund have directed;

(r) in addition to receiving the annual and, upon request, the semi-annual financial statements, of the Top Fund, securityholders of the Top Fund have received appropriate summary disclosure in respect of the Top Fund's holdings of securities of the Underlying Funds in the financial statements of the Top Fund; and

(s) to the extent that the Top Fund and the Underlying Funds do not use a combined simplified prospectus and annual information form containing disclosure about the Top Fund and the Underlying Funds, copies of the simplified prospectus and annual information form of the Underlying Funds have been provided upon request to securityholders of the Top Fund and the right to receive these documents is disclosed in the simplified prospectus of the Top Fund.

April 24 , 2001.

"Howard I. Wetston" "Paul M. Moore"

2.2.9 Helin Industries Inc. - cl. 104(2)(c)

Headnote

Clause 104(2)(c) - Issuer exempt from the issuer bid requirements of Part XX in connection with the proposed acquisition and purchase for cancellation of common shares of the issuer where the cancellation of the shares is consideration for the purchase of the operating subsidiary of the issuer - transaction between issuer and majority shareholders of issuer - transaction approved by special committee of independent directors and conditionally approved by the Canadian Venture Exchange - transaction is a related party transaction subject to OSC Rule 62-501 - order is conditional on approval by the majority of the minority shareholders of the issuer and contains representation to the effect that majority shareholders did not have material non-public information when acquisition agreement entered into - issuer in serious financial difficulty and therefore exempt from valuation requirement - full disclosure is provided in the information circular.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., ss.95, 96, 97, 98, 100 and 104(2)(c).

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

AND

IN THE MATTER OF
HELIN INDUSTRIES INC.

ORDER
(clause 104(2)(c) of the Act)

UPON the application of Helin Industries Inc. ("Helin") and certain shareholders of Helin (the "Minority Shareholders") to the Ontario Securities Commission (the "Commission") for an order of the Commission pursuant to clause 104(2)(c) of the Act exempting Helin from the issuer bid requirements set forth in sections 95, 96, 97, 98 and 100 of the Act (the "Issuer Bid Requirements") in connection with a proposed transaction (the "Transaction") involving the disposition by Helin of all of the outstanding common shares of Helin Industries Ltd. ("Helin Subco"), a wholly-owned subsidiary of Helin, to certain shareholders of Helin (the "Significant Shareholders") in exchange for the common shares of Helin held by the Significant Shareholders;

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

AND UPON Helin and the Minority Shareholders having represented to the Commission and the Director as follows:

1. Helin is a corporation existing under the laws of the Province of Ontario and is a reporting issuer under the Act. Helin is not in default under the Act.

2. Helin is a holding company, the only significant business of which is conducted through a wholly-owned subsidiary of Helin Subco.

3. The authorized capital of Helin consists of an unlimited number of common shares ("Helin Shares") and an unlimited number of preferred shares, issuable in series, of which there are currently 15,978,501 Helin Shares and no preferred shares outstanding. The Helin Shares are listed on the Canadian Venture Exchange ("CDNX").

4. Helin Subco is a corporation existing under the laws of the Province of Ontario. Helin Subco is not a reporting issuer under the Act.

5. Helin Subco owns all of the outstanding shares of Empire Foods Limited, a distributor of dry foods, edible oils, paper products and frozen foods to restaurants, institutions and cafeterias, as well as several other holding companies which do not currently carry on any active business.

6. The authorized capital of Helin Subco consists of an unlimited number of common shares ("Helin Subco Shares") and an unlimited number of preferred shares, issuable in series, of which there are currently 15,578,502 Helin Subco Shares and no preferred shares outstanding. All of the outstanding Helin Subco Shares are owned by Helin. There are no outstanding options, warrants or other securities exchangeable for or convertible into Helin Subco Shares.

7. The Significant Shareholders beneficially own an aggregate of 10,299,997 Helin Shares, representing approximately 64.5 per cent of the outstanding Helin Shares. The Helin Shares beneficially owned by the Significant Shareholders were originally acquired by the Significant Shareholders in connection with the Acquisition, as described in paragraph 10 below. Each of the Significant Shareholders is resident in the Province of Ontario.

8. The Minority Shareholders are a number of holders of Helin Shares, other than the Significant Shareholders, who beneficially own an aggregate of approximately 1,700,000 Helin Shares, representing approximately 10.6 per cent of the outstanding Helin Shares.

9. Prior to the fall of 1997, Helin was a "junior capital pool company" within the meaning of Policy 4.11 of the Alberta Securities Commission and Circular No. 7 of The Alberta Stock Exchange (collectively the "Former Alberta Policies") existing under the name "Harvest Acquisition Corp." and, as such, did not conduct any business other than the evaluation of potential business opportunities.

10. In the fall of 1997, Helin completed a "major transaction" within the meaning of the Former Alberta Policies (the "Acquisition") and thereby ceased to be a junior capital pool company under the Former Alberta Policies. Pursuant to the Acquisition, which was structured as a share exchange take-over bid, Helin acquired all of the outstanding Helin Subco Shares from

the holders thereof on the basis of one Helin Share for each Helin Subco Share and changed its name from Harvest Acquisition Corp. to Helin Industries Inc.

11. As part of the Acquisition, 10,553,141 Helin Subco Shares were acquired from the Significant Shareholders and two other holders of Helin Subco Shares (collectively the "Principal Vendors") in exchange for an aggregate of 10,553,141 Helin Shares. The Helin Shares issued to the Principal Vendors who are not Significant Shareholders were subsequently transferred by such Principal Vendors to the Significant Shareholders.

12. Prior to the completion of the Acquisition, Helin and the Principal Vendors were at arm's length. The Acquisition was approved by the holders of Helin Shares at a meeting held on October 16, 1997 and was completed in accordance with the requirements of the Former Alberta Policies.

13. Of the aggregate of 10,553,141 Helin Shares acquired by the Principal Vendors on the completion of the Acquisition, 10,299,997 Helin Shares continue to be beneficially owned by the Significant Shareholders.

14. Helin, the Significant Shareholders and the Minority Shareholders have entered into an agreement dated December 20, 2000 (the "Transaction Agreement") providing for the Transaction. The Transaction Agreement provides that Helin will sell all of the outstanding Helin Subco Shares to the Significant Shareholders in consideration for the 10,299,997 Helin Shares beneficially owned by the Significant Shareholders. The Helin Shares received by Helin as consideration under Transaction will be cancelled.

15. The terms of the Transaction have been reviewed by an independent committee of Helin's board of directors (the "Independent Committee"). The Independent Committee has concluded that the Transaction is fair and reasonable to, and in the best interests of, the Corporation and the shareholders of Helin (the "Helin Shareholders").

16. The completion of the Transaction is subject to a number of conditions including, without limitation, the approval of the Transaction by CDNX and approval by the Helin Shareholders at a special meeting of Helin Shareholders to be held on or about April 19, 2001 for the purpose of considering the Transaction (the "Special Meeting").

17. To the knowledge of Helin and the Minority Shareholders, after reasonable enquiry, the Significant Shareholders did not, at the time the Transaction Agreement was entered into, know of any material non-public information in respect of Helin or the Helin Shares that was not generally disclosed.

18. The purpose of the Transaction is to effectively reverse the Acquisition in order that Helin may pursue new business opportunities. The Transaction was initiated by the Minority Shareholders because of their dissatisfaction with the business being conducted by Helin through Helin Subco. While Helin is a holding company without substantial assets or operations, Helin Subco and its subsidiaries have on a consolidated basis incurred losses since the completion of the Acquisition and are in serious financial difficulty.

19. The tendering of the Helin Shares for cancellation constitutes an "issuer bid" as defined in subsection 89(1) of the Act.

20. The Transaction constitutes a "related party transaction" within the meaning of Commission Rule 61-501 ("Rule 61-501").

21. CDNX has granted conditional approval of the Transaction, subject to its receipt of certain documents.

22. In order for the Transaction to be effective, it must be approved at the Special Meeting by:

    (i) Helin Shareholders holding not less than two-thirds of the Helin Shares represented at the Special Meeting; and

    (ii) Helin Shareholders holding a majority of the Helin Shares represented at the Special Meeting other than the Helin Shares held by the Significant Shareholders.

23. An information circular and accompanying notice of the Special Meeting was sent on March 23, 2001 to all Helin Shareholders and includes all material non-public information concerning Helin and the Helin Shares that is known to Helin, the Substantial Shareholders and the Minority Shareholders after reasonable enquiry but has not been generally disclosed. To the knowledge of Helin, the Substantial Shareholders and the Minority Shareholders, after reasonable enquiry, there is no material non-public information concerning Helin or the Helin Shares other than information which has been disclosed in such management information circular or which has otherwise been generally disclosed.

24. The board of directors of Helin and the Independent Committee have each determined that Helin is entitled to rely upon the valuation exemption in subsection 5.6(8) of Rule 61-501 as Helin is in serious financial difficulty, the Transaction is designed to improve the financial position of Helin and the terms of the Transaction are reasonable in the circumstances of Helin.

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

IT IS ORDERED by the Commission pursuant to clause 104(2)(c) of the Act that Helin is exempt from the Issuer Bid Requirements in connection with the Transaction.

April 19, 2001.

"Paul M. Moore" "R. Stephen Paddon"

2.3 Rulings

2.3.1 Altera Toronto Co. et al. - ss. 74(1)

Headnote

Subsection 74(1) - Registration and prospectus relief granted in respect of trades in connection with merger transaction in which exchangeable shares are issued where statutory exemptions are unavailable for technical reasons - first trade of securities of US company acquired in connection with exchangeable share provisions and provisions of exchange right agreement a distribution unless such trade is made through the facilities of a stock exchange outside of Ontario or NASDAQ since US company is a non-reporting issuer and Ontario shareholders have a de minimis position.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., sections 25, 53, 72(5), 74(1).

Rules Cited

Rule 45-501 - Exempt Distributions.
Rule 72-501 - First Trade Over a Market Outside of Ontario.

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

AND

IN THE MATTER OF
ALTERA TORONTO CO., ALTERA EXCHANGE CO.
AND ALTERA CORPORATION

RULING
(Subsection 74(1))

UPON application (the "**Application**") by Altera Toronto Co. (the "**Company**"), Altera Exchange Co. ("**Exchangeco**") and Altera Corporation ("**Altera**") to the Ontario Securities Commission (the "**Commission**") for a ruling pursuant to subsection 74(1) of the Act exempting certain trades in connection with the exercise of various exchange and retraction rights of the holders (the "**Exchangeable Shareholders**") of non-voting exchangeable shares (the "**Exchangeable Shares**") and redemption and call rights in respect of the Exchangeable Shares from the requirements of section 25 and 53 of the Act;

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

AND UPON the Company having represented to the Commission that:

1. Right Track CAD Inc. ("**Right Track**") was a corporation incorporated under the laws of Ontario on October 29, 1998 and continued as a Nova Scotia limited liability company under the *Nova Scotia Companies Act* on April 26, 2000. Right Track was a "private company" as defined in the Act, and was not a "reporting issuer" or the equivalent under the Act or under the securities legislation of any other jurisdiction.

2. Immediately prior to the Acquisition (defined below), Right Track's authorized capital consisted of 1,000,000,000 common shares and 1,175,000 Class A shares, of which 1,062,100 common shares were issued and outstanding (collectively, the "**Right Track Shares**").

3. Immediately prior to the Acquisition, all the outstanding Right Track Shares were owned by Jonathan Rose, Vaughn Betz, David Galloway and Jordan Swartz (collectively, the "**Founding Shareholders**") and David Lewis and Kurt Keutzer (collectively with the Founding Shareholders, the "**Selling Shareholders**"). Each of the Founding Shareholders and David Lewis is resident in Ontario while Kurt Keutzer is a resident of California.

4. Altera is a corporation incorporated under the laws of the State of Delaware in June 1983, and is not a "reporting issuer" or the equivalent under the Act or under any other Canadian securities legislation.

5. The authorized capital of Altera consists of 400,000,000 shares of common stock in the capital of Altera (the "**Altera Common Stock**"). As of April 14, 2000, there were 199,417,175 shares of Altera Common Stock outstanding.

6. Altera is subject to the requirements of the United States *Securities Exchange Act of 1934*, as amended.

7. The shares of Altera Common Stock are quoted on the Nasdaq Stock Market (the "NASDAQ").

8. Right Track Acquisition Co. (the "**Purchaser**") was a corporation incorporated on April 25, 2000 under the laws of the Province of Nova Scotia solely to effect the Acquisition. The Purchaser was a wholly-owned subsidiary of Exchangeco, which is an indirect, wholly-owned subsidiary of Altera.

9. Altera, the Purchaser, Exchangeco, Right Track and the Selling Shareholders entered into a share purchase agreement (the "**Purchase Agreement**") pursuant to which Altera and the Purchaser agreed to purchase from the Selling Shareholders all the outstanding Right Track Shares in consideration for cash and Exchangeable Shares to be issued by the Purchaser (the "**Acquisition**"). The Acquisition closed on May 1, 2000.

10. As a term of the Acquisition, all of the Exchangeable Shares issued to the Founding Shareholders are being held in escrow and will be released on the first, second and at monthly intervals thereafter to the fourth, or for certain of the Founding Shareholders, the fifth anniversaries of the closing date of the Acquisition, subject to certain conditions (the "**Escrow Shares**"). References herein to shares of "**Altera Common Stock**" and "**Exchangeable Shares**" issued to the

Founding Shareholders shall include, as applicable, the Escrow Shares.

11. The authorized capital of the Purchaser consisted of 100,000,000 Common Shares and 100,000,000 Exchangeable Shares. Upon the closing of the Acquisition, all the issued Common Shares of the Purchaser were owned by Exchangeco and all the issued Exchangeable Shares were held by the Founding Shareholders.

12. Immediately following the Acquisition, the Purchaser and Right Track amalgamated to form the Company, which successor unlimited liability company has substantially the same share capital structure and other corporate attributes as the Purchaser. Accordingly, the term "**Purchaser**", as used in connection with the provisions of the Exchangeable Shares as described below, and the future trades in connection with or pursuant to the Acquisition described in paragraph 19 below, includes the Company; and the term "**Exchangeable Shares**" includes the exchangeable shares of the Company issued upon the amalgamation in exchange for the exchangeable shares of the Purchaser.

13. The Exchangeable Shares provide the Exchangeable Shareholders with a security of a Canadian issuer having economic attributes which are, as nearly as practicable, equivalent to those of shares of Altera Common Stock.

14. Each Exchangeable Share is retractable at any time by, and at the option of, the holder thereof for one share of Altera Common Stock. The share provisions governing the Exchangeable Shares contain anti-dilution provisions to ensure that the Exchangeable Shareholders' economic interests in Altera will not be adversely affected by the occurrence of events such as a subdivision, consolidation or other change in the capital of Altera affecting the shares of Altera Common Stock, a distribution of shares of Altera Common Stock to holders thereof by way of stock dividend, option, right or warrant, or any other distribution of securities, assets or indebtedness of Altera or its subsidiaries to holders of shares of Altera Common Stock.

15. The provisions of the Exchangeable Shares (the "**Exchangeable Share Provisions**") provide, inter alia:

(a) except as required by applicable law, holders of Exchangeable Shares shall not be entitled to receive notice of or vote at meetings of the shareholders of the Purchaser;

(b) the Exchangeable Shares shall rank prior to the Common Shares and all shares of any other class ranking subordinate to the Exchangeable Shares with respect to the distribution of assets in the event of a liquidation, dissolution or winding-up of the Purchaser;

(c) each Exchangeable Share shall entitle the holder thereof to receive dividends from the Purchaser at the same time as, and in an amount equivalent to, dividends paid by Altera on each share of Altera Common Stock on the declaration date;

(d) subject to compliance with applicable law, the Exchangeable Share shall entitle the holder thereof to retract such Exchangeable Share and to receive an amount equal to the market price of one share of Altera Common Stock on the retraction date, which shall be satisfied by the Purchaser delivering one share of Altera Common Stock, together with an additional amount equal to the full amount of all declared and unpaid dividends on each retracted Exchangeable Share (collectively, the "**Retraction Price**"). Notwithstanding the foregoing, upon being notified by the Purchaser of a proposed retraction by an Exchangeable Shareholder, Exchangeco will have an overriding call right (the "**Retraction Call Right**") to purchase from such Exchangeable Shareholder each Exchangeable Share proposed to be retracted at the Retraction Price;

(e) subject to the overriding call right of Exchangeco referred to below, the Purchaser may redeem the outstanding Exchangeable Shares on or after May 3, 2010 or earlier in the event of a takeover offer for Altera, an extraordinary transaction involving Altera or the Purchaser, or upon a specified minimum number of Exchangeable Shares no longer being held by the Founding Shareholders (the "**Redemption Date**"). Upon a redemption by the Purchaser on the Redemption Date, each Exchangeable Share shall entitle the holder thereof to receive from the Purchaser for each Exchangeable Share redeemed an amount equal to the market price of one share of Altera Common Stock on the Redemption Date, which amount will be satisfied by the Purchaser delivering to such Exchangeable Shareholder one share of Altera Common Stock, together with an additional amount equal to the full amount of all declared and unpaid dividends on each Exchangeable Share up to the Redemption Date (collectively, the "**Redemption Price**"). Notwithstanding the foregoing, Exchangeco will have an overriding call right (the "**Redemption Call Right**") to purchase on the Redemption Date for the Redemption Price each Exchangeable Share proposed to be redeemed from such Exchangeable Shareholder; and

(f) upon the liquidation, dissolution or winding-up of the Purchaser, each Exchangeable Share shall entitle the holder thereof to receive an amount equal to the market price of one share of Altera Common Stock on the liquidation date, which will be satisfied by the Purchaser delivering to such Exchangeable Shareholder one share of Altera Common Stock, together with an additional amount equal to the full amount of all declared and unpaid dividends on each Exchangeable Share (collectively, the "**Liquidation Price**"). Notwithstanding the foregoing, upon any

proposed liquidation, dissolution or winding-up of the Purchaser, Exchangeco will have an overriding call right (the "**Liquidation Call Right**") to purchase for the Liquidation Price each Exchangeable Share to be redeemed from the Exchangeable Shareholders.

16. At the closing of the Acquisition, the Purchaser, Exchangeco, Altera and the Exchangeable Shareholders entered into a support agreement pursuant to which, inter alia, Altera will:

    (a) ensure that the Purchaser (i) has sufficient assets available to pay simultaneous and equivalent dividends on the Exchangeable Shares, and (ii) simultaneously declares and pays such simultaneous and equivalent dividends on the Exchangeable Shares as are paid by Altera on the shares of Altera Common Stock;

    (b) ensure that the Purchaser is able to fulfil its obligations in respect of the redemption and retraction rights and the dissolution entitlements upon liquidation that are attributes of the Exchangeable Shares; and

    (c) enable Exchangeco to fulfil its obligations in respect of its call rights.

17. In addition, at the closing of the Acquisition, Altera, Exchangeco, the Purchaser and the Exchangeable Shareholders entered into an exchange agreement (the "**Exchange Right Agreement**") pursuant to which Altera granted to the Exchangeable Shareholders an optional exchange right (the "**Optional Exchange Right**"), that may be exercised upon the insolvency of the Purchaser or upon the failure of the Purchaser to perform any of its obligations under the Exchange Share Provisions. The Optional Exchange Right, when exercised, will require Altera to purchase from an Exchangeable Shareholder all or any part of the Exchangeable Shares held by such Exchangeable Shareholder. The purchase price for each Exchangeable Share purchased by Altera under the Optional Exchange Right will be an amount equal to the market price of one share of Altera Common Stock on the trading day prior to the closing date of the purchase under the Optional Exchange Right. This purchase price will be satisfied by Altera delivering to an Exchangeable Shareholder one share of Altera Common Stock for each Exchangeable Share held, together with an additional amount equal to the full amount of all declared and unpaid dividends on each Exchangeable Share exchanged for Altera Common Stock. Notwithstanding the foregoing, Exchangeco has an overriding call right (the "Exchangeable Right Call Right") to purchase the Exchangeable Shares from the Exchangeable Shareholders upon the exercise of the Optional Exchange Right for the purchase price described above.

18. Under the Exchange Right Agreement, the Exchangeable Shares will be automatically exchanged (the "**Automatic Exchange Right**") by Altera for shares of Altera Common Stock in the event of a voluntary or involuntary liquidation, dissolution or winding-up of Altera (an "**Automatic Exchange Event**"). In the event of an Automatic Exchange Event, each outstanding Exchangeable Share (except for those held by Altera or any of its affiliates) will be automatically exchanged for shares of Altera Common Stock prior to the effective date of the Automatic Exchange Event. The purchase price for each Exchangeable Share purchased by Altera pursuant to the Automatic Exchange Right will be an amount equal to the market price of one share of Altera Common Stock on the trading day prior to the closing date of the purchase under the Automatic Exchange Right. This purchase price will be satisfied by Altera delivering to an Exchangeable Shareholder one share of Altera Common Stock for each Exchangeable Share held, together with an additional amount equal to the full amount of all declared and unpaid dividends on each Exchangeable Share.

19. Trades of the Exchangeable Shares by the Purchaser to the Exchangeable Shareholders, the sale by the Exchangeable Shareholders of Right Track Shares to the Purchaser in consideration for Exchangeable Shares or cash and the granting of the Retraction Call Right, the Redemption Call Right, the Liquidation Call Right, the Exchange Right Call Right, the Optional Exchange Right and the Automatic Exchange Right pursuant to the Exchange Right Agreement and certain other trades made in connection with or pursuant to the Acquisition are exempt from ss.25 and 53 of the Act.

20. Listed below are future trades in connection with or pursuant to the Acquisition that would be subject to the registration and prospectus requirements of the Act unless the ruling sought is granted:

    (a) the transfer of shares of Altera Common Stock to the Exchangeable Shareholders by the Purchaser upon the retraction of the Exchangeable Shares by an Exchangeable Shareholder;

    (b) the issuance by Altera pursuant to the Support Agreement of shares of Altera Common Stock from time to time to the Purchaser (and the contemporaneous issuance of securities by the Purchaser to Altera for such Altera Common Stock) to enable to the Purchaser to fulfil its obligations under the Exchangeable Share Provisions, including among others, upon the retraction or redemption of the Exchangeable Shares;

    (c) the issuance by Altera pursuant to the Support Agreement of Altera Common Stock to Exchangeco from time to time (and the contemporaneous issuance of securities by Exchangeco to Altera as consideration for such Altera Common Stock) to enable Exchangeco to deliver Altera Common Stock to Exchangeable Shareholders in connection with the exercise by Exchangeco of the Exchange Right Call Right, Retraction Call Right, Redemption Call Right and Liquidation Call Right;

(d) the trade by Exchangeco of shares of Altera Common Stock to the Exchangeable Shareholders upon Exchangeco exercising the Retraction Call Right (instead of the retraction of Exchangeable Shares);

(e) the transfer of shares of Altera Common Stock to the Exchangeable Shareholders by the Purchaser upon the redemption of Exchangeable Shares by the Purchaser on the Redemption Date;

(f) the trade of shares of Altera Common Stock to the Exchangeable Shareholders by Exchangeco on the Redemption Date upon Exchangeco exercising the Redemption Call Right (instead of the redemption of the Exchangeable Shares on the Redemption Date);

(g) the trade of shares of Altera Common Stock to the Exchangeable Shareholders by Exchangeco upon Exchangeco exercising the Liquidation Call Right in connection with the winding-up of the Purchaser;

(h) the trades of shares of Altera Common Stock to the Exchangeable Shareholders by Exchangeco upon Exchangeco exercising the Exchange Right Call Right in connection with the winding up of the Purchaser;

(i) the transfer of Exchangeable Shares to Exchangeco by the Exchangeable Shareholders upon the exercise by Exchangeco of the Retraction Call Right;

(j) the transfer of Exchangeable Shares to Exchangeco by the Exchangeable Shareholders upon Exchangeco exercising the Redemption Call Right;

(k) the transfer of Exchangeable Shares to Exchangeco by the Exchangeable Shareholders upon Exchangeco exercising the Liquidation Call Right;

(l) the transfer of Exchangeable Shares to Altera by the Exchangeable Shareholders upon the exercise of the Optional Exchange Right;

(m) the transfer of Exchangeable Shares to Exchangeco by the Exchangeable Shareholders upon Exchangeco exercising the Exchange Right Call Right; and

(n) the transfer of Exchangeable Shares to Altera by the Exchangeable Shareholders pursuant to the Automatic Exchange Right.

21. Assuming that the Founding Shareholders acquire the maximum number of shares of Altera Common Stock to which they are entitled under the Purchase Agreement and pursuant to the provisions of the Exchangeable Shares or the Exchange Right Agreement, persons or companies who were in Ontario would, as of January 5, 2001, constitute less than 10% of the total number of beneficial holders of outstanding shares of Altera Common Stock, and would hold less than 10% of the total outstanding shares of Altera Common Stock.

22. There is no market for the shares of Altera Common Stock in Ontario and none is expected to develop.

23. None of the Purchaser, Exchangeco or Altera are reporting issuers under the Act.

24. All disclosure material furnished to holders of shares of Altera Common Stock in the United States will be provided to Exchangeable Shareholders and the holders of shares of Altera Common Stock resident in Ontario.

25. So long as any outstanding Exchangeable Shares are held by any person other than Altera or its affiliates, Altera will remain the direct or indirect beneficial owner of all the outstanding voting shares of the Purchaser and Exchangeco.

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

IT IS RULED pursuant to subsection 74(l) of the Act that the trades of securities referred to in paragraph 19 above are not subject to sections 25 and 53 of the Act, provided that the first trade of shares of Altera Common Stock acquired or received by the Exchangeable Shareholders in connection with the Exchangeable Share Provisions and the provisions of the Exchange Right Agreement shall be a distribution unless:

(a) such trade is made in compliance with section 72(5) of the Act and section 2.18(3) of Ontario Securities Commission Rule 45-501 – *Exempt Distributions* as if the Altera Common Stock had been acquired pursuant to an exemption referred to in section 72(5) of the Act; or

(b) such trade is executed through the facilities of a stock exchange outside of Ontario or on the NASDAQ.

April 17, 2001.

"Paul Moore" "Stephen N. Adams"

2.3.2 Stilo International plc - ss. 74(1)

Headnote

First Trade Relief - company incorporated under the laws of England and Wales with ordinary shares publicly quoted on the Alternative Investment Market acquiring all common shares of Canadian company in exchange for ordinary shares - Relief granted for first trades executed over AIM or a market specified in Rule 72-501 - Ontario residents will hold not more than 16% of total number of ordinary shares upon completion of the transaction.

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

Rules Cited
72-501 - Prospectus Exemption for First Trade Over a Market Outside Ontario.

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

AND

IN THE MATTER OF
STILO INTERNATIONAL plc

RULING
(Subsection 74(1))

UPON the application of Stilo International plc ("**Stilo**"), to the Ontario Securities Commission (the "**Commission**") for a ruling pursuant to Section 74(1) of the Act that certain first trades of shares of ordinary stock of Stilo to be distributed in connection with the Offer (defined below) shall not be subject to section 53 of the Act, subject to certain conditions;

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

AND UPON Stilo having represented to the Commission as follows:

1. Stilo is a corporation incorporated under the laws of England and Wales and is subject to the reporting requirements of the securities legislation of England and Wales.

2. The ordinary shares of Stilo (the "**Stilo Shares**") are publicly quoted on the Alternative Investment Market ("**AIM**") regulated by the London Stock Exchange plc and trade under the symbol "STL".

3. Stilo is not a reporting issuer under the Act and does not intend to become a reporting issuer under the Act.

4. The authorized capital of Stilo consists of 54,000,000 ordinary shares of 10 pence each, of which 42,040,000 Stilo Shares are issued and outstanding and held by approximately 728 Stilo shareholders as of March 19, 2001.

5. To the best of Stilo's knowledge, none of the holders of Stilo Shares is resident in Ontario.

6. OmniMark Technologies Corporation ("**OmniMark**") is a corporation incorporated under the *Business Corporations Act* (Ontario).

7. OmniMark is not a reporting issuer under the Act and does not intend to become a reporting issuer under the Act.

8. The authorized capital of OmniMark as of April 2, 2001, consist of an unlimited number of common shares (the "**OmniMark Shares**"), of which approximately 4,617,850 OmniMark Shares (on a diluted basis) are issued and outstanding (the "**Outstanding OmniMark Shares**"). The Outstanding OmniMark Shares also include those OmniMark Shares that will be issued and outstanding based on the exercise of any and all outstanding OmniMark warrants as of the closing of the transaction in regard to the Offer (described below).

9. Of the approximately 4,617,850 outstanding OmniMark Shares held by 48 shareholders of OmniMark, 4,589,950 or 99.39% of the OmniMark Shares are owned by 41 shareholders resident in Ontario and the remaining 0.61% are owned by various minority holders resident outside of Ontario.

10. Stilo seeks to make an offer to purchase all of the issued and outstanding OmniMark Shares, whereby the majority of holders of OmniMark Shares would receive in exchange for their OmniMark Shares a combination of cash and ordinary shares of Stilo issued from treasury (the "**Exchanged Shares**") and the balance of OmniMark shareholders (being minority holders thereof) shall receive all cash (collectively the "**Offer**").

11. The purchase price under the Offer is a maximum of Cdn$7,500,000 ("**Purchase Price**") and shall be satisfied on the date of closing as follows: (a) Cdn$1,300,000 in cash; (b) Exchanged Shares having a value of Cdn$1,700,000 (the "**Initial Stilo Share Issuance**"); and (c) the balance (the "**Earn Out**") by way of a non-interest bearing promissory note payable in cash and Exchanged Shares, in accordance with an Adjustment Schedule (defined below).

12. The exercise price of the Exchanged Shares shall be the weighted average closing price on AIM per Stilo Share for the period of twenty (20) consecutive trading days immediately preceding the second trading day prior to the closing date or otherwise as described in the Offer (the "**Weighted Average Stilo Share Price**").

13. The Earn Out is based on sales revenue of OmniMark for the year ended April 30, 2002 as follows: (a) if sales revenue of OmniMark is equal to or in excess of Cdn$5,000,000, the additional cash consideration would be Cdn$1,200,000 and that number of Exchanged Shares having a value of Cdn$3,300,000; (b) if sales revenue of OmniMark is in excess of Cdn$4,000,000, but less than Cdn$4,999,999, the additional cash consideration would be a minimum of

Cdn$300,000 and a maximum of approximately Cdn$1,200,000 and that number of Exchanged Shares having a minimum value of Cdn$1,500,000 and a maximum value of approximately Cdn$3,300,000; (c) if sales revenue of OmniMark is in excess of Cdn$3,000,000, but less than Cdn$3,999,999, the additional cash consideration would be a minimum of Cdn$3,000,000 and a maximum of approximately Cdn$3,300,000 and that number of Exchanged Shares having a maximum value of approximately Cdn$1,500,000 (collectively the "**Adjustment Schedule**").

14. Based on the forgoing, OmniMark Shareholders would receive the Initial Stilo Share Issuance assuming no Earn Out, being a minimum number of Exchanged Shares having a value of Cdn$1,700,000 (the "**Minimum Exchanged Share Issuance**") and up to a maximum number of Exchanged Shares having a value of Cdn$5,000,000 (being the sum of the Initial Stilo Share Issuance and the maximum number of Exchanged Shares issuable under the Earn Out, being those number of Exchanged Shares having a maximum value of Cdn$3,300,000) (the "**Maximum Exchanged Share Issuance**").

15. Upon completion of the Offer and based on a Minimum Exchanged Share Issuance, the number of issued and outstanding Stilo Shares would increase from 42,040,000 to approximately 44,754,215 (assuming for discussion purposes: (a) a Weighted Average Stilo Share Price of 28 pence per Stilo Share, which was the April 2, 2001, closing price of Stilo Shares on AIM; and (b) a United Kingdom to Canadian currency exchange rate of 0.4470 (2.2369) (the "**Assumed Weighted Average Stilo Share Price**"), and the number of shareholders of Stilo would increase from approximately 728 to approximately 734. Of such 44,754,215 Stilo Shares, 42,040,000 or 93.94% would be held by approximately 728 or 99.18% of Stilo shareholders resident outside of Canada, and approximately 2,714,215 or 6.06% of Stilo Shares would be held by six or 0.82% of Stilo shareholders resident in the Province of Ontario.

16. Upon completion of the Offer and based on a Maximum Exchanged Share Issuance, the number of issued and outstanding Stilo Shares would increase from 42,040,000 to approximately 49,944,888, and the number of shareholders of Stilo would increase from approxmately 728 to approximately 734. Of such 49,944,888 Stilo Shares, 42,040,000 or 84.17% would be held by approximately 728 or 99.18% of Stilo shareholders resident outside of Canada, and approximately 7,904,999 or 15.83% of Stilo Shares would be held by six or 0.82% of Stilo shareholders resident in the Province of Ontario. The calculations in this paragraph 16 are based on the Assumed Weighted Average Stilo Share Price.

17. The exchange of Stilo Shares for OmniMark Shares from Ontario OmniMark Shareholders is a "take-over bid" as defined in subsection 89(1) of the Act. The exchange is exempt from the requirements of sections 95 to 100 of the Act pursuant to paragraph 93(1)(d) of the Act.

18. The issuance of the Exchanged Shares is a distribution that is exempt from the prospectus requirements of Section 53 of the Act pursuant to paragraph 72(1)(j) and, therefore, the Exchanged Shares are a "restricted security" as defined under Rule 72-501 of the Commission.

19. The first trade of the Exchanged Shares would qualify for the exemption from the prospectus requirements of the Act pursuant to Rule 72-501 of the Commission, except for the fact that:

    (a) the number of Stilo Shares held by Ontario residents immediately after the completion of the Offer may be more than 10% of the total number of outstanding Stilo Shares; and

    (b) the first trade of the Exchanged Shares will be executed through AIM, rather than through one of the markets prescribed by Rule 72-501: (a) a stock exchange outside Ontario; (b) the Nasdaq Stock Market; (c) The Stock Exchange Automated Quotation System of the London Stock Exchange Limited; or (d) in the Eurobond Market, as regulated by the International Securities Market Association (collectively the "**Permitted Exchanges/ Markets**").

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

IT IS HEREBY RULED pursuant to section 74(1) of the Act that the first trade in Stilo Shares acquired under the Offer by former holders of OmniMark shares shall not be subject to section 53 of the Act, provided that:

(a) former holders of OmniMark Shares do not hold more than 16% of the outstanding Stilo Shares immediately after the closing of the Offer; and

(b) the first trade in the Exchanged Shares is executed through AIM or the Permitted Exchanges/Markets.

April 10, 2001.

"Paul Moore" "Robert W. Davis"

2.3.3 OESC Exchange Inc. - ss. 74(1)

Headnote

Relief granted from registration requirement in section 25 of the Act in connection with trades by an issuer in a security of another issuer. Trades to be effected upon exercise of exchange rights granted by issuer to shareholders of a third issuer in connection with an acquisition.

Statutes Cited

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

Rules Cited

Rule 45-501 - Exempt Distributions, Part 2.16.

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

AND

IN THE MATTER OF
OESC EXCHANGE INC.

RULING
(Subsection 74(1))

UPON the application of OESC Exchange Inc. ("Exchangeco") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "Act"), that certain trades in trust units ("Units") of Ontario Energy Savings Income Fund (the "Fund") by Exchangeco to holders of Preference Shares (as hereinafter defined) of Ontario Energy Savings Corp. ("OESC") pursuant to the exercise by such shareholders of the Shareholder Exchange Rights (as hereinafter defined) is not subject to section 25 of the Act;

AND UPON reading the application and the recommendation of the staff of the Commission;

AND UPON the Fund having represented to the Commission that:

1. The Fund is an open-ended, limited purpose trust established under the laws of the Province of Ontario pursuant to a declaration of trust (the "Declaration of Trust") dated as of the 14th day of February, 2001.

2. The Fund was created to hold the securities of its subsidiaries.

3. On March 13, 2001, the Fund filed a preliminary prospectus (the "Preliminary Prospectus") dated March 9, 2001 with the securities regulatory authority in each of the provinces and territories of Canada to qualify the issuance of Units to the public. Upon the issuance of a receipt for the final prospectus (the "Prospectus") of the Fund with respect to the Offering by the securities regulatory authority in each of the provinces and territories of Canada, the Fund will become a reporting issuer or the equivalent in each of the provinces and territories of Canada. The net proceeds of the offering (the "Offering") of Units pursuant to the Prospectus will be used to acquire unsecured subordinated notes (the "Notes") of OESC Acquisitions Inc. ("Acquireco").

4. The Fund was established with nominal capitalization and currently has only nominal assets and no liabilities. The only activity currently anticipated to be carried on by the Fund will be the holding of securities of OESC, Acquireco and Exchangeco.

5. OESC is a corporation incorporated under the laws of Ontario on May 26, 1997. It is a private company as defined in the Act and is not a reporting issuer under the Act or the securities legislation of any other jurisdiction.

6. OESC carries on the business of buying gas at the wholesale level and selling it through local distribution companies ("LDC's") (such as Consumers Gas Company Ltd. and Union Gas Limited, each of which is a natural gas distributor for a geographic franchise area) to its residential and small to mid-size commercial customers under long-term agreements (generally for terms ranging from three to five years).

7. Acquireco was incorporated under the laws of the Province of Ontario on January 26, 2001. It is a private company as defined in the Act and is not a reporting issuer under the Act or the securities legislation of any other jurisdiction. All of the outstanding shares of Acquireco are held by the Fund.

8. Acquireco will use all of the cash proceeds from the sale of Notes to the Fund (less an amount to be retained by Acquireco to pay liabilities of OESC which will exist on the closing of the Offering, including accrued bonuses, and to provide for working capital) and will issue Class A Preference Shares ("Class A Preference Shares") and Class B Preference Shares ("Class B Preference Shares") in the capital of Acquireco and transfer Units purchased from the Fund pursuant to the prospectus in exchange for additional Notes; to acquire all of the outstanding shares of OESC from the shareholders of OESC (the "Shareholders"). Shareholders which are registered retirement savings plans (the "RRSP Shareholders") will receive cash and Units from Acquireco in respect of the sale of their shares of OESC. Shareholders who will be officers, employees or consultants of OESC on the completion of the Offering (the "Management Shareholders") will receive from Acquireco cash and Class A Preference Shares in respect of the sale of their shares of OESC. Shareholders who are not Management Shareholders or RRSP Shareholders (the "Non-Management Shareholders") will receive cash and Class B Preference Shares from Acquireco in respect of the sale of their shares of OESC. The Class A Preference Shares and the Class B Preference Shares are referred to collectively herein as the "Preference Shares".

9. Immediately following the acquisition by Acquireco of all of the outstanding shares of OESC, Acquireco and

OESC will amalgamate under the name Ontario Energy Savings Corp.

10. Exchangeco is a corporation incorporated under the laws of Province of Ontario on February 13, 2001. It is a private company as defined in the Act and is not a reporting issuer under the Act or the securities legislation of any other jurisdiction. All of the outstanding shares of Exchangeco are owned by the Fund.

11. Pursuant to the shareholders' agreement (the "Shareholders' Agreement") to be made as of the closing of the Offering among, *inter alia,* the Fund, OESC, the Management Shareholders and the Non-Management Shareholders, Exchangeco will grant to the Management Shareholders and the Non-Management Shareholders rights (the "Shareholder Exchange Rights") to require Exchangeco to acquire such Preference Shares in exchange for Units.

12. The Shareholder Exchange Rights may be exercised by the Shareholders with respect to such number of Preference Shares up to the number of Preference Shares held by the relevant Shareholder at such time on the last day of any calendar quarter upon 10 days written notice to the Fund, the Corporation and Exchangeco.

13. To enable Exchangeco to honour its obligations pursuant to the Shareholder Exchange Rights, the Fund will grant to Exchangeco pursuant to the Shareholders' Agreement rights (the "Exchangeco Exchange Rights") to purchase from treasury that number of Units required by Exchangeco from time to time to fulfill its obligations under the Shareholder Exchange Rights. The purchase price for such Units shall be the market price of the Units to be purchased as at the date of exercise by the Shareholder of the Shareholder Exchange Rights which they are being issued in respect of and shall be satisfied by the issuance by Exchangeco to the Fund of unsecured subordinated notes (the "Exchangeco Notes") of Exchangeco with a principal amount equal to such market price. The issuance by the Fund of the Exchangeco Exchange Rights to Exchangeco will be qualified by the Prospectus.

14. OESC will be required, subject to applicable law, to purchase from Exchangeco for cancellation all Preference Shares acquired by Exchangeco from time to time pursuant to the exercise of the Shareholder Exchange Rights for an amount (the "Preference Share Purchase Price") equal to the market price of the Units exchanged by Exchangeco for such Preference Shares and the OESC will satisfy the purchase price by the issue to Exchangeco of additional Notes in a principal amount equal to the Preference Share Purchase Price.

15. Once all of the Shareholder Exchange Rights have been exercised and all of the Preference Shares have been purchased for cancellation, OESC and Exchangeco will amalgamate.

16. Pursuant to the terms of the Shareholders' Agreement, on the earlier of (i) March 31, 2016, (ii) the date of the termination of the employment or consulting arrangement with the Corporation of the Management Shareholder for any reason, (iii) the date of death of the Management Shareholder, and (iv) the date upon which the Management Shareholder becomes a non-resident of Canada within the meaning of the *Income Tax Act* (Canada), all of the Shareholder Exchange Rights held by such Management Shareholder relating to Class A Preference Shares which have not been exercised by such date shall be deemed to have been exercised.

17. Pursuant to the terms of the Shareholders' Agreement, on the earlier of: (i) January 1, 2004; (ii) the date of the death of the Non-Management Shareholder; and (iii) the date upon which the Non-Management Shareholder becomes a non-resident of Canada within the meaning of the Income Tax Act (Canada); all of the Shareholder Exchange Rights relating to Class B Preference Shares which have not been exercised by such date shall be deemed to have been exercised.

18. Pursuant to the terms and conditions attaching to the Preference Shares, the Class A Preference Shares are convertible at the option of the holder, at any time prior to January 1, 2004, into Class B Preference Shares on a one for one basis.

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

IT IS RULED pursuant to subsection 74(1) of the Act that the transfer from time to time by Exchangeco of Units acquired by Exchangeco from the Fund on the exercise of the Exchangeco Exchange Rights to the Shareholders pursuant to the exercise of the Shareholder Exchange Rights is not subject to the requirements of Section 25 of the Act.

April 20, 2001.

"Paul M. Moore" "R. Stephen Paddon"

2.3.4 Triax CaRTS III Trust - ss. 74(1)

Headnote

Subsection 74(l) - Exemption from sections 25 and 53 of the Act in connection with the writing of over-the-counter covered call options and cash covered put options by the issuer, subject to certain conditions.
Section 59, Schedule I -Issuer exempt from section 28 of Schedule I to the Regulation in connection with the writing of over-the-counter covered call options and cash covered put options.

Statutes Cited

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

Regulations Cited

Regulation made under the Securities Act, R. R. O. 1990, Reg. 1015, as am., ss. 28 and 59 of Schedule I.

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

AND

IN THE MATTER OF
R. R. O. 1990, REGULATION 1015, AS AMENDED (the "Regulation")

AND

IN THE MATTER OF
TRIAX CaRTS III TRUST

RULING AND EXEMPTION
(Subsection 74(1) of the Act and Subsection 59(1) of Schedule 1 of the Regulation)

UPON the application of Triax Investment Management Inc. ("TIMI"), as manager of Triax CaRTS III Trust (the "Trust"), to the Ontario Securities Commission (the "Commission") for a ruling:

(i) pursuant to subsection 74(l)of the Act that the writing of certain over-the-counter covered call options and cash covered put options (collectively, the "OTC Options") by the Trust is not subject to sections 25 and 53 of the Act; and

(ii) pursuant to subsection 59(l) of Schedule 1 of the Regulation for an exemption from the fees required to be paid under section 28 of Schedule 1 of the Regulation in connection with the writing of certain OTC Options by the Trust;

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

AND UPON TIMI having represented to the Commission as follows:

1. The Trust is an investment trust that will be established under the laws of the Province of Ontario pursuant to a trust agreement (the "Trust Agreement") to be entered into between TIMI, in its capacity as manager, and in its capacity as trustee of the Trust.

2. The Trust will be authorized to issue an unlimited number of transferable, redeemable trust units (the "Units").

3. The Trust is not a reporting issuer under the Act but has filed a preliminary prospectus (the "Preliminary Prospectus") dated March 9, 2001 with the Commission and with the securities regulatory authority in each of the other provinces of Canada with respect to a proposed offering of Units.

4. It is expected that the Units will be listed on The Toronto Stock Exchange.

5. By virtue of the redemption features attaching to the Units, the Trust is considered a "mutual fund" within the meaning of the Act and other applicable legislation.

6. TIMI is a corporation incorporated under the laws of the Province of Ontario on May 29, 1998. TIMI will act as investment manager of the Trust pursuant to the Trust Agreement.

7. TIMI is registered under the Act in the categories of investment counsel and portfolio manager.

8. The Trust's investment objectives are:

   (i) Distributions: to provide unitholders with a stable stream of quarterly distributions of at least $0.5625 per unit ($2.25 per annum to yield 9.0% on the subscription price of $25.00 per CaRTS);

   (ii) Capital Repayment: to pay to unitholders, on or about December 31, 2012, an amount per unit equal to the subscription price of $25.00; and

   (iii) Capital Appreciation: to pay to unitholders on December 31, 2012, in addition to the subscription price of $25.00, an amount representing the approximate initial value per unit of the active portfolio.

9. To achieve the capital repayment objective, the Trust will enter into a forward purchase and sale agreement with TD Global Finance ("TDGF"), a member of the TD Bank Financial Group, and such other Canadian financial institution or its affiliate (collectively, the "Counterparty") as the Trust may approve, pursuant to which the Counterparty will agree to pay to the Trust the subscription price of $25.00 per unit outstanding on December 31, 2012, the termination date, in exchange for the Trust agreeing to deliver to the Counterparty equity securities which the Trust will acquire with a portion of the gross proceeds of the Offering. In order to achieve the Trust's distribution and capital appreciation objectives, the balance of the net proceeds of the Offering will be invested in a diversified portfolio (the "Active Portfolio") consisting principally of equity

securities issued primarily by leading U.S. and Canadian based companies with a market capitalization in excess of U.S.$1 billion and listed on a major North American stock exchange or quoted on the Nasdaq National Market.

10. To generate additional returns above the dividend income generated by the Active Portfolio, the Trust will, from time to time, write covered call options in respect of all or part of the equity securities in such portfolio. The investment criteria of the Trust prohibits the sale of equity securities subject to an outstanding call option, and therefore the call options will be covered at all times.

11. The Trust may, from time to time, hold a portion of its assets in "cash equivalents" (as that term is defined in the Preliminary Prospectus). The Trust may utilize such cash equivalents to provide cover in respect of the writing of cash covered put options, which is intended to generate additional returns and to reduce the net cost of acquiring the securities subject to the put options. Such cash covered put options will only be written in respect of securities in which such Trust is permitted to invest.

12. The purchasers of OTC Options written by the Trust will generally be major Canadian financial institutions and all purchasers of OTC Options will be persons or entities described in Schedule 1 to this ruling.

13. The writing of OTC Options by the Trust will not be used as a means for the Trust to raise new capital.

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

IT IS RULED, pursuant to subsection 74(l)of the Act, that the writing of OTC Options by the Trust, as contemplated by paragraphs 10 and 11 of this ruling, shall not be subject to sections 25 and 53 of the Act provided that:

(a) the portfolio adviser advising the Trust with respect to such activities is registered as an adviser under the Act and meets the proficiency requirements in Ontario for advising with respect to options;

(b) each purchaser of an OTC Option written by the Trust is a person or entity described in Schedule 1 to this ruling; and

(c) a receipt for the (final) prospectus has been issued by the Director under the Act;

AND PURSUANT to section 59 of Schedule 1 to the Regulation the Trust is hereby exempted from the fees which would otherwise be payable pursuant to Section 28 of Schedule 1 to the Regulation in connection with any OTC Options written by the Trust in reliance on the above ruling.

April 19, 2001.

"Paul Moore" "R. Stephen Paddon"

SCHEDULE 1
QUALIFIED PARTIES

Interpretation

1. The terms "subsidiary" and "holding body corporate" used in paragraphs (w), (x) and (y) of paragraph 3 of this Schedule have the same meaning as they have in the *Business Corporations Act* (Ontario).

2. All requirements contained in this Schedule that are based on the amounts shown on the balance sheet of an entity apply to the consolidated balance sheet of the entity.

Qualified Parties Acting as Principal

3. The following are qualified parties for all OTC derivatives transactions, if acting as principal:

Banks

(a) A bank listed in Schedule I, II or III to the *Bank Act* (Canada).

(b) The Business Development Bank of Canada incorporated under the *Business Development Bank of Canada Act* (Canada).

(c) A bank subject to the regulatory regime of a country that is a member of the Basel Accord or that has adopted the banking and supervisory rules set out in the Basel Accord, if the bank has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Credit Unions and Caisses Populaires

(a) A credit union central, federation of caisses populaires, credit union or regional caisse populaire, located, in each case, in Canada.

Loan and Trust Companies

(b) A loan corporation or trust corporation registered under the *Loan and Trust Corporations Act* (Ontario) or under the *Trust* and *Loan Companies Act* (Canada), or under comparable legislation in any other province or territory of Canada.

(c) A loan company or trust company subject to the regulatory regime of a country that is a member of the Basel Accord or that has adopted the banking and supervisory rules set out in the Basel Accord, if the loan company or trust company has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Insurance Companies

(d) An insurance company licensed to do business in Canada or a province or territory of Canada.

(e) An insurance company subject to the regulatory regime of a country that is a member of the Basel Accord or that has adopted the banking and supervisory rules set out in the Basel Accord, if the insurance company has a minimum paid up capital and surplus, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Sophisticated Entities

(f) A person or company that, together with its affiliates,

(i) has entered into one or more transactions involving OTC derivatives with counterparties that are not its affiliates, if

(A) the transactions had a total gross dollar value of or equivalent to at least $1 billion in notional principal amount: and

(B) any of the contracts relating to one of these transactions was outstanding on any day during the previous 15-month period, or

(ii) had total gross marked-to-market positions of or equivalent to at least $100 million aggregated across counterparties, with counterparties that are not its affiliates in one or more transactions involving OTC derivatives on any day during the previous l5-month period.

Individuals

(g) An individual who, either alone or jointly with the individual's spouse, has a net worth of at least $5 million, or its equivalent in another currency, excluding the value of his or her principal residence.

Governments/Agencies

(h) Her Majesty in right of Canada or any province or territory of Canada and each crown corporation, instrumentality and agency of a Canadian federal, provincial or territorial government.

(i) A national government of a country that is a member of the Basel Accord, or that has adopted the banking and supervisory rules of the Basel Accord, and each instrumentality and agency of that government or corporation wholly-owned by that government.

Municipalities

(j) Any Canadian municipality with a population in excess of 50,000 and any Canadian provincial or territorial capital city.

Corporations and other Entities

(k) A company, partnership, unincorporated association or organization or trust, other than an entity referred to in paragraph (a), (b), (c), (d), (e), (g) or (h), with total revenue or assets in excess of $25 million or its equivalent in another currency, as shown on its last financial statement, to be audited only if otherwise required.

Pension Plan or Fund

(l) A pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a provincial pension commission, if the pension fund has total net assets, as shown on its last audited balance sheet, in excess of $25 million, provided that, in determining net assets, the liability of a fund for future pension payments shall not be included.

Mutual Funds and investment Funds

(m) A mutual fund or non-redeemable investment fund if each investor in the fund is a qualified party.

(n) A mutual fund that distributes its securities in Ontario, if the portfolio manager of the fund is registered as an adviser, other than a securities adviser, under the Act or securities legislation elsewhere in Canada.

(o) A non-redeemable investment fund that distributes its securities in Ontario, if the portfolio manager of the fund is registered as an adviser, other than a securities adviser, under the Act or securities legislation elsewhere in Canada.

Brokers/Investment Dealers

(p) A person or company registered under the Act or securities legislation elsewhere in Canada as a broker or an investment dealer or both.

(q) A person or company registered under the Act as an international dealer if the person or company has total assets, as shown on its last audited balance sheet, in excess of $25 million or its equivalent in another currency.

Futures Commission Merchants

(r) A person or company registered under the CFA as a dealer in the category of futures commission merchant, or in an equivalent capacity elsewhere in Canada.

Charities

(s) A registered charity under the *Income Tax Act* (Canada) with assets not used directly in charitable activities or administration, as shown on its last audited balance sheet, of at least $5 million or its equivalent in another currency.

Affiliates

(t) A wholly-owned subsidiary of any of the organizations described in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), (n), (o), (s), (t) or (u).

(u) A holding body corporate of which any of the organizations described in paragraph (w) is a wholly-owned subsidiary.

(v) A wholly-owned subsidiary of a holding body corporate described in paragraph (x).

(w) A firm, partnership, joint venture or other form of unincorporated association in which one or more of the organizations described in paragraph (w), (x) or (y) have a direct or indirect controlling interest.

Guaranteed Party

(x) A party whose obligations in respect of the OTC derivatives transaction for which the determination is made is fully guaranteed by another qualified party.

Qualified Party Not Acting as Principal

4. The following are qualified parties, in respect of all OTC derivative transactions:

Managed Accounts

(a) Accounts of a person, company, pension fund or pooled fund trust that are fully managed by a portfolio manager or financial intermediary referred to in paragraphs (a), (d), (e), (g), (s), (t), (u) or (w) of paragraph 3 or a broker or investment dealer acting as a trustee or agent for the person, company, pension fund or pooled fund trust under section 148 of the Regulation.

Subsequent Failure to Qualify

5. A party is a qualified party for the purpose of any OTC derivatives transaction if it, he or she is a qualified party at the time it, he or she enters into the transaction.

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1.1 BioCapital Biotechnology et al.

Headnote

Facts

This was a hearing and review by the Commission under section 8 of the Securities Act of a decision of the Director under section 9.1 of National Policy 12-102 and section 9.1 of National Instrument 81-102 opting out of the MRRS and refusing an application for an exemption from the 10% concentration limit set out in section 2.1 of National Instrument 81-102. The purpose of the reorganization was to unlock value (the units of the partnership were trading at a discount from net asset value). The reorganization would consist of the transfer of the public company investments of the partnership to a new open-end mutual fund for units of the mutual fund which would then be distributed to the partners. This would be followed by a going private transaction in which the partner holding approximately 80% of the units of the partnership would acquire the balance of the units of the partnership for cash and units of the mutual fund. After completion of these transactions, the mutual fund investment in one of the public companies would constitute approximately 20% of the net asset value of the mutual fund. The sale into the market of a sufficient number of shares of the company by the mutual fund in a short period of time could reasonably be expected to depress the market price for the company's shares to the detriment of all holders of the shares, including the mutual fund, and would result in the mutual fund receiving a depressed value for the shares sold into the market. It was a condition of the transactions that a prospectus for the mutual fund units be qualified in all provinces of Canada. The applicants requested an exemption from the 10% concentration limit for a period of 180 days to give them time to arrange for a private placement or other manner of disposing of sufficient shares to bring the investment under the 10% threshold. Quebec was selected as the principle jurisdiction. Quebec and all the other jurisdictions in Canada granted the request for the exemption. The Director opted out of the MRRS and refused to grant the exemption.

Issues

1. In considering the application and in opting out of the MRRS, what weight, if any, should have been given by the Director under section 9.1 of the National Instrument 81-102 and section 19.1 of National Policy 12-102, and should be given by the Commission under section 8 of the Act, to the decisions of the principle jurisdiction and the other non-principle jurisdictions under the MRRS?

2. Who has the onus of establishing the public interest under the application?

3. Whose interest, in this case, should be considered in determining the public interest?

Decision

The Commission granted the application for the exemption and decided that Ontario should opt back into the MRRS provided the Director was satisfied with the risk disclosure in the prospectus.

Reasons

The Commission determined that while the Director and the Commission each had an unfettered discretion to decide the matter, in view of the fundamental principle of harmonization and co-operation provided for in clause 5 of section 2.1 of the Act and in National Policy 12-102, they should give serious consideration to the fact that the other jurisdictions had granted the relief requested and that failure of Ontario to grant the relief would prevent the transactions from proceeding. The efficiency of the Canadian capital markets and the integration of the Ontario capital markets with the Canadian capital markets were factors to be taken into account, not only in devising national policies and instruments, but also in the administration of the rules and policies. The Commission determined that the onus was on the applicants to establish that an exception from the applicable rules would not be contrary to the public interest. The Commission decided that in determining the public interest for such purpose it was legitimate to look at the interest of the partners, the interest of the shareholders of the public company, the interest of the holders of units in the mutual fund, and the interest of future investors relying on the prospectus.

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

AND

IN THE MATTER OF
THE EXEMPTION APPLICATION FILED BY
BIOCAPITAL BIOTECHNOLOGY AND HEALTHCARE FUND
AND BIOCAPITAL MUTUAL FUND MANAGEMENT INC.
CONCERNING NATIONAL INSTRUMENT 81-102
SUBSECTION 2.1(1)

Hearing:	April 2, 2001		
Panel:	Paul M. Moore, Q.C.	-	Chair
	John A. Geller, Q.C.	-	Commissioner
	R. Stephen Paddon, Q.C.	-	Commissioner
Counsel:	Melissa Kennedy Paul Dempsey Chantal Mainville	-	For the Staff of the Ontario Securities Commission
	Lisa Davis Eric Levy	-	For the Respondent

REASONS FOR DECISION

Hearing and Review

This was a hearing and review by the Ontario Securities Commission under subsection 8(2) of the Securities Act (the "Act") of a decision of the Director refusing under section 19.1 of National Instrument 81-102 an application (the "Application") by the Applicants for an exemption for 180 days from the 10% concentration limit set out in subsection 2.1(1) of National Instrument 81-102, and opting out of the Mutual Reliance Review System ("MRRS") under section 9.1 of National Policy 12-201. This hearing and review was requested by BioCapital Biotechnology and Healthcare Fund (the "Mutual Fund") and BioCapital Mutual Fund Management Inc. (the "Applicants").

Issues

The issues in this hearing and review are:

1. In considering the Application, and in opting out of the MRRS, what weight, if any, should have been given by the Director under section 9.1 of National Instrument 81-102 and section 19.1 of National Policy 12-102, and should be given by the Commission under section 8 of the Act, to the decisions of the principal jurisdiction and the other non-principal jurisdictions under the MRRS?

2. Who has the onus in establishing the public interest under the Application?

3. Whose interest, in this case, should be considered in determining the public interest?

Decision

The Commission decided that the Application should be granted, and that Ontario should opt back into the MRRS, provided the Director was satisfied that the final prospectus adequately disclosed the risk to investors as a result of granting the exemption.

Facts

The following are the facts in this hearing and review:

(i) Background

BioCapital Investments Limited Partnership (the "Partnership") is a closed-end investment fund established under the laws of the Province of Quebec pursuant to a limited partnership agreement entered into on May 8, 1997. The units of the Partnership are held as to approximately 80% by the Fonds de Solidarité des travailleurs du Quebec ("Fonds de Solidarité"). A small percentage of the units are held by residents of Ontario. The units of the Partnership are listed on The Toronto Stock Exchange. They have been trading at a discount from the net value of the assets of the Partnership. In accordance with the Partnership's distribution policy, net income of the Partnership for the 2000 fiscal year generally would be distributed on or before March 31, 2001.

(ii) Reorganization

The general partner proposed a reorganization ("Reorganization") as a strategy for unlocking unitholder value, to create liquidity, and to allow a distribution of net income in respect of its 2000 fiscal year of the Partnership by distributing units of a new mutual fund formed for this purpose.

The Reorganization itself would consist of the transfer to the Mutual Fund of public company securities in the portfolio of the Partnership together with all of the cash held by the Partnership with certain exceptions in exchange for units in the Mutual Fund. The Partnership would then distribute these units to its limited partners.

(iii) Going Private Transaction

The Fonds de Solidarité agreed to support the Reorganization in return for a going private transaction (the "Going Private Transaction") whereby each limited partner, other than the Fonds de Solidarité, would be required to sell to the Fonds de Solidarité, and the Fonds de Solidarité would be required to purchase, the Partnership units not held by it payable as to 50% in cash and as to 50% in units of the Mutual Fund immediately following the completion of the Reorganization.

(iv) Prospectus

A preliminary simplified prospectus and a preliminary annual information form both dated February 19, 2001 were filed in all provinces of Canada for the purpose of qualifying units of the Mutual Fund for distribution.

The Reorganization, the Going Private Transaction and related arrangements were all made conditional upon the issue of a receipt for the final prospectus and the completion of the transactions by a certain date (originally March 31, 2001 but subsequently extended to a date shortly after the date of this hearing and review). The Fonds de Solidarité is not prepared to proceed with the transactions if the final prospectus is not receipted in Ontario.

(v) Stakeholder Approvals

The Reorganization and the Going Private Transaction must be approved by at least 2/3 of the votes cast by the partners at a meeting or meetings. The board of directors of the general partner established an independent committee (the "Independent Committee") to review the fairness of the transactions. The Independent Committee unanimously determined that the transactions are fair, from a financial point of view, to the partners of the Partnership other than the general partner and the Fonds de Solidarité and unanimously recommended to the board of directors of the general partner that the board of directors submit the transactions to the partners for approval with a recommendation to the partners that they vote in favour of the transactions. The Independent Committee received an independent valuation from PricewaterhouseCoopers LLP ("PWC") in connection with the transactions. In addition, the independent committee received a fairness opinion from PWC in respect of the transactions.

(vi) Mutual Fund

The Mutual Fund is a newly established open-end mutual fund trust with redeemable units. It will be managed by BioCapital Mutual Fund Management Inc. ("Manager"), a wholly owned subsidiary of BioCapital Management Group Inc., controlled by the same shareholders as the general partner of the Partnership. The Manager will receive an annual management fee based on the average daily net asset value of the Mutual Fund. Investment objectives and strategy of the Mutual Fund will be consistent with those of the Partnership except that the portfolio of the Partnership will consist primarily of securities of public companies in the bio- technology and health care industries. The investment manager is also a wholly-owned subsidiary of BioCapital Management Group Inc.

(vii) Problem

It was anticipated that the transfer of public company investments of the Partnership to the Mutual Fund would result in two of the investments exceeding the 10% concentration limit rule in subsection 2.1(1) of National Instrument 81-102. At the date of the Application the shares of ConjuChem Inc. ("ConjuChem") held by the Partnership represented approximately 22.06% of what would be the net asset value of the Mutual Fund and the shares of another investment held by the Partnership represented approximately 12.09% of what would be the net assets of the Mutual Fund. At the date of this hearing and review, by reason of dispositions, only the investment in ConjuChem still exceeded the 10% limit. To reduce its holdings in ConjuChem to below 10% of its net asset value, the Mutual Fund would be required to sell a significant number of ConjuChem shares. Expressions of interest to purchase a portion of the ConjuChem shares had recently been received by the Partnership but the Independent Committee did not approve the offer price. In view of the very light trading volumes in ConjuChem, it was reasonable to conclude that it would be difficult for the Mutual Fund to dispose of the required number of shares in the market in a very short time-frame without affecting the market value of the shares of ConjuChem. The immediate sale by the Mutual Fund of a sufficient number of shares of ConjuChem to bring the holding of such shares to below 10% of the Mutual Fund's net asset value could reasonably be expected to have a negative impact not only on the value of the shares of ConjuChem but also on the value of the units of the Mutual Fund. Counsel for the Applicants advised that 180 days should be a sufficient length of time to enable the Mutual Fund to arrange private placements or other methods of disposing of shares of ConjuChem at above fire-sale prices to bring the value of its remaining holdings in ConjuChem below the 10% threshold.

(viii) Director's Refusal

Pursuant to section 3.2 of National Policy 12-201, Quebec was selected as the principal jurisdiction for the Application. All jurisdictions, other than Ontario, granted the exemption sought in the Application. The Director opted out of the MRRS and refused the Application. This hearing and review was brought on on an expedited basis in order to respect the purposes of streamlining, efficiency and harmonization represented in the MRRS.

Evidence

No evidence was adduced at this hearing and review by way of witnesses. However, many exhibits were filed. In addition, many factual matters were stated in argument by counsel for the Applicants. While most of the factual matter were acceptable to counsel for the Director, one set of facts was not. In particular, counsel for the Applicants submitted that the number of redemptions of Mutual Fund units that might take place during the first 180-days of the Mutual Fund would be limited for various reasons. Counsel for the Director maintained that this "evidence" put forth in argument by counsel for the Applicants was speculative.

While a hearing and review of the Director's decision by the Commission is not in the nature of a trial, it is important that any evidence adduced by counsel orally and not through witnesses be acceptable to counsel for the Director, much in the same way that the Director in making an original decision himself must be satisfied that factual matters conveyed to him are worthy of belief under the circumstances. Because this "evidence" was not acceptable to counsel for the Director, and was put in by counsel by argument and therefore without the opportunity of cross-examination or other testing on the part of counsel for the Director, the Commission decided to give no weight to such evidence. In any event, counsel for the Director maintained that the number of redemptions that were likely to occur was not relevant to the issues in this case. The Commission agrees with this submission.

Weight to be Given to Decisions of other Jurisdictions (Issue 1)

Turning to the first issue, what weight, if any should have been given by the Director under section 19.1 of National Policy 12-102 and section 19.1 of National Instrument 81-102, and should be given by the Commission under section 8 of the Act, to the decisions of the principal jurisdiction and the other non-principal jurisdictions?

It is clear that the Director and the Commission are not bound in any way by those decisions because section 19.1 of National Policy 12-102 reserves to the regulator in Ontario full discretion. Subsection 19.1(2) of the policy provides that "in opting out of the system for a particular application, a non-principal regulator is not making a decision on the merits of the application." The decision on the merits of an application (which would form the basis of an opt-out under the MRRS) would be an exercise of discretion not under National Policy 12-102, but under subsection 19.1(1) of National Instrument 81-102.

Subsection 19.1(1) of National Instrument 81-102 provides:

> the regulator or securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

Counsel for the Applicants suggested to the Commission that the mere fact that the principal jurisdiction and the other non-principal jurisdictions in Canada had granted the requested exemption based on the public interest should alone be persuasive as the reason for granting the exemption. To agree with this would amount to the substitution of the decision of the principal jurisdiction as the decision of the local jurisdiction. This is not the intent of the MRRS.

While the Director and the Commission each have unfettered discretion with respect to the Application, this does not mean that we should not give any weight to the decisions of the principal jurisdiction and the other non-principal jurisdictions once the factors relevant to determining the public interest (including those put forth and considered by the other jurisdictions under the MRRS) are considered in Ontario.

We are required to exercise our discretion in the public interest. In determining the public interest the purposes of the Act are relevant. They are set out in section 1.1 of the Act. The first purpose is to provide protection to investors from unfair, improper or fraudulent practices. The second purpose is to foster fair and efficient capital markets and confidence in capital markets.

We must not lose sight of the second purpose. The Ontario capital markets are part of the Canadian capital markets which in turn are part of the world-wide capital markets. Ontario cannot be seen to regulate its capital markets in isolation. The Partnership has unitholders in Ontario and in other provinces. One of the fundamental principles we are directed to have regard to in pursuing the purposes of the Act is set out in item 5 of section 2.1 of the Act. This requires us to have regard for the fact that "the integration of capital markets is supported and promoted by the sound and responsible harmonization and co-ordination of securities regulation regimes." This, in our view, involves not only the legislative aspect of designing rules but also the administrative and enforcement aspects of applying rules. Accordingly, it is in the public interest that the rules we administer be applied in a harmonious manner with the way the rules of other jurisdictions are applied in the particular circumstance, unless there is a clear and certain public policy reason for a contrary application.

Onus (Issue 2)

Counsel for the Applicants argued, and counsel for the Commission agreed, that under section 8 of the Act the Commission may decide *de novo*, and that the Applicants do not have the onus of showing that the Director was in error in making his decision. The Applicants have the same onus before the Commission that they had before the Director.

Subsection 61(1) of the Act requires the Director to issue a receipt for a prospectus unless it appears to the Director that it is not in the public interest to do so. The Director has no choice with respect to the issue of a receipt pursuant to this subsection unless the Director comes to the determination that issuing the receipt would not be in the public interest. The issuer has the benefit of the doubt under this subsection where requirements of the Act are met and it is not clear to the Director that it is not in the public interest to issue a receipt. This is consistent with the concept of fair and efficient capital markets and efficient administration of the Act allowing business to proceed without undue regulatory interference as long as there is timely, accurate and efficient disclosure of information and no unfair, improper or fraudulent practices. In our facts, of course, we are not under subsection 61(1).

Subsection 61(2) of the Act provides that the Director shall not issue a receipt for a prospectus if it appears to the Director,

among other things, that the prospectus fails to comply in any substantial respect with any of the requirements of applicable provisions. The concentration limit rule in section 2.1 of in National Instrument 81-102 falls within the rules referred to in subsection 61(2) of the Act. In this situation, it is for the Director, or the Commission under section 8 of the Act, in considering whether to grant an exemption from the requirements of the rule to conclude that it would not be contrary to the public interest to grant such an exemption. In other words, the onus is in the first instance on the Applicants.

Whose Interest is the Public Interest (Issue 3)

Counsel for the Director submitted that in considering the public interest in the case at hand, only the interest of future investors under the prospectus should be taken into account. Counsel argued that the relief requested would be required only if a receipt for the prospectus were to be issued, and for this reason only the interests of those who might purchase under the prospectus should be taken into account when considering the public interest.

Counsel for the Applicants argued that the public interest should include all those who participate in the public markets, including the partners of the Partnership, all the shareholders of ConjuChem, the holders of units of the Mutual Fund who receive their units in the Reorganization and the Going Private Transaction, as well as future investors who purchase units under the prospectus.

Although the issue of a receipt for the prospectus will likely be a consequence of granting the Application, the Application is for an exemption under National Instrument 81-102. In considering an exemption under National Instrument 81-102, we are not constrained from considering the interests of all market participants when determining the public interest.

Unitholders of the Partnership are participants in the marketplace. They have a legitimate interest in trying to unlock the value of their investment. We are not obliged to ignore the desirability of the Reorganization for investors in the Partnership.

The shareholders of ConjuChem also are participants in the marketplace. We need to consider the impact that an improvident sale of ConjuChem shares would have on them as well as on the partners of the Partnership.

Counsel for the Director argued that the 10% concentration rule limit was in the public interest. She suggested that strong reasons should exist before an exemption is granted. Counsel for the Applicants argued that counsel for the Director was suggesting that the rule was sacrosanct. She referred to exemptions that have been granted where a mutual fund has been designed to track a specified index with one or more stocks in the index being weighted above the 10% limit.

Counsel for the Applicants put in evidence a report of a speech by the Chair of the Commission in which he stated that with the introduction of a mutual fund governance regime it might be possible to relax or change some of the prudent investment rules governing mutual funds, including the concentration limit rule. While these musings of the Chair of the Commission suggest that the concentration limit rule and other prudent rules now in place may not be sacrosanct in and of themselves, we do not take the possibility of change as justification in itself for granting the exemption in this case. However, we do not regard any of the prudent investment rules of National Instrument 81-102 as sacrosanct since exemptions from them are anticipated and provided for by section 19.1 of the instrument.

Counsel for the Applicants referred us to the decision of the Director dated April 19, 2000 in *Royal Canadian Equity Fund Limited* (2000) 23 OSCB 6508, in which an exemption to exceed the concentration limit rule was granted with regard to an investment in shares of Nortel Networks Inc. The concentration limited was exceeded when shares of Nortel Networks were distributed to shareholders of BCE Inc. Counsel for the Director responded that in the case of the distribution of shares of Nortel Networks the mutual funds involved were involuntary participants unlike in the current case where the Mutual Fund is an active participant in the Reorganization which would result in the violation of the concentration limit rule. Furthermore, counsel for the Director argued, the resultant investment in the shares of Nortel Networks was extremely liquid. In the case at hand, in contrast, the investment in ConjuChem is by admission illiquid. Counsel submitted that this was a material distinguishing factor. We agree with counsel for the Director. However, under all the circumstances of this case, we do not believe, on balance, that it tips the scale to require us to deny the exemption. We believe that in the circumstances of this case involving, as it does, the Reorganization and not merely a new issue of securities, the public interest would best be served by granting the exemption.

Disclosure

Item 2 of section 2.1 of the Act requires us to have regard to the fact that the fundamental principles for achieving the purposes of the Act include requirements for timely, accurate and efficient disclosure of information. Of course, disclosure is not an absolute answer to every request for an exemption. If it were then rules such as the concentration limit rule would not be necessary. Having said this, we believe it is important that where an exemption from the concentration limit rule is granted, the resultant risks should be adequately disclosed in the prospectus.

Temporary Nature of Relief

In weighing all these factors we also have considered that the Applicants have not asked for an open-ended exemption but rather have asked for a temporary exception from the concentration limit rule. Under the circumstances we fail to see the harm to the public interest if the exemption were granted for 180 days.

Alternative Proposal by the Director

The Director suggested to the Applicants a way of accomplishing their objectives without an exemption from the concentration limit rule. The suggestion was that the Reorganization and the Going Private Transaction proceed but that the prospectus be put on hold in Ontario. This could be accomplished without the receipting of the prospectus in Ontario because of the various exemptions available in the Act. When sufficient shares of ConjuChem had been sold over time the prospectus could be receipted without an

exemption from the concentration limit rule. All this would be possible because National Instrument 81-102 would not apply to the Mutual Fund in Ontario until the Mutual Fund had received a receipt for the prospectus in Ontario.

Counsel for the Applicants stated that the alternative had been discussed with their clients and that the proposal was not acceptable from a business point of view. In particular, the Fonds de Solidarité was not prepared to proceed without the Mutual Fund having a prospectus qualified in Ontario.

We are not convinced that the Applicants were refusing the alternative suggested by the Director for any improper motive. We believe that the Director's business judgement should not be accepted as appropriate in the face of objections by the Applicants.

Conclusion

In the particular case before us, the Applicants have identified enough factors to allow us to exercise our discretion to grant the requested relief.

First, the existing investors in the Partnership have an interest in the proposed Reorganization. There was a valuation and a fairness opinion prepared. There will be a vote of investors in the Partnership on the matters. It is a condition of the Reorganization that the existing investors in addition to the Fonds de Solidarité, including those in Ontario, be in favour of the Reorganization. The Reorganization should enable them to realize value by eliminating the discount inherent in the market for their units of the Partnership.

Secondly, the principal regulator and the non-principal regulators besides Ontario have all concluded that the exemption should be granted. If Ontario refuses the relief requested, the transactions will not proceed. In considering the question of harmonization, we asked ourselves whether there is anything particular to the Ontario capital markets that is sufficiently different to the capital markets in the other provinces to justify a different result in Ontario. We have not been able to identify any particular difference which would justify a different position being taken by Ontario with respect to this Application.

Thirdly, we believe that the risks inherent in exceeding the concentration limit rule for 180 days and the fact that the ConjuChem investment is illiquid can be addressed, in the particular circumstances of this case, through adequate disclosure in the prospectus. Disclosure in itself is not a panacea justifying any exemption from an investment rule for mutual funds. However, it is a necessary and helpful ingredient where an exemption is justified. For this reason, any relief will be conditional upon the Director's being satisfied that the final prospectus contains adequate disclosure with respect to the risk inherent in the granting of the Application.

Fourthly, we note that the Applicants are not seeking a complete exemption from the concentration limit. What they are seeking is a temporary exemption for 180 days so that there will be sufficient time to sell down the investment in question in an orderly manner without facing the full consequences of a forced sale. Counsel for the Applicants advised the Commission in answer to a question that 180 days should be sufficient to realize a better value for the investment.

It is in the public interest that the present investors realize as much value as possible for their existing investment.

The exercise of discretion in this particular case has not been easy. The fact the Director was influenced by the illiquidity of the ConjuChem shares and the absence of an applicable precedent formed a reasonable basis for his decision. Furthermore, we note that the Director co-operated with the Applicants to cause this hearing and review to be brought on speedily so as to preserve the ability of the Applicants to carry forward with the transactions if the matter were resolved by the Commission in their favour. This reflected a commendable desire on the part of the Director to make the MRRS work. His decision was easier knowing the Commission would be in a position to exercise its discretion *de novo* in a difficult case.

For all of the above reasons we determined to grant the Application for exemptive relief, subject to the condition that the Director be satisfied that there is adequate disclosure in the final prospectus of the risk involved in the granting of the Application.

April 25, 2001

"Paul Moore" "John A. Geller"

"R. Stephen Paddon"

Chapter 4

Cease Trading Orders

4.1.1 Temporary and Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Rescinding Order
CTM Cafes Inc.	12 Dec 00	-	-	18 Apr 01

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Chapter 5

Rules and Policies

5.1.1 NI 45-101 Rights Offerings

NOTICE OF NATIONAL INSTRUMENT 45-101 RIGHTS OFFERINGS, COMPANION POLICY 45-101CP AND FORM 45-101F AND RESCISSION OF CERTAIN POLICIES

The Ontario Securities Commission has, under section 143 of the *Securities Act* (Ontario) (the "Act"), made National Instrument 45-101 Rights Offerings (the "National Instrument") as a Rule under the Act, and has adopted Companion Policy 45-101CP (the "Companion Policy") as a Policy under the Act. The National Instrument contains Form 45-101F (the "Form").

The National Instrument and Companion Policy are initiatives of the Canadian Securities Administrators (the "CSA"). The National Instrument has been, or is expected to be, adopted as a rule in each of British Columbia, Alberta, Manitoba, Ontario, Newfoundland and Nova Scotia, a Commission regulation in Saskatchewan, and a national policy in all other jurisdictions represented by the CSA. The Companion Policy has been, or is expected to be, implemented as a policy in all the jurisdictions represented by the CSA. The National Instrument and Companion Policy are substantially similar to, and will replace, administrative practices and policies of the Canadian securities regulatory authorities including Uniform Act Policy Statement No. 2-05, British Columbia Securities Commission Policy Statement No. 3-05, Alberta Securities Commission Policy Statement No. 5.2 and Ontario Securities Commission Policy Statement No. 6.2.

The National Instrument and the material required by the Act to be delivered to the Minister of Finance were delivered on April 27, 2001. If the Minister does not reject the National Instrument or return it to the Commission for further consideration by June 27, 2001, or if the Minister approves the National Instrument, the National Instrument will come into force, pursuant to section 11.1 therein, on July 25, 2001. The Companion Policy will come into force on the date that the National Instrument comes into force.

The CSA published drafts of the National Instrument and Companion Policy for comments in November 1997[1] and more recently in August 2000[2] (collectively, the "Draft Instruments").

The CSA received one submission during the most recent comment period on the Draft Instruments, which ended on November 10, 2000. This comment along with the comments received during the initial comment period on the Draft Instruments are discussed below under the heading "Summary of Written Comments received by the CSA". While the National Instrument and Companion Policy are substantially similar to the Draft Instruments published in August 2000, a number of non-substantive changes have been made to the National Instrument, Companion Policy and Form since the August 2000 publication.

Substance and Purpose of Proposed National Instrument and Companion Policy

The substance and purpose of the National Instrument is to prescribe the basis on which an issuer may, by way of a rights offering, sell additional securities of its own issue to holders of its securities either by way of a prospectus or in reliance on the rights offering prospectus exemptions found in Canadian securities legislation. In order to utilize the exemptions found in Canadian securities legislation, the issuer must send to the Canadian securities regulatory authority or regulator (the "reviewing authority") information, which the reviewing authority determines to be acceptable, about the securities that it proposes to offer. A reviewing authority may object to the use of the rights offering prospectus exemption and rights offering registration exemption.

The National Instrument requires that issuers seeking to use the rights offering prospectus exemption provide the reviewing authority in a jurisdiction in which the rights offering is to be effected with information about the issuer, including information previously delivered to the issuer's securityholders but not available through SEDAR, to permit the reviewing authority to confirm that securityholders have been provided with current information about the affairs of the issuer and are not in need of a prospectus for the rights offering. This information will allow the reviewing authorities to assess whether the rights offering is being made in compliance with the National Instrument and whether the terms of the offering are clearly stated in the rights offering circular. The National Instrument requires that issuers disclose the information contained in a rights offering circular in accordance with the prescribed Form.

The National Instrument provides that the rights offering prospectus exemption is unavailable in certain circumstances including where:

(a) as a result of the exercise of the rights under the offering and the exercise of rights issued within the previous 12 months there would be an increase of more than 25 percent in the number, or in the case of debt, the principal amount, of the outstanding securities of the class to be issued upon the exercise of the rights;

(b) the rights are exercisable for securities of a class which were not previously outstanding;

(c) there is an agreement to compensate dealers in a manner which encourages solicitation of the

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1 In Ontario, at (1997), 20 OSCB 6097.

2 In Ontario, at (2000), 23 OSCB 5547.

exercise of rights by holders of rights that were not securityholders of the issuer immediately prior to the rights offering;

(d) there is a minimum amount of proceeds necessary to conduct the purpose for which the funds are being raised and the offering is open for more than 45 days[3];

(e) the issuer is not a reporting issuer in any jurisdiction and the offering is open for more than 60 days; and

(f) the issuer is a reporting issuer in any jurisdiction and the offering is open for more than 90 days.

Finally, the National Instrument advises issuers that approval by the reviewing authority of the listing representations required in the Form will be evidenced by the acceptance of, or non-objection to, the rights offering circular, and that the approval by the reviewing authority of listing representations contained in a prospectus will be evidenced by a receipt for the prospectus.

The purpose of the Companion Policy is to provide information on the factors that the reviewing authorities will consider in determining whether to object to the offering proceeding under the rights offering prospectus exemption or in refusing to issue a receipt for a prospectus used for a rights offering. The Companion Policy also provides guidelines relating to a number of provisions found in the National Instrument including how to calculate certain numerical thresholds, the various types of evidence that may be used to establish that a person or company supplying a stand-by commitment will be positioned to meet its obligations under the commitment, and the use of the rights offering registration exemption independently from the rights offering prospectus exemption. The Companion Policy also provides notice that the issuer may, in certain circumstances, need to implement a mechanism to "claw back" securities subscribed for by insiders.

Finally, the Companion Policy cautions issuers that excluding securityholders resident in a particular jurisdiction, if there is sufficient connection between the issuer and the jurisdiction, may cause the Canadian securities regulatory authority in the jurisdiction to consider taking action against the issuer and its directors and officers.

The National Instrument and Companion Policy implement, in part, the recommendation of the CSA Task Force on Operational Efficiencies that Canadian securities regulatory authorities increase the co-ordination of regulation, including standardization of requirements.

Terms used in the Companion Policy that are defined or interpreted in the National Instrument or a definition national instrument in force in the jurisdiction should be read in accordance with the National Instrument or definition national instrument, unless the context otherwise requires.

[3] The National Instrument does not, however, purport to override stock exchange prohibitions on conditional rights offerings.

Related Instruments

The National Instrument and Companion Policy are related. The National Instrument is related, in Ontario, to subparagraph 35(1)14(i) and subclause 72(1)(h)(i) of the Act and Ontario Securities Commission Rule 45-501 - *Exempt Distributions*. The National Instrument is also related, in Ontario, to proposed Multilateral Instrument 45-102 *Resale of Securities* ("MI 45-102"), which is expected to come into force as a rule in Ontario prior to the National Instrument. Upon coming into force, MI 45-102 will, in certain circumstances, provide for a reduced hold period for first trades of securities acquired under the rights offering prospectus exemption.

Summary of Written Comments Received by the CSA

The CSA received one comment in response to the August 2000 publication for comment of the National Instrument and Companion Policy. The Commentator, Marcel de la Gorgendière, Q.C., supported the harmonization that the National Instrument will create but suggested that a mutual reliance review system be immediately created as a companion to the National Instrument. The CSA agree with the Commentator that a mutual reliance review system will increase the harmonization achieved by the National Instrument. However, the CSA are of the view that this harmonization will best be achieved by amending National Policy 43-201 Mutual Reliance Review System ("MRRS") For Prospectuses and Annual Information Forms to include rights offering circulars or by including the review of rights offering circulars under an MRRS initiative for continuous disclosure documentation. The CSA are currently considering these alternatives.

The CSA received five comments on the initial publication for comment of the National Instrument and Companion Policy, which occurred in November 1997. For a summary of those comments please refer to the Notice published in August 2000 at (2000), 23 OSCB 5547.

Regulations to be Revoked

The adoption of the National Instrument as a rule does not require any regulation to be revoked.

Text of National Instrument, Companion Policy and Form

The text of the National Instrument, Companion Policy and Form follow.

Rescission of Policies

The National Instrument, Companion Policy and Form will replace, in Ontario, Uniform Act Policy Statement No. 2-05 and Ontario Securities Commission Policy Statement No. 6.2. The Ontario Securities Commission proposes to rescind these policies. The text of the proposed rescission is as follows:

> "The policies of the Ontario Securities Commission entitled 'Uniform Act Policy Statement No. 2-05' and 'Ontario Securities Commission Policy Statement No. 6.2' are rescinded."

April 27, 2001.

ATIONAL INSTRUMENT 45-101

RIGHTS OFFERINGS

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NATIONAL INSTRUMENT 45-101
RIGHTS OFFERINGS

PART 1 DEFINITIONS, INTERPRETATION AND APPLICATION

1.1 Definitions - In this Instrument

"acceptance date" means

(a) in all jurisdictions except Quebec,

(i) the date that is 10 days after the date the issuer gives the notice referred to in the rights offering prospectus exemption, or

(ii) if the reviewing authority has objected to the proposed trade under the rights offering prospectus exemption, the date the reviewing authority notifies the issuer by written notice that it no longer objects to the use of the rights offering prospectus exemption; and

(b) in Quebec,

(i) the date that is 15 days after the date the issuer gives the notice referred to in the rights offering prospectus exemption, or

(ii) if the reviewing authority has objected to the proposed trade under the rights offering prospectus exemption, the date the reviewing authority notifies the issuer by written notice that it no longer objects to the use of the rights offering prospectus exemption.

"additional subscription privilege" means the privilege, granted to a holder of a right, to subscribe for securities not subscribed for under a basic subscription privilege;

"basic subscription privilege" means a privilege to subscribe for that number of securities set out in a rights certificate held by a holder of the rights certificate;

"class" includes a series of a class of securities;

"managing dealer" means a dealer that has entered into an agreement with an issuer under which the dealer has agreed to organize, and participate in, the solicitation of the exercise of rights issued by the issuer;

"market price" means for securities of a class for which there is a published market

(a) except as provided in paragraph (b)

(i) if the published market provides a closing price, the simple average of the closing price of securities of that class on the published market for each of the trading

days on which there was a closing price falling not more than 20 trading days immediately before the day as of which the market price is being determined, or

(ii) if the published market does not provide a closing price, but provides only the highest and lowest prices of securities of the class traded, the average of the simple averages of the highest and lowest prices of securities of the class on the published market for each of the trading days on which there were highest and lowest prices falling not more than 20 trading days immediately before the day as of which the market price is being determined, or

(b) if trading of securities of the class in the published market has occurred on fewer than 10 of the immediately preceding 20 trading days, the average of the following amounts established for each of the 20 trading days immediately before the day as of which the market price is being determined:

1. The average of the closing bid and closing ask prices for each day on which there was no trading.

2. If the published market

(i) provides a closing price of securities of the class for each day that there has been trading, the closing price, or

(ii) provides only the highest and lowest prices, the average of the highest and lowest prices of securities of that class for each day that there has been trading;

"published market" means, for a class of securities, a marketplace on which the securities have traded that discloses regularly in a publication of general and regular paid circulation or in a form that is broadly distributed by electronic means the prices at which those securities have traded;

"reviewing authority" means

(a) in all jurisdictions except British Columbia and Alberta, the securities regulatory authority or regulator; and

(b) in British Columbia and Alberta, the regulator;

"rights offering" means

(a) in all jurisdictions except British Columbia, the issuance by an issuer to its securityholders of

(i) a right to purchase additional securities of the issuer's own issue, and

(ii) securities on exercise of the right; and

(b) in British Columbia, the issuance by an issuer to its securityholders of a right to purchase additional securities of the issuer's own issue;

"rights offering prospectus exemption" means the exemption in securities legislation from the prospectus requirement for a rights offering;

"rights offering registration exemption" means the exemption in securities legislation from the trading registration requirement for a rights offering;

"soliciting dealer" means a person or company the interest of which in a rights offering is limited to participating in the solicitation of the exercise of rights by holders of those rights;

"stand-by commitment" means an agreement by a person or company to acquire securities of an issuer not issued under the basic subscription privilege or the additional subscription privilege available under a rights offering; and

"subscription price" means the price per security at which the securities issuable on the exercise of rights may be subscribed for under a rights offering.

1.2 **Interpretation** - For the purpose of the definition of "market price", if there is more than one published market for a security,

(a) if only one of the published markets is in Canada, the market price shall be determined solely by reference to that market;

(b) if there is more than one published market in Canada, the market price shall be determined solely by reference to the published market in Canada on which the greatest volume of trading in the particular class of securities occurred during the 20 trading days immediately before the date as of which the market price is being determined; and

(c) if there is no published market in Canada, the market price shall be determined solely by reference to the published market on which the greatest volume of trading in the particular class of securities occurred during the 20 trading days immediately before the date on which the market price is being determined.

1.3 **Application** - This Instrument applies to an issuer that trades in a local jurisdiction, by way of a rights offering, securities of its own issue to a beneficial holder of its securities.

PART 2 REMOVAL OF RIGHTS OFFERING PROSPECTUS EXEMPTION

2.1 **General** - The rights offering prospectus exemption is not available to an issuer unless the issuer and the rights offering comply with the requirements of Parts 3, 5, 6, 7 and 8 of this Instrument.

2.2 **Restricted Offerings** - The rights offering prospectus exemption is not available to an issuer for a rights offering in any of the following circumstances:

1. The issuer is a reporting issuer in any jurisdiction and there would be an increase of more than 25 percent in the number, or, in the case of debt, the principal amount, of the outstanding securities of the class to be issued upon the exercise of rights, assuming the exercise of all rights issued under the rights offering and the exercise of any other rights issued by the issuer under the rights offering prospectus exemption during the 12 months immediately before the acceptance date.

2. The issuer has entered into an agreement to compensate a person or company for soliciting the exercise of rights issued under the rights offering that provides for payment of a higher fee for soliciting the exercise of rights by holders of rights that were not securityholders of the issuer immediately before the rights offering than the fee payable for soliciting the exercise of rights by holders of rights that were securityholders at that time.

3. The rights offering is conditional on a minimum amount of proceeds being raised and the exercise period for the rights is more than 45 days after the acceptance date.

4. The issuer is not a reporting issuer in any jurisdiction and the exercise period for the rights is more than 60 days after the acceptance date.

5. The issuer is a reporting issuer in any jurisdiction and the exercise period for the rights is more than 90 days after the acceptance date.

6. The issuer is a reporting issuer in any jurisdiction and the exercise period for the rights is less than 21 days after the date on which the rights offering circular is sent to securityholders under paragraph 3.2(a).

7. The issuer is a reporting issuer in any jurisdiction and has not filed financial statements required to be filed under Canadian securities legislation.

PART 3 PROSPECTUS EXEMPT OFFERINGS

3.1 **Deliveries to the Reviewing Authority**

(1) An issuer that is relying on the rights offering prospectus exemption shall send to the reviewing authority the following documents:

1. A rights offering circular in draft and final form prepared in accordance with Form 45-101F.

2. If the issuer is not a reporting issuer in any jurisdiction, a statement of the issuer signed on its behalf by a senior officer confirming:

   (a) that the issuer is in compliance with the requirements of its incorporating legislation concerning the distribution of information to its security holders; and

   (b) no material change has occurred that has not been previously disclosed in writing to its security holders.

3. A copy of any agreement entered into, or proposed to be entered into, by the issuer with a managing dealer.

4. A copy of the technical reports and certificates prepared under National Instrument 43-101 Standards of Disclosure for Mineral Projects or National Policy Statement No. 2-B Guide for Engineers and Geologists Submitting Oil and Gas Reports to Canadian Provincial Securities Administrators or any successor instrument.

5. The details of any other rights offering completed by the issuer within the 12 months immediately preceding the date the rights offering circular in draft form is sent to the reviewing authority.

(2) A rights offering circular in draft form may exclude information about the subscription price and other matters dependent on the subscription price.

3.2 **Delivery to Securityholders** - An issuer that is required to provide notice under the rights offering prospectus exemption shall send

(a) to each securityholder entitled to receive rights under the rights offering a rights offering circular to which the reviewing authority has not objected or has confirmed its acceptance; and

(b) to each securityholder entitled to receive rights under the rights offering and to each registered rights holder, a copy of any amendment under section 3.3.

3.3 Amendments

(1) An issuer that has sent to its securityholders a rights offering circular under paragraph 3.2(a) may amend the rights offering circular, for the purpose of updating information, by sending to the reviewing authority an amendment to the rights offering circular in draft and final form or an amended rights offering circular in draft and final form blacklined to the previously filed rights offering circular.

(2) Despite subsection (1), after the acceptance date, an issuer shall not amend the rights offering circular to change the terms of the rights offering.

PART 4 PROSPECTUS OFFERINGS

4.1 Reliance on Registration Exemption - An issuer that files a prospectus for a rights offering and intends to rely on the rights offering registration exemption shall state that it intends to rely on the exemption in a letter accompanying the filing of the preliminary prospectus.

4.2 Prospectus - An issuer shall not file a prospectus for a rights offering, unless

(a) in addition to qualifying the distribution of the rights, the prospectus qualifies the distribution of the securities issuable on the exercise of the rights;

(b) if there is a managing dealer, the managing dealer has signed the underwriter's certificate in the prospectus; and

(c) if the issuer is a reporting issuer, the exercise period for the rights is at least 21 days after the date on which the prospectus is sent to securityholders.

4.3 Compliance with Instrument - An issuer shall not file a prospectus or an amendment to a prospectus for a rights offering unless the issuer and the rights offering comply with the requirements of Parts 5, 6, 7 and 8.

4.4 Amendment - An issuer shall not file an amendment to a prospectus for a rights offering to change the terms of the rights offering.

PART 5 INSIDER SUBSCRIPTIONS

5.1 Insider Subscriptions

(1) If there is no published market or the subscription price is greater than the market price, for securities of the class of securities issuable on the exercise of the rights, no insider of the issuer shall be permitted to increase its proportionate interest in the issuer through the exercise of the rights under the rights offering or through a stand-by commitment.

(2) Subsection (1) does not apply if there is no published market and the issuer, at the time that the rights offering circular in final form or the rights offering prospectus under which the rights are to be issued is sent to the reviewing authority, by notice in writing confirms to the reviewing authority that the subscription price for the securities issuable on the exercise of the rights is not greater than the fair value of the securities on the day before the date the subscription price is established.

PART 6 STAND-BY COMMITMENTS

6.1 Stand-By Commitments - If there is a stand-by commitment for a rights offering, the issuer shall deliver to the reviewing authority at the time the rights offering circular in final form or the rights offering prospectus is sent to the reviewing authority evidence that the person or company providing the stand-by commitment has the financial ability to carry out the stand-by commitment.

PART 7 ADDITIONAL SUBSCRIPTION PRIVILEGE

7.1 Additional Subscription Privilege - An issuer shall not grant an additional subscription privilege to a holder of a right unless the issuer grants the additional subscription privilege to all holders of rights.

7.2 Stand-by Commitment - If there is a stand-by commitment for a rights offering, the issuer shall grant an additional subscription privilege to all holders of rights.

7.3 Number or Amount of Securities

(1) Under an additional subscription privilege, each holder of a right shall be entitled to receive, on exercise of the additional subscription privilege, the number or amount of securities that is equal to the lesser of

(a) the number or amount of securities subscribed for by the holder under the additional subscription privilege; and

(b) $x(y/z)$ where

x = the aggregate number or amount of securities available through unexercised rights,

y = the number of rights previously exercised by the holder under the rights offering, and

z = the aggregate number of rights previously exercised under the rights

offering by holders of rights that have subscribed for securities under the additional subscription privilege.

(2) Any unexercised rights shall be allocated on a pro rata basis to holders who subscribed for additional securities based on the additional subscription privilege up to the number of securities subscribed for by a particular holder.

7.4 **Price of Securities** - The subscription price under an additional subscription privilege or a stand-by commitment shall be the same as the subscription price under the basic subscription privilege.

PART 8 APPOINTMENT OF DEPOSITORY

8.1 Depository

(1) Subject to section 8.2, if a reporting issuer has specified in a rights offering circular or rights offering prospectus that no securities will be issued on the exercise of the rights unless proceeds at least equal to the specified minimum amount are received by the issuer under the rights offering, the issuer shall appoint one of the following to hold, as a depository, all money received on the exercise of the rights until that specified minimum amount is received or until the money is returned under the agreement referred to in section 8.2:

1. A Canadian financial institution.

2. A registrant in the jurisdiction in which the funds are proposed to be held, who is acting as managing dealer for the rights offering, or if there is no managing dealer, who is acting as a soliciting dealer.

(2) The issuer shall identify the depository appointed under subsection (1) in the rights offering circular or rights offering prospectus.

8.2 **Release of Funds from Depository** - The agreement between the depository and the issuer under which the depository referred to in section 8.1 is appointed shall provide that, if the specified minimum amount referred to in section 8.1 is not received by the depository during the exercise period for the rights, the money held by the depository will be returned in full to the holders of rights that have subscribed for securities under the rights offering.

PART 9 LISTING REPRESENTATIONS

9.1 **Listing Representations** - A reviewing authority's written permission to include a listing representation that is not otherwise permitted under the securities legislation of the Jurisdictions in a rights offering circular or in a rights offering prospectus is evidenced by the acceptance of, or non-objection to, the circular or the issuance of a receipt for the prospectus by the reviewing authority.

PART 10EXEMPTION

10.1 Connection Test

(1) Parts 2, 3, 5, 6, 7 and 8 do not apply to an issuer effecting a rights offering if

(a) to the knowledge of the issuer after reasonable enquiry,

(i) the number of beneficial holders of the class for which the rights are issued resident in Canada does not constitute 10 percent or more of all holders of that class;

(ii) the number of securities of the issuer of the class for which the rights are issued beneficially held by securityholders resident in Canada does not constitute, in the aggregate, 10 percent or more of the outstanding securities of that class;

(iii) the number of beneficial holders of the class for which the rights are issued resident in the local jurisdiction does not constitute five percent or more of all holders of that class; and

(iv) the number of securities of the issuer of the class for which the rights are issued beneficially held by securityholders resident in the local jurisdiction does not constitute, in the aggregate, five percent or more of the outstanding securities of that class; and

(b) all materials sent to any other securityholders for the rights offering are concurrently sent to the reviewing authority and to each securityholder of the issuer resident in the local jurisdiction.

(2) An issuer relying on the exemption in subsection (1) shall send to the reviewing authority a written notice that it is relying on the exemption and a certificate of an officer or director of the issuer, or if the issuer is a limited partnership, an officer or director of the general partner of the issuer, or if the issuer is a trust, a trustee or officer or director of a trustee of the issuer, that to the knowledge of the person signing the certificate, after reasonable inquiry that

(a) the number of beneficial holders of the class for which the rights are issued resident in Canada does not constitute 10 percent or more of all holders of that class;

(b) the number of securities of the issuer of the class for which the rights are issued

beneficially held by securityholders resident in Canada does not constitute, in the aggregate, 10 percent or more of the outstanding securities of that class;

(c) the number of beneficial holders of the class for which the rights are issued resident in the local jurisdiction does not constitute five percent or more of all holders of that class; and

(d) the number of securities of the issuer of the class for which the rights are issued beneficially held by securityholders resident in the local jurisdiction does not constitute, in the aggregate, five percent or more of the outstanding securities of that class.

10.2 Exemption

(1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

10.3 Evidence of Exemption - Without limiting the manner in which an exemption under section 10.2 may be evidenced, the issuance by the reviewing authority of a receipt for the rights offering prospectus or acceptance of, or non-objection to, the rights offering circular is evidence of the granting of the exemption if

(a) the person or company that sought the exemption delivered to the regulator on or before the date the preliminary rights offering prospectus or rights offering circular in draft form was sent to the reviewing authority, a letter or memorandum describing the matters relating to the exemption application, and indicating why consideration should be given to the granting of the exemption; and

(b) the regulator has not sent written notice to the contrary to the person or company that sought the exemption before or concurrently with the issuance of the receipt for the prospectus or acceptance of, or non-objection to, the circular by the reviewing authority.

PART 11 EFFECTIVE DATE

11.1 Effective Date of Instrument - This Instrument comes into force on July 25, 2001.

NATIONAL INSTRUMENT 45-101
FORM 45-101F
INFORMATION REQUIRED IN A RIGHTS OFFERING CIRCULAR

This is the form required by section 3.1 of National Instrument 45-101 Rights Offerings.

Item 1 - Name of Issuer

1.1 Name of Issuer - State the full legal name of the issuer and the addresses of its head office or registered office, and of its principal office.

Item 2 - Summary of Offering

2.1 Summary of Offering - On the first page of the circular, set out in summary form

(i) the number of rights;

(ii) the record date;

(iii) the time and date of expiry of the offer;

(iv) the subscription price;

(v) the basic subscription privilege;

(vi) the maximum number of securities issuable and the proceeds to be received by the issuer, assuming the exercise of all rights issued under the rights offering;

(vii) the estimated expenses of the rights offering;

(viii) any stand-by commitment;

(ix) the basis on which any additional subscription privilege may be exercised; and

(x) the minimum amount of proceeds, if any, upon which the rights offering is conditioned.

INSTRUCTIONS:

1. *If the rights will be listed on a stock exchange, include the following statement on the face page:*

"The Rights will be listed on the [name of exchange]".

2. *If the securities issuable on the exercise of the rights will be listed on a stock exchange, include the following statement on the face page:*

"The [name of exchange] has approved the listing of the [name of securities] issuable on the exercise of the Rights".

Item 3 - International Issuers

3.1 If the Issuer is incorporated, continued or otherwise organized under the laws of a foreign jurisdiction or resides outside of Canada, state the following on the cover page or under a separate heading elsewhere in the rights offering circular, with the bracketed information completed:

"[The issuer] is incorporated, continued or otherwise organized under the laws of a foreign jurisdiction or resides outside of Canada. Although [the issuer has appointed [name(s) and address(es) for agent(s) for service] as its agent(s) for service of process in [list jurisdictions] it may not be possible for investors to collect from the issuer, judgments obtained in Canadian courts predicated on the civil liability provisions of securities legislation"

3.2 In Saskatchewan, the rights offering circular must comply with the requirement to disclose statutory rights of action prescribed under securities legislation.

Item 4 - Brief Description of the Business of the Issuer

4.1 **Brief Description of the Business of the Issuer** - Briefly describe the business carried on and intended to be carried on by the issuer and its subsidiaries.

Item 5 - Details of the Rights and Securities Offered

5.1 **Details of the Rights and Securities Offered** - Describe the significant attributes of the rights issued under the rights offering and the securities to be issued on the exercise of the rights.

Item 6 - Registration and Delivery of Certificates Evidencing Securities

6.1 **Registration and Delivery of Certificates Evidencing Securities** - Describe the details of the registration and delivery of security certificates or other evidence of securities to holders of rights who exercise the rights.

Item 7 - Subscription Agent and Transfer Agent

7.1 **Subscription Agent and Transfer Agent**

(1) Identify the person or company appointed as subscription agent to receive subscriptions and payments from holders of a rights certificate and to perform the services relating to the exercise and transfer of the rights and provide details of such arrangements.

(2) Identify the person or company appointed as registrar and transfer agent for the securities to be issued on exercise of the rights.

Item 8 - How to Exercise the Rights

8.1 **How to Exercise the Rights** - Set out in detail how a holder may exercise the basic subscription privilege, exercise any additional subscription privilege, sell or transfer rights or divide or combine the rights evidenced by the certificate.

INSTRUCTIONS:

1. *Describe the basis on which a holder of a rights certificate may exercise the basic subscription privilege and any additional subscription privilege.*

2. *State if a holder of rights is to forward payment for additional securities issuable under any additional subscription privilege with the duly completed rights certificate or wait until notified by the issuer of the number of additional securities allotted to such holder.*

3. *Describe the basis on which the holder of a rights certificate may sell or transfer the rights or the prohibitions to the transfer.*

4. *Describe the basis on which the holder of a rights certificate may divide or combine the certificate with other rights certificates.*

Item 9 - Stand-By Commitment

9.1 **Stand-By Commitment** - Identify the person or company providing the stand-by commitment, if any. Describe the stand-by commitment, if any, and the material terms of the basis on which the person or company providing the stand-by commitment may terminate the obligation under the stand-by commitment.

Item 10 - Escrow of Proceeds and Depository

10.1 **Escrow of Proceeds and Depository** - Identify the depository, if any, and any provisions for the deposit of the proceeds of the rights offering with the depository.

Item 11 - Managing Dealer, Soliciting Dealer(s) and Underwriting Conflicts

11.1 **Managing Dealer and Soliciting Dealer(s)** - Identify the managing dealer, if any, and the soliciting dealers, if known, and describe the fees payable to them.

11.2 **Underwriting Conflicts**

(1) except in Quebec, if Multilateral Instrument 33-105 Underwriting Conflicts is not in force, provide the disclosure required by securities legislation.

(2) except in Quebec, if and when Multilateral Instrument 33-105 Underwriting Conflicts comes into force, comply with the requirements of

Multilateral Instrument 33-105 Underwriting Conflicts.

(3) in Quebec, provide the disclosure regarding underwriting conflicts in accordance with Quebec securities legislation.

INSTRUCTIONS:

Disclose any information concerning conflicts of interest, including, without limitation, underwriting conflicts, as required by securities legislation

Item 12 - Intention of Insiders to Exercise Rights

12.1 **Intention of Insiders to Exercise Rights** - State, if known to the issuer after reasonable enquiry, the intentions of insiders of the issuer, concerning the exercise of rights issued under the rights offering.

Item 13 - Ownership of Securities of Issuer

13.1 **Ownership of Securities of Issuer** - Provide the following information for each person or company that is the direct or indirect beneficial owner of or exercises control or direction over more than 10 percent of any class or series of voting securities of the issuer as of a specified date not more than 30 days before the date of the rights offering circular:

(a) the name;

(b) for each class or series of voting securities of the issuer, the number or amount of securities owned, controlled or directed; and

(c) the percentage of each class or series of voting securities known by the issuer to be owned, controlled or directed.

13.2 **Changes of Ownership** - State the particulars of any issuances and, if known to any director or senior officer of the issuer, transfers of securities of the issuer that in either case have materially affected the control of the issuer since the end of the most recent financial year for which audited financial statements have been prepared.

Item 14 - Use of Proceeds

14.1 **Use of Proceeds** - Describe the use of the proceeds of the rights offering.

INSTRUCTIONS:

Specify the estimated gross and net proceeds of the rights offering assuming full exercise of the rights, any minimum amount of proceeds required, and the purpose intended for the proceeds.

Item 15 - Statement as to Resale Restrictions

15.1 **Statement as to Resale Restrictions** - Where the issuer is offering rights in one or more jurisdictions in which there are restrictions on the resale of securities, the rights offering circular shall include a heading entitled "Statement as to Resale Restrictions" under which the issuer shall include a statement disclosing when those rights and underlying securities will become freely tradable in those jurisdictions and that until then, such securities may not be resold except pursuant to a prospectus or prospectus exemption, which may only be available in limited circumstances.

Item 16 - Website

16.1 **Website** - Disclose the SEDAR website address and that continuous disclosure for the issuer can be obtained on that site.

COMPANION POLICY 45-101CP TO NATIONAL INSTRUMENT 45-101 RIGHTS OFFERINGS

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COMPANION POLICY 45-101CP TO NATIONAL INSTRUMENT 45-101 RIGHTS OFFERINGS

PART 1 PROSPECTUS EXEMPT OFFERINGS

1.1 Notice Under Rights Offering Prospectus Exemption - The reviewing authority will consider the following as the notice required to be sent under securities legislation in order to rely on the rights offering prospectus exemption:

1. A rights offering circular in draft form.

2. The information required to be sent under clause 10.1(1)(b) and subsection 10.1(2) of the Instrument in order to rely on the exemption provided in subsection 10.1(1) of the Instrument.

1.2 Objection to Use of Prospectus Exemption

(1) The reviewing authority may exercise its statutory power to object to a rights offering being made in reliance on the rights offering prospectus exemption if

(a) the rights offering is for the purpose of financing the reactivation of a dormant or inactive issuer;

(b) the rights offering is for the purpose of financing a material undertaking that would constitute a material departure from the business or operations of the issuer as at the date of its last annual financial statements that have been filed under securities legislation;

(c) excessive consideration is payable to the managing dealer, to any soliciting dealer or for a stand-by commitment; or

(d) the reviewing authority believes that, in the circumstances, reliance upon the exemption is not otherwise appropriate.

(2) Despite clause 1.2(1)(a), the regulator in British Columbia will generally not object to the use of the rights offering prospectus exemption solely on the basis that the proceeds of the rights offering will be used to finance a reactivation. In exercising its discretion, the regulator will consider the following factors:

(a) the amount of funds to be raised, which is generally expected to be less than:

(i) $500,000, if a rights offering complies with the condition in paragraph 1 of section 2.2 of the Instrument ("2.2-1"); and

(ii) $250,000, if the increase in the outstanding securities of the class to be issued on exercise of the rights will

not exceed 50% of the outstanding securities of that class immediately before the rights offering (in which case the regulator is prepared to consider granting an exemption from the 25% limit in 2.2-1);

(b) if the rights offering circular, together with other records required to be delivered, contains full, true and plain disclosure of all material facts relating to the reactivation; and

(c) the extent to which shareholders of the issuer, other than management and insiders, can reasonably participate in the rights offering (generally the regulator will not object if the public shareholders able to participate in the offering constitute more than 50% of all shareholders).

1.3 Calculation of Number of Securities

(1) In calculating the number of outstanding securities for purposes of paragraph 1 of section 2.2 of the Instrument the Canadian securities regulatory authorities are of the view that

(a) if

x = the number of securities of the class of the securities that may be or have been issued upon the exercise of rights under all rights offerings made by the issuer in reliance on the rights offering prospectus exemption during the previous 12 months;

y = the maximum number of securities that may be issued upon exercise of rights under the proposed rights offering; and

z = the number of securities of the class of securities that is issuable upon the exercise of rights under the proposed rights offering that are outstanding as of the date of the rights offering circular prepared for the proposed rights offering that is delivered to the securities regulatory authority;

then $\frac{x+y}{z}$ must be equal to or less than 0.25; and

(b) unless it is reasonable to expect that convertible securities that may be acquired under the proposed rights offering will not be converted before 12 months after the date of the proposed rights offering, the potential increase in outstanding securities, and specifically, "y" in paragraph (1), should be calculated as if the conversion of those convertible securities had occurred.

(2) The formula suggested in subsection (1) should be adjusted to take into account any concurrent rights offering.

(3) Since paragraph 1 of section 2.2 of the Instrument prohibits a rights offering under the rights offering prospectus exemption where the result would be an increase in the number or amount of the securities in excess of 25%, the use of the rights offering prospectus exemption is not generally permitted under that paragraph for a rights offering under which the rights are exercisable into a security of a class of securities none of which were outstanding before the date of issuance of the rights.

1.4 Timing of Deliveries - In jurisdictions other than Quebec, the reviewing authority will use its best efforts to notify the issuer within two business days of the filing of an amendment to the rights offering circular in draft form or an amended rights offering circular in draft form if changes are required to the document. If the issuer does not hear from the reviewing authority within that time, the issuer may deliver the amendment or amended circular to securityholders. However, this does not preclude further review by the reviewing authority of the amendment or amended circular, which is subject to review at any time. In Quebec, the amendment shall be submitted for approval to the Commission, which must make a decision within two working days after receipt. If approval is refused, the distribution shall cease. If the amendment is approved, the rights offering circular may not be sent unless accompanied by the amendment.

1.5 Compliance with National Instrument 43-101 or National Policy Statement No. 2-B - The reviewing authorities may object to the use of the rights offering prospectus exemption if the issuer does not comply with NI 43-101 Standards of Disclosure for Mineral Projects or with National Policy Statement No. 2-B or any successor instrument.

1.6 Requests for Additional Information - Canadian securities legislation contemplates that the reviewing authority may request an issuer that intends to effect a rights offering under the rights offering prospectus exemption to send such other information to the reviewing authority as the reviewing authority may require to allow the reviewing authority to determine whether to object to the use of the rights offering prospectus exemption.

1.7 Availability of Registration Exemption - The rights offering registration exemption is also ordinarily available if the rights offering prospectus exemption is available.

PART 2 PROSPECTUS OFFERINGS

2.1 **Availability of Registration Exemption** - If an issuer proposes to effect a rights offering by way of prospectus, the rights offering registration exemption continues to be available to the issuer. The Canadian securities regulatory authorities will not ordinarily object to the use of the rights offering registration exemption in that case.

2.2 **Public Interest** - A regulator may refuse to issue a receipt for a prospectus filed for a rights offering under which rights are issued if the rights are exercisable into convertible securities that require an additional payment by the holder on conversion and the securities underlying the convertible securities are not qualified under the prospectus. This will ensure that the remedies for misrepresentation in the prospectus are available to the person or company who pays value.

PART 3 INSIDER SUBSCRIPTIONS

3.1 **Insider Subscriptions** - If no market exists for the securities issuable on the exercise of the rights or if the subscription price is greater than the market price, section 5.1 of the Instrument does not necessarily preclude an insider from exercising rights under a rights offering. Insiders may subscribe for securities issuable on the exercise of rights to maintain their proportionate interest in any class of securities and avoid any dilution. An insider may not, however, exercise its rights to increase its proportionate interest in the issuer. Since the maximum number of securities or amount of securities that an insider may acquire under a rights offering will not be known until it is determined how many rights are exercised by non-insiders, issuers relying on section 5.1 will need to put in place a mechanism to "claw back" securities subscribed for by insiders and to repay subscription proceeds in certain circumstances, such as when the rights held by non-insiders are not fully exercised or have been traded to insiders. The Canadian securities regulatory authorities suggest that an escrow mechanism be used to ensure a successful claw-back, if necessary.

3.2 **Establishing Fair Value If There is no Market Price** Subsection 5.1(2) of the Instrument provides that if there is no market price for the securities issuable on the exercise of rights, insiders may not increase their proportionate interest in the issuer unless the issuer confirms to the reviewing authority that the subscription price is not greater than the fair value of the securities to be subscribed for under the rights. For this purpose, the Canadian securities regulatory authority or regulator will consider as evidence of the fair value such things as fairness opinions, valuations and letters from registered dealers.

PART 4 STAND-BY COMMITMENTS

4.1 **Stand-by Commitments** - In assessing if a person or company providing a stand-by commitment has the financial ability to carry out its obligations under the commitment, a reviewing authority will consider any of the following:

1. A statement of net worth attested to by the person or company making the commitment.
2. A bank letter of credit.
3. The most recent annual audited financial statements of the person or company making the commitment.
4. Any other evidence that provides comfort to the reviewing authority.

PART 5 OFFERINGS OUTSIDE OF LOCAL JURISDICTION

5.1 **Offerings Outside of Local Jurisdiction** - A Canadian securities regulatory authority may consider taking appropriate action, such as the denial of exemptions, issuance of a cease trade order or other sanctions, against an issuer and its directors and officers if securityholders resident in its jurisdiction are excluded from a rights offering that is made by an issuer that is

(a) a reporting issuer; or

(b) not a reporting issuer but has securityholders resident in its jurisdiction either

(i) representing five percent or more of the holders of the securities of the class that are to be issued on the exercise of rights under the rights offering; or

(ii) holding five percent or more of the securities of the class that are to be issued on the exercise of rights under the rights offering.

PART 6 DETERMINATION OF BENEFICIAL OWNERSHIP

6.1 **Determination of Beneficial Ownership** - The Canadian securities regulatory authorities recognize the difficulty of determining beneficial ownership given the book-based system of holding securities. The Canadian securities regulatory authorities are of the view that for the purpose of determining beneficial ownership under Part 10 of the Instrument and Part 5 of the Companion Policy, procedures comparable to those found in National Policy 41 - Shareholder Communication, or any successor instrument, are appropriate.

PART 7 RESALE RESTRICTIONS

7.1 **Resale Restrictions** - Issuers should refer to Canadian securities legislation to determine resale restrictions and exemptions from these restrictions.

5.1.2 NI 81-102, 81-102CP Mutual Funds, NI 81-101& 81-101CP Mutual Fund Prospectus Disclosure

AMENDMENTS TO
NATIONAL INSTRUMENT 81-102
AND COMPANION POLICY 81-102CP
MUTUAL FUNDS
AND TO
NATIONAL INSTRUMENT 81-101
AND COMPANION POLICY 81-101CP
MUTUAL FUND PROSPECTUS DISCLOSURE
AND TO
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AND TO
FORM 81-101F2
CONTENTS OF ANNUAL INFORMATION FORM

AMENDMENT TO
NATIONAL INSTRUMENT 81-102 MUTUAL FUNDS

PART 1 AMENDMENTS

1.1 **Amendments**

(1) Section 1.1 of National Instrument 81-102 Mutual Funds is amended by

(a) the addition of the following as paragraphs 5 and 6 of the definition of "cash cover":

"5. Securities purchased by the mutual fund in a reverse repurchase transaction under section 2.14, to the extent of the cash paid for those securities by the mutual fund.

6. Commercial paper that has a term to maturity of 365 days or less and an approved credit rating and that was issued by a person or company other than a government or permitted supranational agency.";

(b) the deletion of the definition of "index mutual fund" and the substitution of the following:

""index mutual fund" means a mutual fund that has adopted fundamental investment objectives that require the mutual fund to

(a) hold the securities that are included in a permitted index or permitted indices of the mutual fund in substantially the same proportion as those securities are reflected in that permitted index or those permitted indices, or

(b) invest in a manner that causes the mutual fund to replicate the

performance of that permitted index or those permitted indices";

(c) the addition of the following definition:

""permitted index" means, in relation to a mutual fund, a market index that is

(a) both

(i) administered by an organization that is not affiliated with any of the mutual fund, its manager, its portfolio adviser or its principal distributor, and

(ii) available to persons or companies other than the mutual fund, or

(b) widely recognized and used;";

(d) the addition of the following definition:

" "qualified security" means

(a) an evidence of indebtedness that is issued, or fully and unconditionally guaranteed as to principal and interest, by

(i) the government of Canada or the government of a jurisdiction,

(ii) the government of the United States of America, the government of one of the states of the United States of America, the government of another sovereign state, or a permitted supranational agency, if, in each case, the evidence of indebtedness has an approved credit rating, or

(iii) a Canadian financial institution or a financial institution that is not incorporated or organized under the laws of Canada or of a jurisdiction if, in either case, evidences of indebtedness of that issuer or guarantor that are rated as short term debt by an approved credit rating organization have an approved credit rating, or

(b) commercial paper that has a term to maturity of 365 days or less and an approved credit rating and that was issued by a person or company other than a government or permitted supranational agency;" and

(e) the deletion of item 1 of paragraph (b) of the definition of "sales communication", and the renumbering of existing items 2 through 6 of that paragraph as items 1 through 5.

(2) National Instrument 81-102 is amended by the renumbering of section 1.3 as subsection 1.3(1), and by the addition of the following as subsections 1.3(2) and (3):

"(2) A mutual fund that renews or extends a securities lending, repurchase or reverse repurchase transaction is entering into a securities lending, repurchase or reverse repurchase agreement for the purposes of section 2.12, 2.13 or 2.14.

(3) In this Instrument, a reference to a "simplified prospectus" includes a prospectus, a reference to a "preliminary simplified prospectus" includes a preliminary prospectus and a reference to a "*pro forma* simplified prospectus" includes a *pro forma* prospectus.".

(3) National Instrument 81-102 is amended by

(a) the deletion of the words "prospectus or" in each of paragraph 1.2(a), paragraph 8.1(a), paragraph 17.3(2)(a) and paragraph 20.4(b);

(b) the addition of the word "simplified" immediately before the word "prospectus" in paragraph 1.2(b); and

(c) the deletion of the words "preliminary prospectus or" and "prospectus or" in subsection 15.4(9).

(4) Section 2.1 of National Instrument 81-102 Mutual Funds is amended by the addition of the following as subsections 2.1(5), (6) and (7):

"(5) Despite subsection (1), an index mutual fund, the name of which includes the word "index", may purchase a security, enter into a specified derivatives transaction or purchase index participation units if required to allow the index mutual fund to satisfy its fundamental investment objectives.

(6) An index mutual fund shall not rely on the relief provided by subsection (5) unless

(a) its simplified prospectus contains the disclosure referred to in subsection (5) of Item 6 and subsection (5) of Item 9 of Part B of Form 81-101F1 Contents of Simplified Prospectus; and

(b) the index mutual fund has provided to its securityholders written notice given not less than 60 days before it first relies on the relief provided by subsection (5), that discloses that it may, from time to time, rely on that relief and that contains the disclosure referred to in paragraph (a).

(7) Paragraph (6)(b) does not apply if each simplified prospectus of the index mutual fund since its inception contains the disclosure referred to in paragraph (6)(a).".

(5) National Instrument 81-102 is amended by the deletion of subsections 2.7(1) and (2) and the substitution of the following:

"(1) A mutual fund shall not purchase an option that is not a clearing corporation option or a debt-like security or enter into a swap or a forward contract unless

(a) in the case of an option, swap or forward contract, the option, swap or contract has a remaining term to maturity of

(i) three years or less, or

(ii) between three and five years if, at the time of the transaction, the option, swap or contract provides the mutual fund with a right, at its election, to eliminate its exposure under the option, swap or contract no later than three years after the mutual fund has purchased the option or entered into the swap or contract; and

(b) at the time of the transaction, the option, debt-like security, swap or contract, or equivalent debt of the counterparty, or of a person or company that has fully and unconditionally guaranteed the obligations of the counterparty in respect of the option, debt-like security, swap or contract, has an approved credit rating.

(2) If the credit rating of an option that is not a clearing corporation option, the credit rating of a debt-like security, swap or forward contract, or the credit rating of the equivalent debt of the writer or guarantor of the option, debt-like security, swap or contract, falls below the level of approved credit rating while the option, debt-like security, swap or contract is held by a mutual fund, the mutual fund shall take the steps that are reasonably required to close out its position in the option, debt-like security, swap or contract in an orderly and timely fashion.".

(6) National Instrument 81-102 is amended by the addition of the following as section 2.12:

"2.12 Securities Loans

(1) Despite any other provision of this Instrument, a mutual fund may enter into a securities lending transaction as lender if the following conditions are satisfied for the transaction:

1. The transaction is administered and supervised in the manner required by sections 2.15 and 2.16.

2. The transaction is made under a written agreement that implements the requirements of this section.

3. Securities are loaned by the mutual fund in exchange for collateral.

4. The securities transferred, either by the mutual fund or to the mutual fund as collateral, as part of the transaction are immediately available for good delivery under applicable legislation.

5. The collateral to be delivered to the mutual fund at the beginning of the transaction

(a) is received by the mutual fund either before or at the same time as it delivers the loaned securities; and

(b) has a market value equal to at least 102 percent of the market value of the loaned securities.

6. The collateral to be delivered to the mutual fund is one or more of

(a) cash;

(b) qualified securities;

(c) securities that are immediately convertible into, or exchangeable for, securities of the same issuer, class or type, and the same term, if applicable, as the securities that are being loaned by the mutual fund, and in at least the same number as those loaned by the mutual fund; or

(d) irrevocable letters of credit issued by a Canadian financial institution that is not the counterparty, or an affiliate of the counterparty, of the mutual fund in the transaction, if evidences of indebtedness of the Canadian financial institution that are rated as short term debt by an approved credit rating organization have an approved credit rating.

7. The collateral and loaned securities are marked to market on each business day, and the amount of collateral in the

possession of the mutual fund is adjusted on each business day to ensure that the market value of collateral maintained by the mutual fund in connection with the transaction is at least 102 percent of the market value of the loaned securities.

8. If an event of default by a borrower occurs, the mutual fund, in addition to any other remedy available under the agreement or applicable law, has the right under the agreement to retain and dispose of the collateral to the extent necessary to satisfy its claims under the agreement.

9. The borrower is required to pay promptly to the mutual fund amounts equal to and as compensation for all dividends and interest paid, and all distributions made, on the loaned securities during the term of the transaction.

10. The transaction is a "securities lending arrangement" under section 260 of the ITA.

11. The mutual fund is entitled to terminate the transaction at any time and recall the loaned securities within the normal and customary settlement period for securities lending transactions in the market in which the securities are lent.

12. Immediately after the mutual fund enters into the transaction, the aggregate market value of all securities loaned by the mutual fund in securities lending transactions and not yet returned to it or sold by the mutual fund in repurchase transactions under section 2.13 and not yet repurchased does not exceed 50 percent of the total assets of the mutual fund, and for such purposes collateral held by the mutual fund for the loaned securities and cash held by the mutual fund for the sold securities shall not be included in total assets.

(2) A mutual fund may hold all cash delivered to it as the collateral in a securities lending transaction or may use the cash to purchase

(a) qualified securities having a remaining term to maturity no longer than 90 days;

(b) securities under a reverse repurchase agreement permitted by section 2.14; or

(c) a combination of the securities referred to in paragraphs (a) and (b).

(3) A mutual fund, during the term of a securities lending transaction, shall hold all, and shall not invest or dispose of any, non-cash collateral delivered to it as collateral in the transaction.".

(7) National Instrument 81-102 is amended by the addition of the following as section 2.13:

"2.13 Repurchase Transactions

(1) Despite any other provision of this Instrument, a mutual fund may enter into a repurchase transaction if the following conditions are satisfied for the transaction:

1. The transaction is administered and supervised in the manner required by sections 2.15 and 2.16.

2. The transaction is made under a written agreement that implements the requirements of this section.

3. Securities are sold for cash by the mutual fund, with the mutual fund assuming an obligation to repurchase the securities for cash.

4. The securities transferred by the mutual fund as part of the transaction are immediately available for good delivery under applicable legislation.

5. The cash to be delivered to the mutual fund at the beginning of the transaction

(a) is received by the mutual fund either before or at the same time as it delivers the sold securities; and

(b) is in an amount equal to at least 102 percent of the market value of the sold securities.

6. The sold securities are marked to market on each business day, and the amount of sale proceeds in the possession of the mutual fund is adjusted on each business day to ensure that the amount of cash maintained by the mutual fund in connection with the transaction is at least 102 percent of the market value of the sold securities.

7. If an event of default by a purchaser occurs, the mutual fund, in addition to any other remedy available under the agreement or applicable law, has the right under the agreement to retain or

dispose of the sale proceeds delivered to it by the purchaser to the extent necessary to satisfy its claims under the agreement.

8. The purchaser of the securities is required to pay promptly to the mutual fund amounts equal to and as compensation for all dividends and interest paid, and all distributions made, on the sold securities during the term of the transaction.

9. The transaction is a "securities lending arrangement" under section 260 of the ITA.

10. The term of the repurchase agreement, before any extension or renewal that requires the consent of both the mutual fund and the purchaser, is not more than 30 days.

11. Immediately after the mutual fund enters into the transaction, the aggregate market value of all securities loaned by the mutual fund in securities lending transactions under section 2.12 and not yet returned to it or sold by the mutual fund in repurchase transactions and not yet repurchased does not exceed 50 percent of the total assets of the mutual fund, and for such purposes collateral held by the mutual fund for the loaned securities and the cash held by the mutual fund for the sold securities shall not be included in total assets.

(2) A mutual fund may hold cash delivered to it as consideration for sold securities in a repurchase transaction or may use the cash to purchase

(a) qualified securities having a remaining term to maturity no longer than 30 days;

(b) securities under a reverse repurchase agreement permitted by section 2.14; or

(c) a combination of the securities referred to in paragraphs (a) and (b).".

(8) National Instrument 81-102 is amended by the addition of the following as section 2.14:

"2.14 Reverse Repurchase Transactions

(1) Despite any other provision of this Instrument, a mutual fund may enter into a reverse repurchase transaction if the following conditions are satisfied for the transaction:

1. The transaction is administered and supervised in the manner required by sections 2.15 and 2.16.

2. The transaction is made under a written agreement that implements the requirements of this section.

3. Qualified securities are purchased for cash by the mutual fund, with the mutual fund assuming the obligation to resell them for cash.

4. The securities transferred as part of the transaction are immediately available for good delivery under applicable legislation.

5. The securities to be delivered to the mutual fund at the beginning of the transaction

(a) are received by the mutual fund either before or at the same time as it delivers the cash used by it to purchase those securities; and

(b) have a market value equal to at least 102 percent of the cash paid for the securities by the mutual fund.

6. The purchased securities are marked to market on each business day, and either the amount of cash paid for the purchased securities or the amount of purchased securities in the possession of the seller or the mutual fund is adjusted on each business day to ensure that the market value of purchased securities held by the mutual fund in connection with the transaction is not less than 102 percent of the cash paid by the mutual fund.

7. If an event of default by a seller occurs, the mutual fund, in addition to any other remedy available in the agreement or applicable law, has the right under the agreement to retain or dispose of the purchased securities delivered to it by the seller to the extent necessary to satisfy its claims under the agreement.

8. The transaction is a "securities lending arrangement" under section 260 of the ITA.

9. The term of the reverse repurchase agreement, before any extension or renewal that requires the consent of both the seller and the mutual fund, is not more than 30 days.".

(9) National Instrument 81-102 is amended by the addition of the following as section 2.15:

"2.1 Agent for Securities Lending, Repurchase and Reverse Repurchase Transactions

(1) The manager of a mutual fund shall appoint an agent or agents to act on behalf of the mutual fund in administering the securities lending and repurchase transactions entered into by the mutual fund.

(2) The manager of a mutual fund may appoint an agent or agents to act on behalf of the mutual fund to administer the reverse repurchase transactions entered into by the mutual fund.

(3) The custodian or a sub-custodian of the mutual fund shall be the agent appointed under subsection (1) or (2).

(4) The manager of a mutual fund shall not authorize an agent to enter into a securities lending, repurchase or, if applicable, reverse repurchase transactions on behalf of the mutual fund until the agent enters into a written agreement with the manager and the mutual fund in which

(a) the mutual fund and the manager provide instructions to the agent on the parameters to be followed in entering into the type of transactions to which the agreement pertains;

(b) the agent agrees to comply with this Instrument, accepts the standard of care referred to in subsection (5) and agrees to ensure that all transactions entered into by it on behalf of the mutual fund will comply with this Instrument; and

(c) the agent agrees to provide to the mutual fund and the manager regular, comprehensive and timely reports summarizing the mutual fund's securities lending, repurchase and reverse repurchase transactions, as applicable.

(5) An agent appointed under this section, in administering the securities lending, repurchase and, if applicable, reverse repurchase transactions of the mutual fund shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.".

(10) National Instrument 81-102 is amended by the addition of the following as section 2.16:

"2.16 Controls and Records

(1) A mutual fund shall not enter into transactions under sections 2.12, 2.13 or 2.14 unless,

(a) for transactions to be entered into through an agent appointed under section 2.15, the manager has reasonable grounds to believe that the agent has established and maintains appropriate internal controls and procedures and records; and

(b) for reverse repurchase transactions directly entered into by the mutual fund without an agent, the manager has established and maintains appropriate internal controls, procedures and records.

(2) The internal controls, procedures and records referred to in subsection (1) shall include

(a) a list of approved borrowers, purchasers and sellers based on generally accepted creditworthiness standards;

(b) as applicable, transaction and credit limits for each counterparty; and

(c) collateral diversification standards.

(3) The manager of a mutual fund shall, on a periodic basis not less frequently than annually,

(a) review the agreements with any agent appointed under section 2.15 to determine if the agreements are in compliance with this Instrument;

(b) review the internal controls described in subsection (2) to ensure their continued adequacy and appropriateness;

(c) make reasonable enquiries as to whether the agent is administering the securities lending, repurchase or reverse repurchase transactions of the mutual fund in a competent and responsible manner, in conformity with the requirements of this Instrument and in conformity with the agreement between the agent, the manager and

the mutual fund entered into under subsection 2.15(4);

(d) review the terms of any agreement between the mutual fund and an agent entered into under subsection 2.15(4) in order to determine if the instructions provided to the agent in connection with the securities lending, repurchase or reverse repurchase transactions of the mutual fund continue to be appropriate; and

(e) make or cause to be made any changes that may be necessary to ensure that

(i) the agreements with agents are in compliance with this Instrument,

(ii) the internal controls described in subsection (2) are adequate and appropriate,

(iii) the securities lending, repurchase or reverse repurchase transactions of the mutual fund are administered in the manner described in paragraph (c), and

(iv) the terms of each agreement between the mutual fund and an agent entered into under subsection 2.15(4) are appropriate.".

(11) National Instrument 81-102 is amended by the addition of the following as section 2.17:

"**2.17 Commencement of Securities Lending, Repurchase and Reverse Repurchase Transactions by a Mutual Fund**

(1) A mutual fund shall not enter into securities lending, repurchase or reverse repurchase transactions unless

(a) its simplified prospectus contains the disclosure required for mutual funds entering into those types of transactions; and

(b) the mutual fund has provided to its securityholders, not less than 60 days before it begins entering into those types of transactions, written notice that discloses its intent to begin entering into those types of transactions and the disclosure required for mutual funds entering into those types of transactions.

(2) Paragraph (1)(b) does not apply to a mutual fund that has entered into reverse repurchase agreements as permitted by a decision of the securities regulatory authority or regulator.".

(12) National Instrument 81-102 is amended by the deletion of section 4.2 and the substitution of the following:

"**4.2 Self-Dealing**

(1) A mutual fund shall not purchase a security from, sell a security to, or enter into a securities lending, repurchase or reverse repurchase transaction under section 2.12, 2.13 or 2.14 with, any of the following persons or companies:

1. The manager, portfolio adviser or trustee of the mutual fund.

2. A partner, director or officer of the mutual fund or of the manager, portfolio adviser or trustee of the mutual fund.

3. An associate or affiliate of a person or company referred to in paragraph 1 or 2.

4. A person or company, having fewer than 100 securityholders of record, of which a partner, director or officer of the mutual fund or a partner, director or officer of the manager or portfolio adviser of the mutual fund is a partner, director, officer or securityholder.

(2) Subsection (1) applies in the case of a sale of a security to, or a purchase of a security from, a mutual fund only if the person or company that would be selling to, or purchasing from, the mutual fund would be doing so as principal.".

(13) National Instrument 81-102 is amended by the deletion of subsection 4.4(5), the substitution of subsection (5) below as the new subsection (5) and the addition of subsection (6) below as subsection (6):

"(5) This section does not apply to any losses to a mutual fund or securityholder arising out of an action or inaction by

(a) a director of the mutual fund; or

(b) a custodian or sub-custodian of the mutual fund, except as set out in subsection (6).

(6) This section applies to any losses to a mutual fund or securityholder arising out of

an action or inaction by a custodian or sub-custodian acting as agent of the mutual fund in administering the securities lending, repurchase or reverse repurchase transactions of the mutual fund.".

(14) National Instrument 81-102 is amended by

(a) the addition of the words "or regulator" immediately after the words "securities regulatory authority" in subsections 5.5(1), 5.5(2) and 5.6(1) and section 5.9; and

(b) the addition of the following as subsection 5.5(3):

"(3) Despite subsection (1), in Ontario only the regulator may grant an approval referred to in subsection (1)."

(15) Paragraph 6.3(3)(b) of National Instrument 81-102 is amended by striking out "subsidiary" and substituting "affiliate".

(16) National Instrument 81-102 is amended by

(a) changing the title of section 6.8 to "Custodial Provisions relating to Derivatives and Securities Lending, Repurchase and Reverse Repurchase Agreements";

(b) the deletion of subsection 6.8(4) and the substitution of the following:

"(4) The agreement by which portfolio assets of a mutual fund are deposited in accordance with subsection (1), (2) or (3) shall require the person or company holding portfolio assets of the mutual fund so deposited to ensure that its records show that that mutual fund is the beneficial owner of the portfolio assets."; and

(c) by the addition of the following as subsection 6.8(5):

"(5) A mutual fund may deliver portfolio assets to a person or company in satisfaction of its obligations under a securities lending, repurchase or reverse purchase agreement that complies with this Instrument if the collateral, cash proceeds or purchased securities that are delivered to the mutual fund in connection with the transaction are held under the custodianship of the custodian or a sub-custodian of the mutual fund in compliance with this Part.".

(17) National Instrument 81-102 is amended by the deletion of the words "immediately before the close of business" in paragraph 9.4(4)(a).

(18) National Instrument 81-102 is amended by the deletion of subsection 11.4(1) and the substitution of the following:

"(1) Sections 11.1 and 11.2 do not apply to members of The Investment Dealers Association of Canada, The Montreal Exchange, The Toronto Stock Exchange or the Canadian Venture Exchange Inc.".

(19) National Instrument 81-102 is amended by the deletion of subsection 12.1(4) and the substitution of the following:

"(4) Subsection (3) does not apply to members of The Investment Dealers Association of Canada, The Montreal Exchange, The Toronto Stock Exchange or the Canadian Venture Exchange Inc.".

(20) National Instrument 81-102 is amended by the deletion of subsection 15.4(12).

(21) National Instrument 81-102 is amended by the deletion of subparagraph 15.6(a)(i) and the substitution of the following:

"(i) the mutual fund has distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, or the asset allocation service has been operated for at least 12 consecutive months and has invested only in participating funds each of which has distributed securities under a simplified prospectus in a jurisdiction for at least 12 consecutive months, or".

(22) National Instrument 81-102 is amended by the addition of the following as section 15.14:

"Sales Communication - Multi-Class Mutual Funds - A sales communication for a mutual fund that distributes different classes or series of securities that are referable to the same portfolio shall not contain performance data unless the sales communication complies with the following requirements:

1. The sales communication clearly specifies the class or series of security to which any performance data contained in the sales communication relates.

2. If the sales communication refers to more than one class or series of security and provides performance data for any one class or series, the sales communication shall provide performance data for each class or series of security referred to in the sales communication and shall clearly explain the reasons for different performance data among the classes or series.

3. A sales communication for a new class or series of security and an existing class or series of security shall not contain performance data for the existing class or series unless the sales communication clearly explains any differences between the new class or series and the existing class or series that could affect performance.".

(23) Section 16.1 of National Instrument 81-102 is amended by the deletion of subparagraph (1)(a)(i) and the substitution of the following:

"(i) the total expenses of the mutual fund, before income taxes, for the financial year, as shown on its income statement,".

(24) National Instrument 81-102 is amended by the addition of the following as subsection 16.1(4):

"(4) The requirements to provide note disclosure contained in subsections (2) and (3) do not apply if a mutual fund provides its management expense ratio to a service provider that will arrange for public dissemination of the management expense ratio, if the mutual fund indicates, as applicable, that management fees have been waived or that management fees were paid directly by investors during the period for which the management expense ratio was calculated.".

(25) National Instrument 81-102 is amended by the renumbering of existing subsections 16.1(4), (5), (6), (7) and (8) as subsections 16.1(5), (6), (7), (8) and (9), respectively.

(26) National Instrument 81-102 is amended by the deletion of section 16.2 and the substitution of the following:

"**16.2 Fund of Funds Calculation**

(1) For the purposes of subparagraph 16.1(1)(a)(i), the total expenses of a mutual fund that invests in securities of one or more other mutual funds is equal to the sum of:

(a) the total expenses incurred by the mutual fund that are for the period that the calculation of management expense ratio is made and that are attributable to its investment in each underlying mutual fund, as calculated by

(i) multiplying the total expenses of each underlying mutual fund, before income taxes, for the period, by

(ii) the average proportion of securities of the underlying mutual fund held by the mutual fund during the period, calculated by

(A) adding together the proportion of securities of the underlying mutual fund held by the mutual fund on each day in the period, and

(B) dividing the amount obtained under clause (A) by the number of days in the period; and

(b) the total expenses of the mutual fund, before income taxes, for the period.

(2) A mutual fund that has exposure to one or more other mutual funds through the use of specified derivatives in a financial year shall calculate its management expense ratio for the financial year in the manner described in subsection (1), treating each mutual fund to which it has exposure as an "underlying mutual fund" under subsection (1).

(3) Subsection (2) does not apply if the specified derivatives do not expose the mutual fund to expenses that would be incurred by a direct investment in the relevant mutual funds.

(4) Despite subsection 16.1(5), management fees rebated by an underlying fund to a mutual fund that invests in the underlying fund shall be deducted from total expenses of the underlying fund if the rebate is made for the purpose of avoiding duplication of fees between the two mutual funds.".

(27) National Instrument 81-102 is amended by the addition of the following as section 16.3:

"**16.3 Application of Section 16.1** - Section 16.1 does not apply to a mutual fund in respect of a financial year that ended before February 1, 2000 if the management expense ratio for that financial year is disclosed and calculated in accordance with securities legislation applicable to mutual funds on January 31, 2000.".

(28) National Instrument 81-102 is amended by the deletion of section 20.3 and the substitution of the following:

"**20.3 Reports to Securityholders** - This Instrument does not apply to reports to securityholders

(a) printed before February 1, 2000; or

(b) that include only financial statements that relate to financial periods that ended before February 1, 2000.".

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - This Amendment comes into force on May 2, 2001.

AMENDMENT TO COMPANION POLICY 81-102CP MUTUAL FUNDS

PART 1 AMENDMENTS

1.1 **Amendments**

(1) Companion Policy 81-102CP is amended by the addition of the following as paragraph 5 of subsection 2.13(2):

"5. (a) The mutual fund has become legally entitled to dispose of the collateral held by it under a securities loan or repurchase agreement and to apply proceeds of realization to satisfy the obligations of the counterparty of the mutual fund under the transaction, and

(b) sufficient time has passed after the event described in paragraph (a) to enable the mutual fund to sell the collateral in a manner that maintains an orderly market and that permits the preservation of the best value for the mutual fund."

(2) Companion Policy 81-102CP is amended by the deletion of subsection 2.16(2), the substitution of subsection (2) below as the new subsection 2.16(2) and the addition of subsection (3) below as subsection 2.16(3):

"(2) Because of the broad ambit of the lead-in language to the definition, it is impossible to list every instrument, agreement or security that might be caught by that lead-in language but that is not considered to be a derivative in any normal commercial sense of that term. The Canadian securities regulatory authorities consider conventional floating rate debt instruments, securities of a mutual fund or commodity pool, non-redeemable securities of an investment fund, American depositary receipts and instalment receipts generally to be within this category, and generally will not treat those instruments as specified derivatives in administering the Instrument.

(3) However, the Canadian securities regulatory authorities note that these general exclusions may not be applicable in cases in which a mutual fund invests in one of the vehicles described in subsection (2) with the result that the mutual fund obtains or increases exposure to a particular underlying interest in excess of the limit set out in section 2.1 of the Instrument. In such circumstances, the Canadian securities regulatory authorities are likely to consider that instrument a specified derivative under the Instrument.

(3) Companion Policy 81-102CP is amended by the addition of the following as section 3.2, and the consequent renumbering of existing sections 3.2, 3.3, 3.4 and 3.5 as sections 3.3, 3.4, 3.5 and 3.6, respectively:

"3.2 Index Mutual Funds

(1) An "index mutual fund" is defined in section 1.1 of the Instrument as a mutual fund that has adopted fundamental investment objectives that require it to

(a) hold the securities that are included in a permitted index or permitted indices of the mutual fund in substantially the same proportion as those securities are reflected in that permitted index or permitted indices; or

(b) invest in a manner that causes the mutual fund to replicate the performance of that permitted index or those permitted indices.

(2) This definition includes only mutual funds whose entire portfolio is invested in accordance with one or more permitted indices. The CSA recognizes that there may be mutual funds that invest part of their portfolio in accordance with a permitted index or indices, with a remaining part of the portfolio being actively managed. Those mutual funds cannot avail themselves of the relief provided by subsection 2.1(5) of the Instrument, which provides relief from the "10 percent rule" contained in subsection 2.1(1) of the Instrument, because they are not "index mutual funds". The CSA acknowledge that there may be circumstances in which the principles behind the relief contained in subsection 2.1(5) of the Instrument is also applicable to "partially-indexed" mutual funds. Therefore, the CSA will consider applications from those types of mutual funds for relief analogous to that provided by subsection 2.1(5) of the Instrument.

(3) It is noted that the manager of an index mutual fund may make a decision to base all or some of the investments of the mutual fund on a different permitted index than a permitted index previously used. This decision might be made for investment reasons or because that index no longer satisfies the definition of "permitted index" in the Instrument. It is noted that this decision by the manager will be considered by the Canadian securities regulatory authorities generally to constitute a change of fundamental investment objectives, thereby requiring securityholder approval under paragraph 5.1(c) of the Instrument. In addition, this decision would also constitute a significant change for the mutual fund, thereby requiring an amendment to the simplified prospectus of the mutual fund and the issuing of a press release under section 5.10 of the Instrument.".

(4) Companion Policy 81-102CP is amended by the addition of the following as section 3.7:

"3.7 Securities Lending, Repurchase and Reverse Repurchase Transactions

(1) Section 2.12, 2.13 and 2.14 of the Instrument each contains a number of conditions that must be satisfied in order that a mutual fund may enter into a securities lending, repurchase or reverse repurchase transaction in compliance with the Instrument. It is expected that, in addition to satisfying these conditions, the manager on behalf of the mutual fund, in co-ordination with an agent, will ensure that the documentation evidencing these types of transactions contains customary provisions to protect the mutual fund and to document the transaction properly. Among other things, these provisions would normally include:

(a) a definition of an "event of default" under the agreement, which would include failure to deliver cash or securities, or to promptly pay to the mutual fund amounts equal to dividends and interest paid, and distributions made, on loaned or sold securities, as required by the agreement;

(b) provisions giving non-defaulting parties rights of termination, rights to sell the collateral, rights to purchase identical securities to replace the loaned securities and legal rights of set-off in connection with their obligations if an event of default occurs; and

(c) provisions that deal with, if an event of default occurs, how the value of collateral or securities held by the non-defaulting party that is in excess of the amount owed by the defaulting party will be treated.

(2) Section 2.12, 2.13 and 2.14 of the Instrument each imposes a requirement that a mutual fund that has entered into a securities lending, repurchase or reverse repurchase transaction hold cash or securities of at least 102 percent of the market value of the securities or cash held by the mutual fund's counterparty under the transaction. It is noted that the 102 percent requirement is a minimum requirement, and that it may be appropriate for the manager

of a mutual fund, or the agent acting on behalf of the mutual fund, to negotiate the holding of a greater amount of cash or securities if necessary to protect the interests of the mutual fund in a particular transaction, having regard to the level of risk for the mutual fund in the transaction. In addition, if the recognized best practices for a particular type of transaction in a particular market calls for a higher level of collateralization than 102 percent, it is expected that, absent special circumstances, the manager or the agent would ensure that its arrangements reflect the relevant best practices for that transaction.

(3) Paragraph 3 of subsection 2.12(1) of the Instrument refers to securities lending transactions in terms of securities that are "loaned" by a mutual fund in exchange for collateral. Some securities lending transactions are documented so that title to the "loaned" securities is transferred from the "lender" to the "borrower". The Canadian securities regulatory authorities do not consider this fact as sufficient to disqualify those transactions as securities loan transactions within the meaning of the Instrument, so long as the transaction is in fact substantively a loan. References throughout the Instrument to "loaned" securities, and similar references, should be read to include securities "transferred" under a securities lending transaction.

(4) Paragraph 6 of subsection 2.12(1) permits the use of irrevocable letters of credit as collateral in securities lending transactions. The Canadian securities regulatory authorities believe that, at a minimum, the prudent use of letters of credit will involve the following arrangements:

(a) the mutual fund should be allowed to draw down any amount of the letter of credit at any time by presenting its sight draft and certifying that the borrower is in default of its obligations under the securities lending agreement, and the amount capable of being drawn down would represent the current market value of the outstanding loaned securities or the amount required to cure any other borrower default; and

(b) the letter of credit should be structured so that the lender may draw down, on the date immediately preceding its expiration date, an amount equal to the current market value of all outstanding loaned securities on that date.

(5) Paragraph 9 of subsection 2.12(1) and paragraph 8 of subsection 2.13(1) of the Instrument each provides that the agreement under which a mutual fund enters into a securities lending or repurchase transaction include a provision requiring the mutual fund's counterparty to promptly pay to the mutual fund, among other things, distributions made on the securities loaned or sold in the transaction. In this context, the term "distributions" should be read broadly to include all payments or distributions of any type made on the underlying securities, including, without limitation, distributions of property, stock dividends, securities received as the result of splits, all rights to purchase additional securities and full or partial redemption proceeds. This extended meaning conforms to the meaning given the term "distributions" in several standard forms of securities loan agreements widely used in the securities lending and repurchase markets.

(6) Section 2.12, 2.13 and 2.14 of the Instrument make reference to the "delivery" and "holding" of securities or collateral by the mutual fund. The Canadian securities regulatory authorities note that these terms will include the delivery or holding by an agent for a mutual fund. In addition, the Canadian securities regulatory authorities recognize that under ordinary market practice, agents pool collateral for securities lending/repurchase clients; this pooling of itself is not considered a violation of the Instrument.

(7) Section 2.12, 2.13 and 2.14 of the Instrument require that the securities involved in a securities lending, repurchase or reverse repurchase transaction be marked to market daily and adjusted as required daily. It is recognized that market practice often involves an agent marking to market a portfolio at the end of a business day, and effecting the necessary adjustments to a portfolio on the next business day. So long as each action occurs on each business day, as required by the Instrument, this market practice is not a breach of the Instrument.

(8) As noted in subsection (7), the Instrument requires the daily marking to market of the securities involved in a securities lending, repurchase or reverse repurchase transaction. The valuation principles used in this marking to market may be those generally used by the agent acting for the mutual fund, even if those principles deviate from the principles that are used by the mutual fund in valuing its portfolio assets for the purposes of calculating net asset value.

(9) Paragraph 6 of subsection 2.13(1) of the Instrument imposes a requirement concerning the delivery of sales proceeds to the mutual fund equal to 102 per cent of the market value of the securities sold in the transaction. It is noted that accrued interest on the sold securities should be included in the calculation of the market value of those securities.

(10) Section 2.15 of the Instrument imposes the obligation on a manager of a mutual fund to appoint an agent or agents to administer its securities lending and repurchase transactions, and makes optional the ability of a manager to appoint an agent or agents to administer its reverse repurchase transactions. A manager that appoints more than one agent to carry out these functions may allocate responsibility as it considers best. For instance, it may be appropriate that one agent be responsible for domestic transactions, with one or more agents responsible for off-shore transactions. Managers should ensure that the various requirements of sections 2.15 and 2.16 of the Instrument are satisfied for all agents.

(11) It is noted that the responsibilities of an agent appointed under section 2.15 of the Instrument include all aspects of acting on behalf of a mutual fund in connection with securities lending, repurchase or reverse repurchase agreements. This includes acting in connection with the reinvestment of collateral or securities held during the life of a transaction.

(12) Subsection 2.15(3) of the Instrument requires that an agent appointed by a mutual fund to administer its securities lending, repurchase or reverse repurchase transactions shall be a custodian or sub-custodian of the mutual fund. It is noted that the provisions of Part 6 of the Instrument generally apply to the agent in connection with its activities relating to securities lending, repurchase or reverse repurchase transactions. The agent must have been appointed as custodian or sub-custodian in accordance with section 6.1, and must satisfy the other requirements of Part 6 in carrying out its responsibilities.

(13) Subsection 2.15(5) of the Instrument provides that the manager of a mutual fund shall not authorize an agent to enter into securities lending, repurchase or, if applicable, reverse repurchase transactions on behalf of the mutual fund unless there is a written agreement between the agent, the manager and the mutual fund that deals with certain prescribed matters. Subsection (5) requires that the manager and the mutual fund, in the agreement, provide instructions to the agent on the parameters to be followed in entering into the type of transaction to which the agreement pertains. The parameters would normally include:

(a) details on the types of transactions that may be entered into by the mutual fund;

(b) types of portfolio assets of the mutual fund to be used in the transaction;

(c) specification of maximum transaction size, or aggregate amount of assets that may be committed to transactions at any one time;

(d) specification of permitted counterparties;

(e) any specific requirements regarding collateralization, including minimum requirements as to amount and diversification of collateralization, and details on the nature of the collateral that may be accepted by the mutual fund;

(f) directions and an outline of responsibilities for the reinvestment of cash collateral received by the mutual fund under the program to ensure that proper levels of liquidity are maintained at all times; and

(g) duties and obligations on the agent to take action to obtain payment by a borrower of any amounts owed by the borrower.

(14) The definition of "cash cover" contained in section 1.1 of the Instrument requires that the portfolio assets used for cash cover not be "allocated for specific purposes". Securities loaned by a mutual fund in a securities lending transaction have been allocated for specific purposes and therefore cannot be used as cash cover by the mutual fund for its specified derivatives obligations.

(15) A mutual fund sometimes needs to vote securities held by it in order to protect its interests in connection with corporate transactions or developments relating to the issuers of the securities. The manager and the portfolio adviser of a mutual fund, or the agent of the mutual fund administering a securities lending program on behalf of the mutual fund, should monitor corporate developments relating to securities that are loaned by the mutual fund in securities lending transactions, and take all necessary

steps to ensure that the mutual fund can exercise a right to vote the securities when necessary. This may be done by way of a termination of a securities lending transaction and recall of loaned securities, as described in paragraph 11 of subsection 2.12(1) of the Instrument.

(16) As part of the prudent management of a securities lending, repurchase or reverse repurchase program, managers of mutual funds, together with their agents, should ensure that transfers of securities in connection with those programs are effected in a secure manner over an organized market or settlement system. For foreign securities, this may entail ensuring that securities are cleared through central depositories. Mutual funds and their agents should pay close attention to settlement arrangements when entering into securities lending, repurchase and reverse repurchase transactions.".

(5) Companion Policy 81-102CP is amended by the addition of the following as section 5.2:

"5.2 Securities Lending, Repurchase and Reverse Repurchase Transactions

(1) As described in section 5.1, section 4.4 of the Instrument is designed to ensure that the manager of a mutual fund is responsible for any loss that arises out of the failure of it, and of any person or company retained by it or the mutual fund to discharge any of the manager's responsibilities to the mutual fund, to satisfy the standard of care referred to in that section.

(2) The retention by a manager of an agent under section 2.15 of the Instrument to administer the mutual fund's securities lending, repurchase or reverse repurchase transactions does not relieve the manager from ultimate responsibility for the administration of those transactions in accordance with the Instrument and in conformity with the standard of care imposed on the manager by statute and required to be imposed on the agent in the relevant agreement by subsection 2.15(6) of the Instrument.

(3) Because the agent is required to be a custodian or sub-custodian of the mutual fund, its activities, as custodian or sub-custodian, are not within the responsibility of the manager of the mutual fund, as provided for in subsection 4.4(5) of the Instrument. However, the activities of the agent, in its role as administering the mutual funds' securities lending, repurchase or reverse repurchase transactions, are within the ultimate responsibility of the manager, as provided for in subsection 4.4(6) of the Instrument."

(6) Companion Policy 81-102CP is amended by the addition of the following as subsections 13.2(5),(6), (7) and (8):

"(5) Subsections 15.8(2) and (3) of the Instrument require disclosure of standard performance data of a mutual fund, in some circumstances, from "the inception of the mutual fund". It is noted that paragraph 15.6(d) generally prohibits disclosure of performance data for a period that is before the time when the mutual fund offered its securities under a simplified prospectus or before an asset allocation service commenced operation. Also, Instruction (1) to Item 5 of Part B of Form 81-101F1 Contents of Simplified Prospectus requires disclosure of the date on which a mutual fund's securities first became available to the public as the date on which the mutual fund "started". Therefore, consistent with these provisions, the words "inception of the mutual fund" in subsections 15.8(2) and (3) should be read as referring to the beginning of the distribution of the securities of the mutual fund under a simplified prospectus of the mutual fund, and not from any previous time in which the mutual fund may have existed but did not offer its securities under a simplified prospectus.

(6) Paragraph 15.6(a) of the Instrument contains a prohibition against the inclusion of performance data for a mutual fund that has been distributing securities for less than 12 consecutive months. The creation of a new class or series of security of an existing mutual fund does not constitute the creation of a new mutual fund and therefore does not subject the mutual fund to the restrictions of paragraph 15.6(a) unless the new class or series is referable to a new portfolio of assets.

(7) Section 15.14 of the Instrument contains the rules relating to sales communications for multi-class mutual funds. Those rules are applicable to a mutual fund that has more than one class of securities that are referable to the same portfolio of assets. Section 15.14 does not deal directly with asset allocation services. It is possible that asset allocation services could offer multiple "classes"; the Canadian securities regulatory authorities recommend that any sales communications for those services generally respect the principles of section 15.14 in order to ensure that those sales communications not be misleading.

(8) The Canadian securities regulatory authorities believe that the use of

hypothetical or *pro forma* performance data for new classes of securities of a multi-class mutual fund would generally be misleading.".

(7) Companion Policy 81-102CP is amended by the deletion of section 14.1 and the substitution of the following:

"14.1 Calculation of Management Expense Ratio

(1) Part 16 of the Instrument sets out the method to be used by a mutual fund in calculating its management expense ratio. The requirements contained in Part 16 are applicable in all circumstances in which a mutual fund calculates and discloses a management expense ratio.

(2) Subsection 16.1(1) requires a mutual fund to use its "total expenses" before income taxes for the relevant period as the basis for the calculation of management expense ratio. Total expenses before income taxes will include interest charges and taxes of virtually all types, including sales taxes, GST and capital taxes, payable by the mutual fund. Income taxes, of course, would not be included in a calculation of total expenses before income taxes. In addition, Canadian GAAP would permit a mutual fund to deduct withholding taxes from the income to which they apply; therefore, withholding taxes would not be included as part of "total expenses".

(3) Brokerage charges are not considered to be part of total expenses as they are included in the cost of purchasing, or netted out of the proceeds from selling, portfolio assets.

(4) Subsection 16.1(4) of the Instrument makes reference to a mutual fund indicating, when providing management expense ratio information to a service provider that will arrange for public dissemination of the management expense ratio, whether management fees were waived or paid directly by investors during the relevant period. It is expected that the service providers will include this information in any disclosure of management expense ratio to the public in a manner that is clear and easily understandable by investors. Service providers may use symbols to inform the public of the different elements of a management expense ratio. If symbols are used, they should be accompanied by an explanatory legend.

(5) Mutual funds are reminded to ensure that any management expense ratio provided to a service provider for public dissemination should be only the management expense ratio calculated as required by the Instrument.".

(8) Part 14 of Companion Policy 82-102CP is amended by

(a) the change of the title of the part to "Financial Disclosure Matters";

(b) the addition of the following as section 14.2:

"14.2 Financial Statement Requirements in Securities Lending, Repurchase and Reverse Repurchase Transactions - Mutual funds are required to follow Canadian GAAP in preparing financial statements, as supplemented as applicable by the requirements of other applicable securities legislation. The Canadian securities regulatory authorities wish to provide their views on the appropriate application of Canadian GAAP in circumstances where mutual funds enter into securities lending, repurchase and reverse repurchase transactions. Sections 14.3, 14.4 and 14.5 reflect the views of the Canadian securities regulatory authorities as to the steps those mutual funds should take in order to ensure that their financial statements comply with Canadian GAAP.";

(c) the addition of the following as section 14.3:

"14.3 Financial Statement Requirements Concerning Securities Lending Transactions

(1) A mutual fund, in the statement of investment portfolio included in the annual and interim financial statements of the mutual fund, or in the notes to that statement, should

(a) disclose the aggregate dollar value of securities that were lent in the securities lending transactions of the mutual fund that remain outstanding as at the date of the statement; and

(b) disclose the type and aggregate amount of collateral received by the mutual fund under securities lending transactions of the mutual fund that remain

outstanding as at the date of the statement.

(2) A balance sheet of a mutual fund that has received cash collateral in a securities lending transaction that remains outstanding as of the date of the balance sheet should fairly present

(a) the cash collateral received by it as an asset; and

(b) the obligation to repay the cash collateral as a liability.

(3) The asset and liability referred to in subsection (2) should be shown as separate line items in the balance sheet.

(4) An income statement of a mutual fund should fairly present income from securities lending transactions as revenue and not as deductions from expenses.";

(d) the addition of the following as section 14.4:

"14.4 **Financial Statement Requirements Concerning Repurchase Transactions**

(1) A mutual fund, in the statement of investment portfolio included in the annual and interim financial statements of the mutual fund, or in the notes to that statement, should, for each repurchase transaction of the mutual fund that remains outstanding as at the date of the statement, disclose the date of the transaction, the expiration date of the transaction, the name of the counterparty of the mutual fund, the nature and market value of the securities sold by the mutual fund, the amount of cash received, the repurchase price to be paid by the mutual fund and the market value of the sold securities as at the date of the statement.

(2) A balance sheet of a mutual fund that has entered into a repurchase transaction that remains outstanding as of the date of the balance sheet should fairly present the obligation of the mutual fund to repay the collateral as a liability.

(3) The liability referred to in subsection (2) should be shown as a separate line item in the balance sheet.

(4) An income statement of a mutual fund should fairly present income from the use of the cash received on repurchase transactions as revenue and not to offset expenses incurred in connection with the repurchase transaction."; and

(e) the addition of the following as section 14.5:

"14.5 **Financial Statement Requirements Concerning Reverse Repurchase Transactions**

(1) A mutual fund, in the statement of investment portfolio included in the annual and interim financial statements of the mutual fund, or in the notes to that statement, should for each reverse repurchase transaction of the mutual fund that remains outstanding as at the date of the statement, disclose the date of the transaction, the expiration date of the transaction, the name of the counterparty of the mutual fund, the total dollar amount paid by the mutual fund, the nature and value or principal amount of the securities received by the mutual fund and the market value of the purchased securities as at the date of the statement.

(2) A balance sheet of a mutual fund that has entered into a reverse repurchase transaction that remains outstanding as of the date of the balance sheet should fairly present the reverse repurchase agreement relating to the transaction as an asset at market value.

(3) The asset referred to in subsection (2) should be shown as a separate line item in the balance sheet.

(4) An income statement of a mutual fund should fairly present income from reverse repurchase transactions as revenue and not as deductions from expenses.".

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - This Amendment comes into force on May 2, 2001.

NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE
AMENDMENTS TO
FORM 81-101F1
CONTENTS OF SIMPLIFIED PROSPECTUS
AND
FORM 81-101F2
CONTENTS OF ANNUAL INFORMATION FORM

PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 81-101

1.1 Amendments to National Instrument 81-101

(1) National Instrument 81-101 is amended by the deletion of the definition of "material contract" in section 1.1 and the substitution of the following:

> ""material contract" means, for a mutual fund, a contract listed in the annual information form of the mutual fund in response to Item 16 of Form 81-101F2 Contents of Annual Information Form;"

(2) National Instrument 81-101 is amended by the deletion of the words "made by" and the substitution of the word "of" in subparagraphs 2.3(1)(b)(i), 2.3(2)(a)(i), 2.3(3)(a)(i), 2.3(4)(a)(i) and 2.3(5)(a)(i).

(3) National Instrument 81-101 is amended by the addition of the following as subsection 2.3(6):

> "(6) Despite any other provision of this section, a mutual fund may delete commercial or financial information from the copy of an agreement of the mutual fund, its manager or trustee with a portfolio adviser or portfolio advisers of the mutual fund filed under this section if the disclosure of that information could reasonably be expected to
>
> (a) prejudice significantly the competitive position of a party to the agreement; or
>
> (b) interfere significantly with negotiations in which parties to the agreement are involved.".

PART 2 AMENDMENTS TO FORM 81-101F1

2.1 Amendments to Form 81-101F1

(1) The "General Instructions" of Form 81-101F1 are amended by the addition of the following sentence at the end of subsection (2):

> *"However, subsection 1.3(3) of National Instrument 81-102 does not apply to this Form."*

(2) The "General Instructions" of Form 81-101F1 are amended by the addition of the following immediately after subsection (20):

> *"Multi-Class Mutual Funds*
>
> *(21) A mutual fund that has more than one class or series that are referable to the same portfolio may treat each class or series as a separate mutual fund for purposes of this Form, or may combine disclosure of one or more of the classes or series in one simplified prospectus. If disclosure pertaining to more than one class or series is combined in one simplified prospectus, separate disclosure in response to each Item in this Form must be provided for each class or series unless the responses would be identical for each class or series.*
>
> *(22) As provided in National Instrument 81-102, a section, part, class or series of a class of securities of a mutual fund that is referable to a separate portfolio of assets is considered to be a separate mutual fund. Those principles are applicable to National Instrument 81-101 and this Form.".*

(3) Item 1 of Part A of Form 81-101F1 is amended by

(a) the deletion of subsection 1.1(2) and the substitution of the following:

> "(2) Indicate on the front cover the name of the mutual fund to which the simplified prospectus pertains. If the mutual fund has more than one class or series of securities, indicate the name of each of those classes or series covered in the simplified prospectus."; and

(b) the deletion of subsection 1.2(2) and the substitution of the following:

> "(2) Indicate on the front cover the names of the mutual funds and, at the option of the mutual funds, the name of the mutual fund family, to which the document pertains. If the mutual fund has more than one class or series of securities, indicate the name of each of those classes or series covered in the simplified prospectus.".

(4) Item 6 of Part B of Form 81-101F1 is amended by the addition of the following as subsection (5):

> "(5) For an index mutual fund,
>
> (a) disclose the name or names of the permitted index or permitted indices on which the investments of the index mutual fund are based,
>
> (b) briefly describe the nature of that permitted index or those permitted indices,

(c) for the 12 month period immediately preceding the date of the simplified prospectus,

(i) indicate whether one or more securities represented more than 10 percent of that permitted index or those permitted indices,

(ii) identify that security or securities, and

(iii) disclose the maximum percentage of the permitted index or permitted indices that that security or those securities represented in the 12 month period, and

(d) disclose the percentage of the permitted index that the security or securities referred to in paragraph (c) represented at the most recent date for which that information is available.".

(5) Item 7 of Part B of Form 81-101F1 is amended by the addition of the following as subsection (8):

"(8) If the mutual fund intends to enter into securities lending, repurchase or reverse repurchase transactions under sections 2.12, 2.13 or 2.14 of National Instrument 81-102

(a) state that the mutual fund may enter into securities lending, repurchase or reverse repurchase transactions; and

(b) briefly describe

(i) how those transactions are or will be entered into in conjunction with other strategies and investments of the mutual fund to achieve the mutual fund's investment objectives;

(ii) the types of those transactions to be entered into and give a brief description of the nature of each type, and

(iii) the limits of the mutual fund's entering into of those transactions.".

(6) Item 9 of Part B of Form 81-101F1 is amended by

(a) the addition of the following as subsections (5), (6) and (7):

"(5) For an index mutual fund, disclose that the mutual fund may, in basing its investment decisions on one or more permitted indices, have more of its net assets invested in one or more issuers than is usually permitted for mutual funds, and disclose the risks associated with that fact, including the possible effect of that fact on the liquidity and diversification of the mutual fund, its ability to satisfy redemption requests and on the volatility of the mutual fund.

(6) If, at any time during the 12 month period immediately preceding the date of the simplified prospectus, more than 10 percent of the net assets of a mutual fund were invested in the securities of an issuer, other than a government security or a security issued by a clearing corporation, disclose

(a) the name of the issuer and the securities;

(b) the maximum percentage of the net assets of the mutual fund that securities of that issuer represented during the 12 month period; and

(c) disclose the risks associated with these matters, including the possible or actual effect of that fact on the liquidity and diversification of the mutual fund, its ability to satisfy redemption requests and on the volatility of the mutual fund.

(7) If the mutual fund is to enter into securities lending, repurchase or reverse repurchase transactions, describe the risks associated with the mutual fund entering into those transactions.";

(b) the addition of the following as Instruction (6):

"In responding to subsection (6) above, it is necessary to disclose only that at a time during the 12 month period referred to, more than 10 percent of the net assets of the mutual fund were invested in the securities of an issuer. Other than the maximum percentage required to be disclosed under paragraph (6)(b), the mutual fund is not required to provide particulars or a summary of any such occurrences.".

(7) Item 11.1 of Part B of Form 81-101F1 is amended by

(a) the addition of the following as subsection (8):

"(8) A reference to "the inception of a mutual fund" in Item 11 refers to the time at which the mutual fund first began distributing its securities under a simplified prospectus."; and

(b) the deletion of subparagraph 11.3(3)(b)(iii).

(8) Item 13.2 of Part B of Form 81-101F1 is amended by

(a) the deletion of the words "and operating expenses" in paragraph 13.2(2)(c); and

(b) the addition of the following as subsection (4):

"(4) If the management expense ratio of the mutual fund is composed, in part, of fees charged directly to investors, include disclosure of that fact. The management expense ratio used in calculating the disclosure to be provided under this Item should be the management expense ratio that includes these fees directly charged to investors; that is, the management expense ratio calculated in accordance with the general rules of Part 16 of National Instrument 81-102."; and

(c) the renumbering of existing subsection (4) as subsection (5), and the addition of the words "which are not included in the calculation of management expense ratio" at the end of that subsection.

PART 3 AMENDMENTS TO FORM 81-101F2

3.1 Amendments to Form 81-101F2

(1) The "General Instructions" of Form 81-101F2 are amended by the addition of the following sentence at the end of subsection (2):

"*However, subsection 1.3(3) of National Instrument 81-102 does not apply to this Form.*".

(2) The "General Instructions" of Form 81-101F2 are amended by the addition of the following immediately after subsection (13):

"*Multi-Class Mutual Funds*

(14) A mutual fund that has more than one class or series that are referable to the same portfolio may treat each class or series as a separate mutual fund for purposes of this Form, or may combine disclosure of one or more of the classes or series in one annual information form. If disclosure pertaining to more than one class or series is combined in one annual information form, separate disclosure in response to each Item in this Form must be provided for each class or series unless the responses would be identical for each class or series.

(15) As provided in National Instrument 81-102, a section, party, class or series of a class of securities of a mutual fund that is referable to a separate portfolio of assets is considered to be a separate mutual fund. Those principles are applicable to National Instrument 81-101 and this Form.".

(3) Item 1 of Form 81-101F2 is amended by

(a) the deletion of subsection 1.1(2) and the substitution of the following:

"(2) Indicate on the front cover the name of the mutual fund to which the annual information form pertains. If the mutual fund has more than one class or series of securities, indicate the name of each of those classes or series covered in the annual information form."; and

(b) the deletion of subsection 1.2(2) and the substitution of the following:

"(2) Indicate on the front cover the names of the mutual funds and, at the option of the mutual funds, the name of the mutual fund family to which the document pertains. If the mutual fund has more than one class or series of securities, indicate the name of each of those classes or series covered in the document.".

(4) Item 12 of Form 81-101F2 is amended by the addition of the following as subsections (4) and (5):

"(4) If the mutual fund intends to enter into securities lending, repurchase or reverse repurchase transactions, describe the policies and practices of the mutual fund to manage the risks associated with those transactions.

(5) In the disclosure provided under subsection (4), include disclosure of

(a) the involvement of an agent to administer the transactions on behalf of the mutual fund, and the details of the instructions provided by the mutual fund to the agent under the agreement between the mutual fund and the agent;

(b) whether there are written policies and procedures in place that set out the objectives and goals for securities lending, repurchase transactions or reverse repurchase transactions, and the risk management procedures applicable to the mutual fund's entering into of those transactions;

(c) who is responsible for setting and reviewing the agreement referred to in paragraph (a) and the policies and procedures referred to in paragraph (b), how often the policies and procedures are reviewed, and the extent and nature of the involvement of the board of directors or trustee in the risk management process;

(d) whether there are limits or other controls in place on the entering into of those transactions by the mutual fund and who is responsible for authorizing those limits or other controls on those transactions;

(e) whether there are individuals or groups that monitor the risks independent of those who enter into those transactions on behalf of the mutual fund; and

(f) whether risk measurement procedures or simulations are used to test the portfolio under stress conditions.".

(5) Item 15 of Form 81-101F2 is amended by the addition of the following as subsection (3):

"(3) For a mutual fund that is a trust, describe the arrangements, including the amounts paid and expenses reimbursed, under which compensation was paid or payable by the mutual fund during the most recently completed financial year of the mutual fund for the services of the trustee or trustees of the mutual fund.".

PART 4 EFFECTIVE DATE

Effective Date - This Amendment comes into force on May 2, 2001.

AMENDMENT TO COMPANION POLICY 81-101CP MUTUAL FUND PROSPECTUS DISCLOSURE

PART 1 AMENDMENTS

1.1 Amendments

(1) Companion Policy 81-101CP is amended by the substitution of the reference to "section 2.2" in section 2.5 with a reference to "section 2.3".

(2) Companion Policy 81-101CP is amended by the deletion of section 2.6 and the substitution of the following:

"(1) Section 2.3 of the Instrument and other Canadian securities legislation require supporting documents to be filed with a simplified prospectus and annual information form and amendments. A list of documents required is set out in an Appendix to National Policy 43-201 Mutual Reliance System for Prospectus and Initial AIFs.

(2) Subsection 2.3(6) of the Instrument permits the filing of certain material contracts from which certain commercial or financial information was deleted in order to be kept confidential. The Canadian securities regulatory authorities are of the view that information such as fees and expenses and non-competition clauses is the type of information that could be kept confidential under this provision. In these cases, the benefits of disclosing that information to the public are outweighed by the potentially adverse consequences of disclosure for mutual fund managers and portfolio advisers. However, the basic terms of these agreements must be included in the contracts that are filed. These terms would include the provisions relating to the term and termination of the agreements and the rights and responsibilities of the parties to the agreements.".

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - This Amendment comes into force on May 2, 2001.

5.1.3 OSC Policy 57-603 Defaults by Reporting Issuers in Complying with Financial Statement Filing Requirements

NOTICE OF ONTARIO SECURITIES COMMISSION
POLICY 57 - 603
DEFAULTS BY REPORTING ISSUERS
IN COMPLYING WITH FINANCIAL STATEMENT FILING REQUIREMENTS

Notice of Policy

The Commission has, under Section 143.8 of the Securities Act (the "Act"), adopted Policy 57-603 Defaults by Reporting Issuers in Complying with Financial Statement Filing Requirements (the "Policy"). The Policy is effective on April 17, 2001.

Background

On March 31, 2000 the Commission published the Policy for comment (the "2000 Draft"). During the comment period on the 2000 Draft, which ended on May 31, 2000, the Commission received two comment letters. One of them was from the Association for Investment Management and Research and it simply expressed support for the Policy. The other one, received from Osler, Hoskin and Harcourt ("Osler") fully supported the 2000 Draft. The comments provided by Osler have been considered by the Commission and the final version of the Policy being published with this Notice reflects the decisions of the Commission in this regard. Appendix A of this Notice provides a summary of Osler's comments and the responses of the Commission.

Capitalized terms used in this Notice are as defined in the Policy, unless otherwise indicated.

Substance and Purpose of the Policy

The purpose of this Policy is to state:

(i) certain principles, criteria and factors which the Commission will normally consider in responding to a default of a requirement to file annual or interim financial statements (a "Financial Statement Filing Requirement");

(ii) the manner in which the Commission interprets the application of section 75 of the Act in circumstances where a reporting issuer determines that it will not comply, or, subsequently determines that it has not complied, with a Financial Statement Filing Requirement; and

(iii) practices to be followed by the Commission to make available for public inspection the list of defaulting reporting issuers maintained pursuant to subsection 72(9)of the Act.

The Policy provides that the Commission will, generally, respond to a Financial Statement Filing Requirement default by issuing a Management and Insider Cease Trade Order (a "Management CTO"). This will generally be the only Cease Trade Order issued if the Defaulting Reporting Issuer provides the information contemplated by the Alternate Information Guidelines, the default is corrected within two months of the date of the default and no other default exists at the time of that correction.

The Policy also provides that, where a Defaulting Reporting Issuer does not satisfy the Alternate Information Guidelines, or the default continues for more than two months, the Commission will normally consider the immediate imposition of an Issuer Cease Trade Order (an "Issuer CTO") and may also consider whether Enforcement action against the directors and officers who failed to release the information is appropriate.

Summary of Changes

The Commission has made changes to the 2000 Draft, to respond to the comment letter received from Osler (as discussed in Appendix A) and to staff's experience in administering the 2000 Draft (as discussed in more detail below). Changes were made to Part 4 of the 2000 Draft, to make it more consistent with similar provisions in proposed Commission Policy 51-601 Reporting Issuer Defaults. The changes made were not material and the Commission is not republishing the Policy for comment.

Proposals to Address Problems Encountered In Administering the 2000 Draft

The following is a description of changes made to the 2000 Draft as a result of staff's experience in administering the 2000 Draft.

The 2000 Draft provided that "Defaulting Management and Other Insiders", ("DMOI") on whom Management CTOs will be imposed, means persons and companies who:

"(i) are directors, officers or insiders of the Defaulting Reporting Issuer during the period the Defaulting Reporting Issuer is in default; or

(ii) were directors, officers or insiders of the Defaulting Reporting Issuer during the period covered by the financial statements which are the subject of the default."

In the spring of 2000, Commission panels at hearings relating to the imposition of Management CTOs were not willing to accept, without further evidence, that all DMOI, as defined in the 2000 Draft, should be the subject of a Management CTO. The panel was willing to accept, as evidence, an affidavit supplied by the issuer naming the individuals that had or may have had, access to material undisclosed information. As a result, the Policy has been revised so that only directors, officers and insiders that "have had, or may have had, access to any material fact or material change with respect to the Defaulting Reporting Issuer that has not been generally disclosed" are included in the definition of DMOI.

Also, section 3.1 of the Policy has been revised to add, to the list of information that an issuer needs to provide, an affidavit listing the names of each person or company that comes within the definition of DMOI. However, there is a concern that if an issuer chooses not to supply such an affidavit (or

supplies one that appears inaccurate or incomplete) this would result in the imposition of an Issuer CTO, which removes liquidity from the marketplace. Accordingly, section 3.1 has also been revised to provide that, in the event that the Commission does not receive the requested affidavit, or it appears inaccurate or incomplete, then Management CTOs will generally be imposed on those directors, officers and insiders that, in the Commission's view, clearly had access, during the time period referred to in the definition of Defaulting Management and Other Insiders, to any material fact or material change with respect to the Defaulting Reporting Issuer that has not been generally disclosed.

Another change has been made to section 3.1 of the Policy to remove any suggestion that an issuer can force the imposition of an Issuer CTO instead of a Management CTO. That is the deletion of the phrase: "In order to issue a (Management CTO) instead of an (Issuer CTO)..." from the beginning of the sentence that sets out the information that the Commission needs to receive from a Defaulting Reporting Issuer. Of course, the Commission always retains the discretion of what, if any, type of CTO to impose and this is referred to in section 2.1 of the Policy.

Another change proposed to the Policy, to try to address the large amount of work and staff time involved in administering the 2000 Draft, is one that may help to allocate the necessary staff resources over a longer time period. The following sentence has been added to section 3.1:

> "The Commission is of the view that an issuer will often be able to determine that it will not comply with a Financial Statement Filing Requirement at least two weeks before its due date and the Default Announcement should be made as soon as this determination is made."

This statement will focus issuers on the fact that they should make a Default Announcement as soon as they determine that they will be in default and will clarify that the Commission believes that many issuers know this at least two weeks before the due date. The earlier that issuers make Default Announcements and provide us with the affidavit and addresses that are to accompany the Default Announcement, the better staff will be able to administer the Policy.

The first two sentences of section 3.1 of the Policy have been revised as indicated in the following blackline, to clarify the Commission's interpretation of the application of section 75 of the Act, in certain circumstances:

> The Commission is of the view that, where a reporting issuer determines that it will not comply, or, subsequently determines that it has not complied, with a Financial Statement Filing Requirement, this will ~~generally~~, except in very rare circumstances, represent a material change that should be immediately communicated to the securities marketplace by way of a news release and report of the material change in accordance with section 75 of the Act. ~~However~~, Even ~~if~~ in the rare circumstances when this determination does not represent a material change, the Commission takes the view that the determination is normally important information that should be immediately communicated to the marketplace by way of news release and report (a "Default Announcement"), that is authorized by a senior officer of the reporting issuer and is otherwise prepared and filed with the Commission in the same manner as a news release and report of a material change referred to in section 75 of the Act.

APPENDIX "A"

Summary of Comments Raised by Osler, Hoskin and Harcourt ("Osler") in addition to their Full Support for the Policy

(a) Comment:

Osler points out that the definition of DMOI includes "directors, officers or insiders" and that "officers" is broader than "senior officers", which is included in the Act's definition of "insiders". Osler asks whether the intent was to catch a broader group of executives (than would be caught by the definition of "insiders" in the Act) and if so, suggests that more specific language be considered.

Commission's Response:

The intent behind the 2000 Draft was to include more "officers" than would be included as "senior officers". The Commission believes that the current language makes this clear and that more specific language is not needed.

(b) Comment:

Osler comments on the fact that the definition of DMOI includes parties who are directors officers or insiders during the "period covered by the financial statements". Osler's view is that this casts too broad a net. They give an example where a director resigns on the second day of a new fiscal year and fifteen months later the issuer defaults in filing its annual financial statements. Even though the director had no responsibility for the affairs of the issuer for almost 15 months, because he was a director for the first two days of the "period covered by the financial statements", he would be included in the definition of DMOI.

Osler also says that it may be useful to specify that the "period covered by the financial statements" does not include the periods relating to the comparative financial statements which are presented as part of such financial statements.

Commission's Response:

The Commission agrees with Osler's concerns and has revised the definition of DMOI to say "at any time since the end of the period covered by the last financial statements of the Defaulting Reporting Issuer that were filed in accordance with a Financial Statement Filing Requirement". This change to the description of the period means that, for example, if a director or officer (e.g. a CFO) resigns just before the end of a third quarter and the issuer subsequently defaults in filing annual financial statements, the Policy would not provide that the CFO would be included in the Management CTO even he or she had been the CFO for three quarters of the fiscal year. The Commission thinks this is appropriate because the CFO did not have access to material undisclosed information after the third quarter ended.

(c) Comment:

Section 2.1 states that generally the Management CTO will be the only cease trade order issued if the default is corrected "within two months of the date of the default". Osler suggests referring instead to "the default and any subsequent defaults" to make it clear, for example, that the Commission will take action if the issuer has corrected a default in filing annual financial statements but, prior to such correction, has defaulted in filing first quarter financial statements.

Commission's Response:

The Commission has revised this part of section 2.1 to provide that a Management CTO "will generally be the only CTO issued if ... the default is corrected within two months of the date of the default *and no other default exists at the time of that correction*".

(d) Comment:

Osler points out that "a restructuring effected under the CCAA often requires more than two months to implement and it is unclear whether the "limited period beyond two months (as referred to in section 2.2) is flexible enough to fully accommodate such a restructuring...".

Commission's Response:

The Commission acknowledges that restructurings under the CCAA often take more then two months. In fact, some material prepared in November, 1999 indicated that the average time, based on the restructuring of eight large companies under the CCAA, was seven months. However, the Commission does not propose to revise the Two Month Period because:

(i) as stated in section 2.1 of the Policy: "the basis for the two month period is that the objective of maintaining liquidity in the secondary markets normally diminishes in importance as time passes, relative to the importance of furnishing the marketplace with financial information in the form and within the time frames that are statutorily prescribed; and

(ii) the language of section 2.2 is already sufficiently flexible to accommodate restructurings that go beyond two months: "... the Commission will generally not pursue an Issuer Cease Trade Order in respect of the reporting issuer for a limited period beyond two months, in order to accommodate a restructuring of the reporting issuer."

However, in order to clarify that the Commission will take timing into consideration in deciding whether to pursue an Issuer Cease Trade Order, the following italicized statements have been added to section 2.2:

> "The issuer should make appropriate submissions to Commission staff significantly in

advance of the expiry of the Two Month Period *as to the status and timing of the restructuring, as well as any other submissions the issuer considers appropriate. The issuer should provide staff with copies of all orders made in the insolvency proceedings that contain a stay of proceedings, or an extension of a stay of proceedings, promptly after any such orders are made. The Commission will consider those submissions, as well as other facts relevant to the issuer, in deciding whether to pursue an Issuer Cease Trade Order."*

(e) Comment:

Osler points out that section 3.1 of the Policy would require a Default Announcement to be made not only upon the initial default, but also with respect to each subsequent default and Osler views this as unnecessary "in light of the issuer's other ongoing reporting requirements".

Commission's Response:

The Commission agrees with this comment because of the requirement, in section 3.2 of the Policy, for Default Status Reports to be issued every two weeks following the Default Announcement, during the period of the default. Accordingly, section 3.1 of the Policy has been revised to provide that a Default Announcement does not have to be made if the issuer is already in default of a previous Financial Statement Filing Requirement, has followed the provisions of section 3.1 regarding a Default Announcement of that earlier default and is following the provisions of section 3.2. To ensure that a subsequent default is publicly disclosed (without requiring all the detail that was in the Default Announcement regarding the earlier default) section 3.2 of the Policy has been revised to provide that a Default Status Report should normally also identify any subsequent (anticipated) default of a Financial Statement Filing Requirement.

(f) Comment:

With regard to the Policy's statement, in section 3.1, that a Default Announcement should "disclose in detail the reason for the (anticipated) default", Osler notes that the reasons may be highly confidential and that the "disclosure of sensitive information, or the premature disclosure of information, could be harmful to the market and the reporting issuer".

Commission's Response:

The Commission does not have sympathy for this concern because the Policy permits trading to continue during the Two Month Period (except for trading by Defaulting Management and Other Insiders) on the basis of the information disclosed in the Default Announcement and in Default Status Reports (as well as the information provided to creditors, under section 3.3 of the Policy) and the Commission believes that disclosure of the reason for the (anticipated) default is an important part of that disclosure.

(g) Comment:

Paragraph 3.1 (vii) of the Policy requires a Default Announcement to disclose any other undisclosed material information concerning the reporting issuer "(which may include unaudited financial statements)". Osler notes that "this would be inappropriate and potentially harmful to the market where the very reason for the default is delay in obtaining the approval and sign-off of the auditors. Language should perhaps be considered which would clarify that such disclosure is not required in all cases and that the reporting issuer may be permitted to justify the non-disclosure of unaudited financial statements."

Commission's Response:

The Commission does not believe that any clarification is necessary because paragraph 3.1 (vii) merely says that this "may" include unaudited financial statements. In addition, section 3.4 of the Policy provides:

> "The Commission reminds issuers that any unaudited financial information which is communicated to the marketplace should, except in certain circumstances involving insolvency, be directly derived from financial statements which have been prepared and presented in accordance with generally accepted accounting principles. In Default Announcements and Default Status Reports, this information should be accompanied by cautionary language that the information has been prepared by management of the Defaulting Reporting Issuer and is unaudited."

(h) Comment:

Section 3.2 provides that Default Status Reports should normally communicate "any changes to the information contained in the Default Announcement....". Osler suggests that we only refer to "material changes".

Commission's Response:

The Commission has made this change to the Policy.

(i) Comment:

Osler notes that the provision, in section 3.3, for insolvent issuers to "file a report disclosing the same information they provide to its creditors in the same manner as a news release and a report of a material change referred to in section 75 of the Act" may be unduly burdensome in certain circumstances, such as where a voluminous information circular has been prepared in connection with a proposed CCAA arrangement transaction. Osler suggests that we consider alternatives for making such information publicly available including, for example, use of an issuer's website.

Osler also points out that some information is disclosed to certain creditors pursuant to confidentiality

agreements and must not be subject to public disclosure because that could preclude the issuer's ability to restructure its finances.

Commission's Response:

The Commission does not believe that it is too burdensome to file a report disclosing information that an issuer is required to provide to its creditors. This information has already been prepared for creditors. If the information provided to creditors is very lengthy, the issuer can append the full information provided to creditors (e.g. an information circular) to a material change report. For issuers that want to append the information provided to creditors to a material change report, the following statement has been added to the Policy, regarding filing in SEDAR:

> "If a Defaulting Reporting Issuer chooses to give this disclosure by filing a copy of information provided to creditors with a material change report, then for purposes of filing in SEDAR, this must all be contained in the same electronic document."

Osler expressed the view that item five of Form 27, the form of material change report, would need to be modified. Item five provides that the disclosure in material change reports "should be sufficiently complete to enable a reader to appreciate the significance of the material change without reference to other material". However, staff do not believe that issuers following section 3.3 of the Policy should feel constrained by this statement in Form 27, because section 3.3 does not require strict compliance with section 75 (unless of course the information is a material change) because section 3.3 merely says "in the same manner as a report of a material change referred to in section 75 of the Act". In any event, as noted above, for purposes of filing in SEDAR, the information will have to be contained in the same electronic document, so technically there will not be "reference to other material".

The Commission believes that it would probably be ineffective for a news release to contain all of the information provided to creditors because newspapers would not report such lengthy information. Accordingly, section 3.3 has been revised to provide that the news release should simply disclose that the report has been filed and the nature of its contents.

With respect to Osler's concern about disclosing information provided to creditors confidentially, the Commission has concerns about excluding disclosure of such information because the issuer is in default of a Financial Statement Filing Requirement and trading is permitted to continue on the basis of disclosure of the information provided to creditors (as well as the disclosure in the Default Announcement and Default Status Reports). In any event, the Commission believes that issuers can deal with confidential information "in the same manner" as a confidential material change report referred to in subsections 75 (3) and 75(4) of the Act.

(j) **Comment:**

Section 6.1 provides that:

> "The scope of this Policy is limited to Financial Statement Filing Requirement defaults. Defaults of other continuous disclosure requirements will be addressed on a case-by-case basis in a matter similar to that set out in this Policy. In particular, the Commission may consider applying the approach set out in this Policy where a reporting issuer is in default of a continuous disclosure requirement that is analogous to a Financial Statement Filing Requirement (for example, a failure to file an Annual Information Form in accordance with Ontario Securities Commission Rule 51-501 AIF and MD&A)".

Osler cautions against "the wholesale application of the Policy to other continuous disclosure obligations.. For example ... it would not be appropriate to apply with full force the strictures set out in the Policy" to an issuer which complied with all of its continuous disclosure obligations other than its requirement to file an AIF.

Commission's Response:

The Commission views this as a comment on the application of the Policy, rather than on its text. The Commission believes that the words of section 6.1 make it clear that any application of the Policy to requirements other than Financial Statement Filing Requirements will be addressed on a case-by-case basis in a matter that permits us to determine in each case, whether and to what extent application of the Policy is appropriate.

ONTARIO SECURITIES COMMISSION
POLICY 57-603
DEFAULTS BY REPORTING ISSUERS IN COMPLYING WITH FINANCIAL STATEMENT FILING REQUIREMENTS

PART 1 GENERAL

1.1 Definitions

In this Policy:
"Alternate Information Guidelines" means the disclosure guidelines outlined in Part 3;

"Cease Trade Order" means an order under paragraph 2 of subsection 127(1) of the Act that trading in securities of the reporting issuer by all persons or companies, or certain persons or companies identified in the order, cease, either permanently, or, for such period as is specified in the order.

"Default Announcement" means a news release and report referred to in section 3.1;

"Default List" means the list of defaulting reporting issuers maintained by the Commission pursuant to subsection 72(9) of the Act;

"Defaulting Management and Other Insiders" means persons and companies who have been directors, officers or insiders of the Defaulting Reporting Issuer at any time since the end of the period covered by the last financial statements of the Defaulting Reporting Issuer that were filed in accordance with a Financial Statement Filing Requirement, and during that time have had, or may have had, access to any material fact or material change with respect to the Defaulting Reporting Issuer that has not been generally disclosed;

"Defaulting Reporting Issuer" means a reporting issuer identified by the Commission as being in default of a Financial Statement Filing Requirement;

"Default Status Report" means a news release and report referred to in section 3.2 of this Policy;

"Financial Statement Filing Requirement" means a requirement to file annual or interim financial statements in accordance with *Part XVIII* of the Act;

"Issuer Cease Trade Order" means a Cease Trade Order that all trading in securities of a Defaulting Reporting Issuer cease, either permanently, or, for such period as is specified in the order; and

"Management and Insider Cease Trade Order" means a Cease Trade Order that trading in securities of a Defaulting Reporting Issuer by persons or companies identified in the order as Defaulting Management and Other Insiders cease, either permanently, or, for such period as is specified in the order.

1.2 Purpose

The purpose of this Policy is to state:

(i) certain principles, criteria and factors which the Commission will normally consider in responding to a Financial Statement Filing Requirement default;

(ii) the manner in which the Commission interprets the application of section 75 of the Act in circumstances where a reporting issuer determines that it will not comply, or, subsequently determines that it has not complied, with a Financial Statement Filing Requirement; and

(iii) practices to be followed by the Commission to make available for public inspection the Default List.

PART 2 RESPONDING TO DEFAULTS BY REPORTING ISSUERS OF FINANCIAL STATEMENT FILING REQUIREMENTS

2.1 Principles, Criteria and Other Factors

The following actions, among others, may be taken by the Commission to address a Financial Statement Filing Requirement default:

(i) the Commission will respond to the default by placing the Defaulting Reporting Issuer on the Default List; and

(ii) the Commission will usually consider issuing an Issuer Cease Trade Order or a Management and Insider Cease Trade Order in respect of the Defaulting Reporting Issuer.

The Commission will, generally, respond to a Financial Statement Filing Requirement default by issuing a Management and Insider Cease Trade Order. This will generally be the only Cease Trade Order issued if the Defaulting Reporting Issuer provides the information contemplated by the Alternative Information Guidelines, the default is corrected within two months of the date of the default and no other default exists at the time of that correction.

Where a Defaulting Reporting Issuer does not satisfy the Alternate Information Guidelines, or the default continues for more than two months, the Commission will normally consider the immediate imposition of an Issuer Cease Trade Order and may also consider whether Enforcement action against the directors and officers who failed to release the information is appropriate. The basis for the two months period is that the objective of maintaining liquidity in the secondary markets normally diminishes in importance as time passes, relative to the importance of furnishing the marketplace with financial information in the form and within the time frames that are statutorily prescribed.

2.2 Reporting Issuers That Are The Subject Of Insolvency Proceedings

In circumstances where:

(i) the Defaulting Reporting Issuer is the subject of insolvency proceedings, and

(ii) pursuant to the provisions of the applicable insolvency legislation, the Defaulting Reporting Issuer has retained title to its assets and its directors and officers continue to manage its affairs,

the Commission will generally not pursue an Issuer Cease Trade Order in respect of the reporting issuer for a limited period beyond two months, in order to accommodate a restructuring of the reporting issuer. (In the case of Canadian insolvency legislation, it is expected that these circumstances would be restricted to a restructuring under the *Companies' Creditors Arrangement Act* or *Part III* of the *Bankruptcy and Insolvency Act*).

The issuer should make appropriate submissions to Commission staff significantly in advance of the expiry of the two month period, as to the status and timing of the restructuring, as well as any other submissions the issuer considers appropriate. The issuer should provide staff with copies of all orders made in the insolvency proceedings that contain a stay of proceedings, or an extension of a stay of proceedings, promptly after any such orders are made. The Commission will consider those submissions, as well as other facts relevant to the issuer, in deciding whether to pursue an Issuer Cease Trade Order. The Commission will, normally, expect the Defaulting Reporting Issuer to satisfy the provisions of the Alternate Information Guidelines during the period of the extension.

PART 3 DISCLOSURE

3.1 Default Announcement

The Commission is of the view that, where a reporting issuer determines that it will not comply, or, subsequently determines that it has not complied, with a Financial Statement Filing Requirement, this will, except in very rare circumstances, represent a material change that should be immediately communicated to the securities marketplace by way of a news release and report of the material change in accordance with section 75 of the Act. Even in the rare circumstances when this determination does not represent a material change, the Commission takes the view that the determination is normally important information that should be immediately communicated to the marketplace by way of news release and report (a "Default Announcement"), that is authorized by a senior officer of the reporting issuer and is otherwise prepared and filed with the Commission in the same manner as a news release and report of a material change referred to in section 75 of the Act. The Commission is of the view that an issuer will often be able to determine that it will not comply with a Financial Statement Filing Requirement at least two weeks before its due date and the Default Announcement should be made as soon as this determination is made.

The Commission is of the view that the Default Announcement should:

(i) identify the relevant Financial Statement Filing Requirement and the (anticipated) default;

(ii) disclose in detail the reason for the (anticipated) default;

(iii) disclose the current plans of the reporting issuer to remedy the default, including the date it is anticipated that the financial statements, which are the subject of the Financial Statement Filing Requirement, will be filed (or, if there are no such plans or anticipated date, the fact that there are no such plans or date and the reasons why);

(iv) specify the date that is two months after the default and acknowledge that the Commission may impose an Issuer Cease Trade Order if the default is not remedied by that time;

(v) confirm that the reporting issuer intends to satisfy the provisions of the Alternate Information Guidelines so long as it remains in default of the Financial Statement Filing Requirement;

(vi) disclose relevant particulars of any insolvency proceeding to which the reporting issuer is subject, including the nature and timing of information that is required to be provided to creditors, together with confirmation that the reporting issuer intends to file with the Commission throughout the period in which it is in default, the same information it provides to its creditors at the times the information is provided to the creditors and in the same manner as it would file a material change report under the Act; and

(vii) disclose any other material information concerning the affairs of the reporting issuer that has not been generally disclosed (which may include unaudited financial statements).

The Commission will also need to receive from a Defaulting Reporting Issuer:

(a) an affidavit listing the names and positions/titles (if any) of each person or company that comes within the definition of Defaulting Management and Other Insiders; and

(b) the current address, telephone number and telecopy number of each person or company referred to in the definition of Defaulting Management and Other Insiders that is known to the Defaulting Reporting Issuer.

The information described in items (a) and (b) above should be delivered with the Default Announcement together with an undertaking to provide to the Commission, during the period of default which is the subject of the Default Announcement, particulars of any changes to this information that is known to the Defaulting Reporting Issuer.

If the affidavit described in item (a) above is not received by the Commission, by the due date of the Financial Statement Filing Requirement, or that affidavit appears inaccurate or incomplete, then the Commission will, generally, make a Management and Insider Cease Trade Order that identifies those directors, officers and insiders that, in the Commission's view, clearly had access, during the time period referred to in the definition of Defaulting Management and Other Insiders, to any material fact or material change with respect to the Defaulting Reporting Issuer that has not been generally disclosed.

A Default Announcement is not needed if the issuer is in default of a previous Financial Statement Filing Requirement, has followed the provisions of section 3.1 regarding a Default Announcement of that earlier default and is following the provisions of section 3.2.

3.2 Default Status Reports

The Commission takes the view that, after a Defaulting Reporting Issuer's Default Announcement, and during the period of the default which is the subject of the Default Announcement, a Defaulting Reporting Issuer should normally communicate to the marketplace by way of news release (a "Default Status Report"):

(i) any material changes to the information contained in the Default Announcement, as revised by subsequent Default Status Reports;

(ii) particulars of any failure by the Defaulting Reporting Issuer in fulfilling its stated intentions with respect to satisfying the provisions of the Alternate Information Guidelines;

(iii) the information referred to in paragraph 3.1(i) regarding any (anticipated) default of a Financial Statement Filing Requirement subsequent to the default which is the subject of the Default Announcement; and

(iv) any other material information concerning the affairs of the reporting issuer that has not been generally disclosed.

In order to keep the market continuously informed of any developments during this sensitive time, the Default Status Reports should normally be issued every two weeks following the Default Announcement during the period of the default. If the Commission, at any time, issues an Issuer Cease Trade Order in respect of the Defaulting Reporting Issuer, Default Status Reports will no longer be necessary.

The Commission takes the view that, even where no information is required to be communicated in accordance with paragraphs (i), (ii) and (iv) above, in order to keep the market apprised of the current status and affairs of the Defaulting Reporting Issuer, the fact there is no such information to report during this period should normally be communicated in a Default Status Report.
It is the Commission's view that every Default Status Report should be prepared, authorized, filed and communicated to the securities marketplace in the same manner as that specified in section 3.1 for a Default Announcement.

3.3 Information Respecting Defaulting Reporting Issuers Which Are Subject to Insolvency Proceedings

The Commission takes the view that, where a Defaulting Reporting Issuer that is the subject of insolvency proceedings retains title to its assets and its directors and officers continue to manage its affairs, the Defaulting Reporting Issuer should simultaneously file a report disclosing the same information it provides to its creditors in the same manner as a report of a material change referred to in section 75 of the Act and issue a news release disclosing that the report has been filed and the nature of the report's contents. If a Defaulting Reporting Issuer chooses to give this disclosure by filing a copy of information provided to creditors with a material change report, then for purposes of filing in SEDAR, this must all be contained in the same electronic document. This is in addition to the Default Announcement and Default Status Reports.

3.4 Financial Information in Default Announcements or Default Status Reports

The Commission reminds issuers that any unaudited financial information which is communicated to the marketplace should, except in certain circumstances involving insolvency, be directly derived from financial statements which have been prepared and presented in accordance with generally accepted accounting principles. In Default Announcements and Default Status Reports, this information should be accompanied by cautionary language that the information has been prepared by management of the Defaulting Reporting Issuer and is unaudited.

3.5 Default Correction Announcement

The Commission is of the view that, once the Financial Statement Filing Requirement default is remedied, the reporting issuer should communicate that information to the securities marketplace in the same manner as that specified in section 3.1 of this Policy for a Default Announcement.

PART 4 COMMISSION PUBLICATION OF INFORMATION RESPECTING A DEFAULTING REPORTING ISSUER

4.1 Publication of Default Status

The Commission proposes to include on its Web Site **(www.osc.gov.on.ca)** a current Default List. The Default List is also available for public inspection in the offices of the Commission during normal business hours.

The Commission expects that this information will be relevant to existing and prospective security holders of Defaulting Reporting Issuers, as well as to registrants in their discharge of suitability and know-your-client obligations.

PART 5 REVOCATION OF CEASE TRADE ORDERS

5.1 Revocation of Cease Trade Orders

Where a Management and Insider Cease Trade Order or an Issuer Cease Trade Order has been issued as a consequence of the Financial Statement Filing Requirement default, the Commission will consider revoking the order:

(i) upon the Defaulting Reporting Issuer complying with the Financial Statement Filing Requirement; and

(ii) provided the Defaulting Reporting Issuer is not otherwise in default of any requirement of the Act or regulations which would cause the reporting issuer to be placed on the Default List.

The Commission's consideration of any application for revocation will be based upon its review of the financial statements which are submitted, the period of time the issuer has been the subject of a Cease Trade Order, and any other factors or circumstances which it determines to be of significance in the particular case. In particular, the Commission may consider whether, before revoking an Issuer Cease Trade Order that has been outstanding for some time, the issuer should also bring its disclosure up to date by providing prospectus-level disclosure.

PART 6 DEFAULTS OF OTHER CONTINUOUS DISCLOSURE REQUIREMENTS

6.1 Defaults of Other Continuous Disclosure Requirements

The scope of this Policy is limited to Financial Statement Filing Requirement defaults. Defaults of other continuous disclosure requirements will be addressed on a case-by-case basis in a manner similar to that set out in this Policy. In particular, the Commission may consider applying the approach set out in this Policy where a reporting issuer is in default of a continuous disclosure requirement that is analogous to a Financial Statement Filing Requirement (for example, a failure to file an AIF or MD&A in accordance with the requirements of Ontario Securities Commission Rule 51-501 AIF and MD&A).

Chapter 6

Request for Comments

THERE IS NO MATERIAL FOR THIS CHAPTER

IN THIS ISSUE

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (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

Exempt Financings

The Ontario Securities Commission reminds Issuers of exempt financings that they are responsible for the completeness, accuracy and timely filing of Forms 20 and 21 pursuant to section 72 of the Securities Act and section 14 of the Regulation to the Act. The information provided is not verified by staff of the Commission and is published as received except for confidential reports filed under paragraph E of the Ontario Securities Commission Policy Statement No. 6.1.

Reports of Trades Submitted on Form 45-501f1

Trans. Date		Security	Price ($)	Amount
18Apr01		3822800 Canada Limited - Common Shares	500,000	50
02Apr01 to 11Apr01		724 Solutions Inc. - Common Shares	1,733,697	110,200
02Mar01		AFC Enterprises - Common Stock	119,179	4,500
08Mar01		Air Canada - 10.25% Senior Notes due March 15, 2011	$3,077,146	2,000
01Mar01		Alliance Pipeline L.P. - 6.996% Senior Notes due 2019	US$5,000,000	$5,000,000
03Apr01		Atikokan Resources Inc. - Common Shares	12,600	70,000
06Apr01		BPI American Opportunities Fund - Units	306,443	2,432
04Apr01		Canada-Israel Opportunity Fund IV, The - Units	US$2,287,000	2,287
07Apr01		Canadian Golden Dragon Resources Ltd. - Common Shares	4,750	25,000
12Apr01		Canadian Golden Dragon Resources Ltd. - Common Shares	2,500	12,500
01Mar01 to 01Mar31		Cranston, Gaskin, O'Reilly & Vernon - Units of Trust Pooled Funds	390,620	29,204
01Mar01 to 01Mar31		Cranston, Gaskin, O'Reilly & Vernon - Units of Trust Pooled Funds	310,628	25,274
01Mar01 to 01Mar31		Cranston, Gaskin, O'Reilly & Vernon - Units of Trust Pooled Funds	753,980	63,636
01Mar01 to 01Mar31		Cranston, Gaskin, O'Reilly & Vernon - Units of Trust Pooled Funds	48,113	4,449
17Apr01	#	Dr. Reddy's Laboratories Limited - American Depositary Shares	5,567,280	355,000
13Mar01		Duke Energy Corporation - Common Stock	30,470	500
08Mar01		Encore Acquisition Company - Common Stock	188,112	8,600
28Mar01		FiLogix Inc. - Series A Preferred Shares	1,000,759	276,453
01Apr01		GLS Global Assets Ltd. - Special Warrants	279,000	1,860,000
05Apr01		Grosvenor Services 2001 Limited Partnership - Limited Partnership Units	6,649,500	40
05Apr01		GS 2001 NLM Limited Partnership - Class A Units	9,082,887	9,082,887
15Mar01		Hanover Compressor Company - Common Stock	1,928,908	35,000
11Apr01		Imperial Metals Corporation - 8% Subordinated Secured Convertible Notes due 31 January 2006	$150,000	$150,000
18Apr01		Integrative Proteomics, Inc. - Shares	250,000	125,000
10Apr01		KBSH Private - Balanced RRSP Fund - Units	502,637	54,957
05Apr01		KBSH Private - Balanced RRSP Fund - Units	300,000	27,387
08Mar01		Loudcloud, Inc. - Common Stock	179,988	19,200
05Apr01		Media Ventures Brokerage Corporation - Limited Partnership Units	32,705,620	30,566

Trans. Date		Security	Price ($)	Amount
05Feb01		NTT DoCoMo - Shares of Common Stock	2,577,752	96
20Sep00		Nu-Wave Photenics - Class C Preferred Shares	193,300	20,000
11Apr01		Oxbow Equities Corp. - Special Warrants	1,900,000	3,166,667
11Jan00 to 07Mar00		Panacya Inc. - Common Stock	US$582,500	582,500
29Aug01		Panacya Inc. - Common Stock	US$150,000	150,000
31Dec00		Prism Production Technologies Inc. - Class A Common Shares	307,500	615,000
02Apr01		Prism Equities Inc. - Common Shares	300,000	300,000
11Apr01		SouthernEra Resources Limited - Special Warrants	7,659,924	2,785,427
03Apr01		Stacey Investment Limited Partnership - Units	1,150,014	53,143
28Dec00	#	Starfield Resources Inc. - Units	50,000	25,000
06Mar01		Teco Energy - Common Stock	43,190	1,000
11Apr01		Toon Boom Technologies Inc. - Units	3,000,000	3,000,000
20Apr01		Venture Coaches Fund LP - Class B Limited Partnership Units	500,000	500,000
30Mar01		Vertex Fund Limited Partnership - Units	150,000	6,123
11Apr01		VOXCOM Incorporated - Units	375,000	375,000

Reports Made under Subsection 5 of Subsection 72 of the Act with Respect to Outstanding Securities of a Private Company That Has Ceased to Be a Private Company -- (Form 22)

Name of Company	Date the Company Ceased to be a Private Company
Adherex Technologies Inc.	18Aug00
Seven Clans Resources Inc.	20Ma01

Notice of Intention to Distribute Securities Pursuant to Subsection 7 of Section 72 - (Form 23)

Seller	Security	Amount
Black, Conrad M.	Hollinger Inc. - Series II Preference Shares	1,611,039
Gastle, Susan M.S.	Microbix Biosystems Inc. - Common Shares	275,000
Gastle, William J.	Mircobix Biosystems Inc. - Common Shares	495,000

Chapter 9

Legislation

THERE IS NO MATERIAL FOR THIS CHAPTER

IN THIS ISSUE

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Barrick Gold Corporation
Barrick Gold Finance Inc.
Type and Date:
Preliminary Short Form Shelf Prospectus dated April 20th, 2001
Receipted dated April 20th, 2001
Offering Price and Description:
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #348484\348487

Issuer Name:
Cedara Software Corp.
Type and Date:
Preliminary Prospectus dated April 25th, 2001
Receipt dated April 26th, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #350145

Issuer Name:
Celestica Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated April 19th, 2001
Mutual Reliance Review System Receipt dated April 20th, 2001
Offering Price and Description:
Subordinate Voting Shares Preference Shares Debt Securities Warrants US$2,156,773,792
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #348116

Issuer Name:
CI Focus Value Sector Fund
CI Focus Value RSP Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated April 20th, 2001
Mutual Reliance Review System Receipt dated April 24th, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #349072

Issuer Name:
Creststreet 2001 Limited Partnership
Creststreet Resource Fund II Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated April 18th, 2001
Mutual Reliance Review System Receipt dated April 19th, 2001
Offering Price and Description:
$5,000,000 to $20,000,000 - 500,000 to 2,000,000 Limited Partnership Units
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Yorkton Securities Inc.
Promoter(s):
Creststreet Asset Management Limited
Project #347835\347840

Issuer Name:
Finning International Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Shelf Prospectus dated April 25th, 2001
Mutual Reliance Review System Receipt dated April 25th, 2001
Offering Price and Description:
$500,000,000 - Debt Securities (unsecured)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #349889

Issuer Name:
Firm Capital Mortgage Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated April 24th, 2001
Mutual Reliance Review System Receipt dated April 25th, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
National Bank Financial Inc.
Desjardins Securities Inc.
Dundee Securities Corporation
Promoter(s):
FC Treasury Management Inc.
Project #349626

Issuer Name:
Investors Group Inc.
Principal Regulator - Manitoba
Type and Date:
Preliminary Short Form Shelf Prospectus dated April 20th, 2001
Mutual Reliance Review System Receipt dated April 23rd, 2001
Offering Price and Description:
$1,300,000,000 - Debt Securities (unsecured) First Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #349136

Issuer Name:
O&Y Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated April 23rd, 2001
Mutual Reliance Review System Receipt dated April 24th, 2001
Offering Price and Description:
$ * - * Units @ $10.00 per Unit
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
TD Securities Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
Merrill Lynch Canada Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Promoter(s):
O&Y Properties Inc.
Project #349236

Issuer Name:
SNP Split Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated April 24th, 2001
Mutual Reliance Review System Receipt dated April 25th, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Scotia Capital Inc.
Promoter(s):
Scotia Capital Inc.
Project #349665

Issuer Name:
H30 Holding Corp.
Principal Regulator - Manitoba
Type and Date:
Preliminary Prospectus dated December 18th, 2000
Closed April 18th, 2001
Offering Price and Description:

Underwriter(s) or Distributor(s):

Promoter(s):
-
Project #321605

Issuer Name:
ACUITY HIGH INCOME FUND
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated April 11th, 2001 to Simplified Prospectus dated October 11th, 2000
Mutual Reliance Review System Receipt dated 19th day of April, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s) or Distributor(s):

Promoter(s):
-
Project #296132

Issuer Name:
DYNAMIC T-BILL FUND
Principal Regulator - Ontario
Type and Date:
Amendment #1 dated April 11th, 2001 to Simplified Prospectus and Annual Information Form dated December 7th, 2000
Mutual Reliance Review System Receipt dated 19th day of April, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s) or Distributor(s):

Promoter(s):
-
Project #308414

Issuer Name:
EnerVest Natural Resources Fund Ltd.
Principal Regulator - Alberta
Type and Date:
Amendment #1 dated April 5th, 2001 to Simplified Prospectus dated November 23rd, 2000
Mutual Reliance Review System Receipt dated 17th day of April, 2001
Offering Price and Description:

Underwriter(s) or Distributor(s):

Promoter(s):
-
Project #297127

Issuer Name:
Energy Savings Income Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 20th, 2001
Mutual Reliance Review System Receipt dated 24th day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
National Bank Financial Inc.
Canaccord Capital Corporation
Dundee Securities Corporation
Trilon Securities Corporation
Promoter(s):
Ontario Energy Savings Corp.
Project #338566

Issuer Name:
Equatorial Energy Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated April 20th, 2001
Mutual Reliance Review System Receipt dated 23rd day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Salman Partners Inc.
FirstEnergy Capital Corp.
Haywood Securities Inc.
Promoter(s):
-
Project #338828

Issuer Name:
Headline Media Group Inc.
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 20th, 2001
Mutual Reliance Review System Receipt dated 20th day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Griffiths McBurney & Partners
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
Raymond James Ltd.
Promoter(s):
Levfam Holdings Inc.
First Control Corporation
883786 Ontario Limited
Project #337688

Issuer Name:
MRF 2001 Limited Partnership
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 25th, 2001
Mutual Reliance Review System Receipt dated 25th day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Merrill Lynch Canada Inc.
National Bank Financial Inc.
TD Securities Inc.
HSBC Securities (Canada) Inc.
Middlefield Securities Limited
Dundee Securities Corporation
Canaccord Capital Corporation
Raymond James Ltd.
Wellington West Capital Inc.
Promoter(s):
Middlefield Group Limited
MRF 2001 Management Limited
Project #340801

Issuer Name:
Triax CaRTS III Trust
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated April 25th, 2001
Mutual Reliance Review System Receipt dated 26th day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
TD Securities Inc.
Merrill Lynch Canada Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
National Bank Financial Inc.
Scotia Capital Inc.
HSBC Securities (Canada) Inc.
Canaccord Capital Corporation
Desjardins Securities Inc.
Raymond James Ltd.
Trilon Securities Corporation
Promoter(s):
Triax Investment Management Inc.
Triax Capital Holdings Ltd.
Project #338196

Issuer Name:
Borealis Infrastructure Trust
Principal Regulator - Ontario
Type and Date:
Final Short Form Shelf Prospectus dated April 25th, 2001
Mutual Reliance Review System Receipt dated 25th day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
TD Securities Inc.
Scotia Capital Inc.
Promoter(s):
Borealis Funds Management Ltd.
Project #344438

Issuer Name:
COM DEV International Ltd.
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated April 24th, 2001
Mutual Reliance Review System Receipt dated 24th day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
TD Securities Inc.
National Bank Financial Corp.
Sprott Securities Inc.
Yorkton Securities Inc.
Harris Partners Limited
Promoter(s):
-
Project #346496

Issuer Name:
John Hancock Canadian Corporation
Principal Regulator - Nova Scotia
Type and Date:
Final Short Form Prospectus dated April 20th, 2001
Mutual Reliance Review System Receipt dated 20th day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
Promoter(s):
John Hancock Financial Services, Inc.
Project #346064

Issuer Name:
GBC Money Market Fund
GBC Canadian Bond Fund
GBC Canadian Growth Fund
GBC North American Growth Fund Inc.
GBC International Growth Fund
Principal Regulator - Quebec
Type and Date:
Final Simplified Prospectus and Annual Information Form dated April 19th, 2001
Mutual Reliance Review System Receipt dated 23rd day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
GBC ASSET MANAGEMENT INC.
Promoter(s):
-
Project #332814

Issuer Name:
NORTHWEST SPECIALTY INNOVATIONS FUND
NORTHWEST SPECIALTY RESOURCE FUND
NORTHWEST SPECIALTY HIGH YIELD BOND FUND
NORTHWEST SPECIALTY EQUITY FUND
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated April 6th, 2001
Mutual Reliance Review System Receipt dated 20th day of April, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Northwest Mutual Funds Inc.
Promoter(s):
-
Project #335463

Issuer Name:
The Art Vault International Limited
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated December 13th, 2000
Withdrawn on April 10th, 2001
Offering Price and Description:

Underwriter(s) or Distributor(s):

Promoter(s):
-
Project #320191

Issuer Name:
FIFTEY-NINE CORP.
Type and Date:
Preliminary Prospectus dated October 11th, 2000
Withdrawn on April 3rd, 2001
Offering Price and Description:

Underwriter(s) or Distributor(s):

Promoter(s):
-
Project #303957

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Chapter 12

Registrations

12.1.1 Securities

Type	Company	Category of Registration	Effective Date
New Registration	L&A Financial Inc. Attention: John Patrick Lynch 627 Main Street East Suite 200 Hamilton ON L8M 1J5	Mutual Fund Dealer	Apr 18/01
New Registration	The Global Value Investment Portfolio Management Pte Ltd. Attention: Laurie J. Cook c/o Borden Ladner Gervais LLP 40 King Street West Suite 4400 Toronto ON M5H 3Y4	International Adviser Investment Counsel & Portfolio Manager	Apr 24/01
New Registration	TL Corporate Finance Inc. Attention: Jason Paul Sparaga The Taylor Leibow Building First Floor 3410 South Service Road Burlington ON L7N 3T2	Limited Market Dealer (Conditional)	Apr 23/01
New Registration	H.O. Financial Services Inc. Attention: Geoffrey Matus 1067 Yonge St The Rowanwood Centre Toronto ON M4W 2L2	Limited Market Dealer (Conditional)	Apr 24/01
Change in Category	Dorato Partners Inc. Attention: Donald Lyons 106 Willingdon Blvd Toronto ON M8X 2H7	From: Securities Dealer To: Mutual Fund Dealer	Apr 19/01
Change in Category	RT Capital Management Inc. Attention: James David Simmonds LMDC Category 77 King Street West, Suite 3700 PO Box 85 TD Centre Royal Trust Tower Toronto ON M5K 1G8	From: Investment Counsel & Portfolio Manager To: Limited Market Dealer (Conditional) Investment Counsel & Portfolio Manager	Apr 20/01

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Chapter 13

SRO Notices and Disciplinary Proceedings

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Chapter 25

Other Information

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