

**The Ontario Securities Commission**

# **OSC Bulletin**

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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)

**The Ontario Securities Commission**

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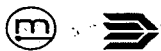
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## Chapter 1

# Notices / News Releases

### 1.1 Notices

### SCHEDULED OSC HEARINGS

#### 1.1.1 Current Proceedings Before The Ontario Securities Commission

**December 1, 2000**

#### **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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#### THE COMMISSIONERS

David A. Brown, Q.C., Chair	—	DAB
Howard Wetston, Q.C. Vice-Chair	—	HW
Kerry D. Adams, FCA	—	KDA
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

Date to be announced

**Amalgamated Income Limited Partnership and 479660 B.C. Ltd.**

s. 127 & 127.1

Ms. J. Superina in attendance for staff.

Panel: TBA

Feb 5/2001  
10:00 a.m.

**Noram Capital Management, Inc. and Andrew Willman**

s. 127

Ms. K. Wootton in attendance for staff.

Panel: TBA

Apr16/2001-  
Apr 30/2001  
10:00 a.m.

**Philip Services Corp., Allen Fracassi, Philip Fracassi, Marvin Boughton, Graham Hoey, Colin Soule, Robert Waxman and John Woodcroft**

s. 127

Ms. K. Manarin & Ms. K. Wootton in attendance for staff.

Panel: TBA

May 7/2001  
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

**ADJOURNED SINE DIE**

**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**

**Irvine James Dyck**

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

**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**

**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

**Oct 16/2000 -  
Dec 22/2000  
10:00 a.m.**

**John Bernard Felderhof**

Mssrs. J. Naster and I. Smith for staff.

Courtroom TBA, Provincial Offences Court

Old City Hall, Toronto

**Dec 4/2000  
Dec 5/2000  
Dec 6/2000  
Dec 7/2000  
9:00 a.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 OSC Rule 41-501 General Prospectus Requirements

NOTICE OF MINISTER OF FINANCE APPROVAL OF  
FINAL RULE 41-501  
GENERAL PROSPECTUS REQUIREMENTS  
FORM 41-501F1

INFORMATION REQUIRED IN A PROSPECTUS  
FORM 41-501F2

AUTHORIZATION OF INDIRECT COLLECTION  
OF PERSONAL INFORMATION  
FORM 41-501F3

ISSUER FORM OF SUBMISSION TO JURISDICTION  
AND APPOINTMENT OF AGENT FOR SERVICE OF  
PROCESS  
FORM 41-501F4

NON-ISSUER FORM OF SUBMISSION TO JURISDICTION  
AND APPOINTMENT OF AGENT FOR SERVICE OF  
PROCESS

AND

NOTICE OF AMENDMENT TO REGULATION 1015 OF  
THE REVISED REGULATIONS OF ONTARIO, 1990  
MADE UNDER THE SECURITIES ACT  
IN CONNECTION WITH OSC RULE 41-501

On November 27, 2000, the Minister of Finance approved Rule 41-501 General Prospectus Requirements (the "Rule"); Form 41-501F1 Information Required In a Prospectus (the "Prospectus Form"), Form 41-501F2 Authorization of Indirect Collection of Personal Information ("Form F2"), Form 41-501F3 Issuer Form of Submission to Jurisdiction and Appointment of Agent for Service of Process ("Form F3"), and Form 41-501F4 Non-Issuer Form of Submission to Jurisdiction and Appointment of Agent for Service of Process ("Form F4") (the Prospectus Form, Form F2, Form F3, Form F4, collectively, the "Forms"). Previously, materials related to the Rule, the Forms and Companion Policy 41-501CP (the "Companion Policy") were published in the Bulletin on May 2, 1997; July 23, 1999; December 17, 1999; and October 13, 2000. The Rule, Companion Policy and the Forms will come into effect on December 31, 2000.

The Commission is publishing in a Special Supplement to this issue of the OSC Bulletin, the final Rule, Companion Policy and Forms. The Rule and Forms will also be published in the Ontario Gazette on December 23, 2000.

The Minister of Finance has also approved a regulation to amend and revoke certain sections of Regulation 1015 of the Revised Regulations of Ontario, 1990 made under the Securities Act (the "Regulation") in connection with the Rule and Forms. The amendments and revocations to the Regulations will come into force at the time that the Rule and Forms come into force and will be published in the Ontario Gazette on December 23, 2000. The Regulation is published in chapter 9 of this OSC Bulletin.

### 1.1.3 National Instrument 41-101 Prospectus Disclosure Requirements

NOTICE OF MINISTER OF FINANCE APPROVAL OF  
FINAL RULE UNDER THE SECURITIES ACT

NATIONAL INSTRUMENT 41-101 PROSPECTUS  
DISCLOSURE REQUIREMENTS

AND

NOTICE OF AMENDMENT TO REGULATION 1015 OF  
THE REVISED REGULATIONS OF ONTARIO, 1990  
MADE UNDER THE SECURITIES ACT  
IN CONNECTION WITH NATIONAL INSTRUMENT 41-101

On November 27, 2000, the Minister of Finance approved National Instrument 41-101 Prospectus Disclosure Requirements. Previously, materials related to National Instrument 41-101 were published in the Bulletin on May 16, 1997 and October 13, 2000. National Instrument 41-101 will come into effect on December 31, 2000.

The Commission is publishing in a Special Supplement to this issue of the OSC Bulletin, the final National Instrument. The National Instrument will also be published in the Ontario Gazette on December 23, 2000.

The Minister of Finance has also approved a regulation to revoke certain sections of Regulation 1015 of the Revised Regulations of Ontario, 1990 made under the Securities Act (the "Regulation") in connection with National Instrument 41-101. The revocations to the Regulations will come into force at the time that National Instrument 41-101 comes into force and will be published in the Ontario Gazette on December 23, 2000. The Regulation is published in chapter 9 of this OSC Bulletin.

**1.1.4 OSC Staff Notice**

**OSC STAFF NOTICE**

The Ontario Securities Commission, in conjunction with other Canadian securities regulators, is developing a web-based registration system called the National Registration Database ("NRD"). Pursuant to the rules under which NRD will be implemented, all registrants will have a common renewal date of December 31<sup>st</sup>.

In order to make the adjustment to a common renewal date, all registrations and renewals occurring under the *Securities Act* and the *Commodity Futures Act* between December 1, 2000 and December 1, 2001 will be effective until December 31, 2001. Registration fees will be prorated accordingly.

Gina Sugden  
General Manager, Registration

**1.1.5 Notice of Commission Approval, Retail Access to the Exchange**

**NOTICE OF COMMISSION APPROVAL -  
TSE RULE AMENDMENTS, RETAIL ACCESS TO THE  
EXCHANGE**

On December 8, 2000 the Commission approved TSE Rule Amendments, Retail Access to the Exchange. The amendments were published for comment on April 28, 2000 at (2000) 23 OSCB 3199.



**1.1.6 Notice of Commission Approval, Trading in Penny Increments**

**NOTICE OF COMMISSION APPROVAL - TSE RULE AMENDMENTS, TRADING IN PENNY INCREMENTS**

On December 1, 2000 the Commission approved TSE Rule Amendments, Trading in Penny Increments. The amendments were published for comment on September 29, 2000 at (2000) 23 OSCB 6775.

**1.1.7 Notice of Minister of Finance Approval of Final Rule under the Securities Act - OSC Rule 51-501 AIF & MD&A**

**NOTICE OF MINISTER OF FINANCE APPROVAL OF FINAL RULE 51-501 AIF & MD&A**

On November 27, 2000, the Minister of Finance approved Rule 51-501 AIF & MD&A (the "Rule"). Materials related to the Rule and Companion Policy 51-501CP (the "Companion Policy") were published in the Bulletin on March 10, 2000 and October 27, 2000. The Rule and the Companion Policy will come into effect on January 1, 2000.

The final Rule and Companion Policy are published in chapter 5 of this Bulletin.

**1.1.8 Notice of Minister of Finance Approval of Final Rule under the Securities Act and Amendment to Regulation 1015 made under the Securities Act - OSC Rule 52-501 Financial Statements**

**NOTICE OF MINISTER OF FINANCE APPROVAL OF FINAL RULE 52-501 FINANCIAL STATEMENTS**

**AND**

**NOTICE OF AMENDMENT TO REGULATION 1015 OF THE REVISED REGULATIONS OF ONTARIO, 1990 MADE UNDER THE SECURITIES ACT IN CONNECTION WITH OSC RULE 52-501**

On November 27, 2000, the Minister of Finance approved Rule 52-501 Financial Statements (the "Rule"). Materials related to the Rule and Companion Policy 52-501CP (the "Companion Policy") were published previously in the Bulletin on May 10, 2000 and October 27, 2000. The Rule and Companion Policy came into force on December 12, 2000.

The final Rule and Companion Policy are published in chapter 5 of this Bulletin.

The Minister of Finance has also approved a regulation to amend and revoke certain sections of Regulation 1015 of the Revised Regulations of Ontario, 1990 made under the Securities Act (the "Regulation") in connection with the Rule. The amendments and revocations to the Regulation came into force concurrently with the Rule and will be published in the Ontario Gazette on December 30th, 2000. The Regulation is published in chapter 9 of this Bulletin.

**1.2 Notice of Hearings**

**1.2.1 Offshore Marketing Alliance and Warren English - s.127 and 127(1)**

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

**AND**

**IN THE MATTER OF OFFSHORE MARKETING ALLIANCE  
and WARREN ENGLISH**

**NOTICE OF HEARING  
(Sections 127 and 127.1)**

WHEREAS on the 11<sup>th</sup> day of December, 2000, the Ontario Securities Commission (the "Commission") ordered, pursuant to clause 2 of section 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that all trading in securities by Offshore Marketing Alliance Ltd. and Warren English cease (the "Temporary Order");

TAKE NOTICE that the Commission will hold a hearing pursuant to sections 127 and 127.1 of the *Act* at its offices on the 17<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario commencing on the 20<sup>th</sup> day of December, 2000, at 9:30 a.m. or as soon thereafter as the hearing can be held;

TO CONSIDER whether, pursuant to sections 127(1) and 127.1 of the *Act*, it is in the public interest for the Commission:

- (a) to make an order to extend the Temporary Order until this hearing is concluded;
- (b) to make an order that the respondents cease trading in securities, permanently or for such time as the Commission may direct;
- (c) to make an order that the respondents be reprimanded;
- (d) to make an order that the respondents pay the costs of Staff's investigation in relation to this matter;
- (e) to make an order that the respondents pay the costs of this proceeding incurred by or on behalf of the Commission; and/or
- (f) to make such other order as the Commission may deem appropriate.

BY REASON OF the allegations set out in the Statement of Allegations 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.

December 12<sup>th</sup>, 2000.

John Stevenson  
Secretary to the Commission

**1.2.2 Statement of Allegations - Offshore  
Marketing Alliance and Warren English**

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

**AND**

**IN THE MATTER OF OFFSHORE MARKETING ALLIANCE  
and WARREN ENGLISH**

**STATEMENT OF ALLEGATIONS OF STAFF OF THE  
ONTARIO SECURITIES COMMISSION**

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

1. Offshore Marketing Alliance ("OMA") is incorporated under the laws of Belize as an International Business Corporation, but carries on business in Ontario.
2. Warren English ("English") is a resident of Pickering, Ontario and is the principal of OMA.
3. OMA purports to offer trading programs for the trading of securities. OMA uses Internet e-mail mailing lists to communicate the existence and terms of the trading programs.
4. Neither OMA nor English is registered in any capacity under Ontario securities law.
5. The sale of memberships and entries into the trading programs offered by OMA constituted a distribution of securities for which no prospectus had been issued and no exemption was available, contrary to Ontario securities law.
6. By soliciting investments in the trading programs, English and OMA traded in securities and acted as advisors without registration, contrary to Ontario securities law.

**Conduct Contrary To the Public Interest**

7. The conduct of the respondents, as described above, contravened Ontario securities law and was contrary to the public interest.
8. Staff reserves the right to make such further and other allegations as Staff may submit and the Commission may permit.

December 12<sup>th</sup>, 2000.

**1.2.3 Terry G. Dodsley - s.127 and 127(1)**

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

**AND**

**IN THE MATTER OF TERRY G. DODSLEY**

**NOTICE OF HEARING  
(Sections 127 and 127.1)**

**WHEREAS** on the 7<sup>th</sup> day of December, 2000, the Ontario Securities Commission (the "Commission") ordered, pursuant to clause 2 of section 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that all trading in securities by Terry G. Dodsley cease (the "Temporary Order");

**TAKE NOTICE** that the Commission will hold a hearing pursuant to sections 127 and 127.1 of the *Act* at its offices on the 17<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario commencing on the 20<sup>th</sup> day of December, 2000, at 9:30 a.m. or as soon thereafter as the hearing can be held;

**TO CONSIDER** whether, pursuant to sections 127(1) and 127.1 of the *Act*, it is in the public interest for the Commission:

- (a) to make an order to extend the Temporary Order until this hearing is concluded;
- (b) to make an order that the respondent cease trading in securities, permanently or for such time as the Commission may direct;
- (c) to make an order that the respondent be reprimanded;
- (d) to make an order that the respondent pay the costs of Staff's investigation in relation to the matters subject to this proceeding;
- (e) to make an order that the respondent pay the costs of this proceeding incurred by or on behalf of the Commission; and/or
- (f) to make such other order as the Commission may deem appropriate.

**BY REASON OF** the allegations set out in the Temporary Order 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.

December 12<sup>th</sup>, 2000.

"John Stevenson"  
Secretary to the Commission

**1.2.4 Terry G. Dodsley - Statement of Allegations**

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

**- AND -**

**IN THE MATTER OF TERRY G. DODSLEY**

**STATEMENT OF ALLEGATIONS OF STAFF OF THE  
ONTARIO SECURITIES COMMISSION**

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

1. Terry G. Dodsley ("Dodsley") is an individual residing in Ontario.
2. Dodsley is not, nor has he ever been, registered with the Ontario Securities Commission (the "Commission") in any capacity.
3. Dodsley has an advertisement on the Internet at [www.cashgalore.com/comtrade.htm](http://www.cashgalore.com/comtrade.htm) relating to investment opportunities and services.
4. In October, 2000, Dodsley had an advertisement in an Ontario community newspaper advertising his services in the area of commodities trading.
5. Dodsley traded in securities without being registered as required pursuant to Ontario securities law.
6. Dodsley held himself out as carrying on the business of advising with respect to securities, without being registered as required pursuant to Ontario securities law.

**Conduct Contrary To the Public Interest**

7. The conduct of the respondent as described above contravened Ontario securities law and was contrary to the public interest.
8. Staff reserves the right to make such further and other allegations as Staff may submit and the Commission may permit.

December 12<sup>th</sup>, 2000.

**1.2.5 First Federal Capital (Canada) Corporation  
and Monte Morris Friesner - s. 127 and  
127(1)**

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

**AND**

**IN THE MATTER OF FIRST FEDERAL CAPITAL  
(CANADA) CORPORATION  
and MONTE MORRIS FRIESNER**

**NOTICE OF HEARING  
(Sections 127 and 127.1)**

WHEREAS on the 11<sup>th</sup> day of December, 2000, the Ontario Securities Commission (the "Commission") ordered, pursuant to clause 2 of section 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that all trading in securities by First Federal Capital (Canada) Corporation and Monte Morris Friesner cease (the "Temporary Order");

TAKE NOTICE that the Commission will hold a hearing pursuant to sections 127 and 127.1 of the *Act* at its offices on the 17<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario commencing on the 20<sup>th</sup> day of December, 2000, at 9:30 a.m. or as soon thereafter as the hearing can be held;

TO CONSIDER whether, pursuant to sections 127(1) and 127.1 of the *Act*, it is in the public interest for the Commission:

- (a) to make an order to extend the Temporary Order until this hearing is concluded;
- (b) to make an order that the respondents cease trading in securities, permanently or for such time as the Commission may direct;
- (c) to make an order that the respondents be reprimanded;
- (d) to make an order that the respondents pay the costs of Staff's investigation in relation to this matter;
- (e) to make an order that the respondents pay the costs of this proceeding incurred by or on behalf of the Commission; and/or
- (f) to make such other order as the Commission may deem appropriate.

BY REASON OF the allegations set out in the Statement of Allegations 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.

December 12<sup>th</sup>, 2000.

"John Stevenson"  
Secretary to the Commission

**1.2.6 First Federal Capital (Canada) Corporation  
and Monte Morris Friesner - Statement of  
Allegations**

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

**AND**

**IN THE MATTER OF  
FIRST FEDERAL CAPITAL (CANADA) CORPORATION  
and  
MONTE MORRIS FRIESNER**

**STATEMENT OF ALLEGATIONS OF STAFF OF THE  
ONTARIO SECURITIES COMMISSION**

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

1. First Federal Capital (Canada) Corporation ("First Federal") was incorporated under the laws of Ontario on January 7, 1999.
2. Monte Morris Friesner ("Friesner") is a resident of Toronto, Ontario. Friesner is the president and chief executive officer of First Federal.
3. First Federal has an advertisement on the Internet which encourages potential investors to invest in Asset Securitization Management Portfolios and promises to pay a return of at least 20% and up to 70% or more with no risk (the "trading programs").
4. Neither First Federal nor Friesner, is or has ever been, registered in any capacity under Ontario securities law.
5. The activities of First Federal and Friesner constitute trading in securities without registration, contrary to Ontario securities law.
6. The trading programs offered by First Federal and Friesner constitute a distribution of securities for which no prospectus was issued and no exemption was available, contrary to Ontario securities law.

**Conduct Contrary To the Public Interest**

7. The conduct of the respondents as described above contravened Ontario securities law and was contrary to the public interest.
8. Staff reserves the right to make such further and other allegations as Staff may submit and the Commission may permit.

December 12<sup>th</sup>, 2000.

**1.2.7 Global Privacy Management Trust and  
Robert Cranston - s.127 and 127.1**

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

**AND**

**IN THE MATTER OF GLOBAL PRIVACY MANAGEMENT  
TRUST  
and ROBERT CRANSTON**

**NOTICE OF HEARING  
(Sections 127 and 127.1)**

**WHEREAS** on the 8<sup>th</sup> day of December, 2000, the Ontario Securities Commission (the "Commission") ordered, pursuant to clause 2 of section 127(1) of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act"), that all trading in securities by Global Privacy Management Trust and Robert Cranston cease (the "Temporary Order");

**TAKE NOTICE** that the Commission will hold a hearing pursuant to sections 127 and 127.1 of the *Act* at its offices on the 17<sup>th</sup> Floor, 20 Queen Street West, Toronto, Ontario commencing on the 20<sup>th</sup> day of December, 2000, at 9:30 p.m. or as soon thereafter as the hearing can be held;

**TO CONSIDER** whether, pursuant to sections 127(1) and 127.1 of the *Act*, it is in the public interest for the Commission:

- (a) to make an order to extend the Temporary Order until this hearing is concluded;
- (b) to make an order that the respondents cease trading in securities, permanently or for such time as the Commission may direct;
- (c) to make an order that the respondents be reprimanded;
- (d) to make an order that the respondents pay the costs of Staff's investigation in relation to this matter;
- (e) to make an order that the respondents pay the costs of this proceeding incurred by or on behalf of the Commission; and/or
- (f) to make such other order as the Commission may deem appropriate.

**BY REASON OF** the allegations set out in the Statement of Allegations 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.

December 12<sup>th</sup>, 2000.

"John Stevenson"  
Secretary to the Commission

**1.2.8 Global Privacy Management Trust and  
Robert Cranston - Statement of Allegations**

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

**AND**

**IN THE MATTER OF  
GLOBAL PRIVACY MANAGEMENT TRUST  
and  
ROBERT CRANSTON**

**STATEMENT OF ALLEGATIONS OF STAFF OF THE  
ONTARIO SECURITIES COMMISSION**

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

1. Global Privacy Management Trust ("GPMT") is not an entity incorporated under the laws of Ontario, but carries on business in Ontario.
2. Robert Cranston ("Cranston") is a resident of London, Ontario. Cranston is the principal of GPMT.
3. GPMT has an advertisement on the Internet which encourages potential investors to sign up for a free newsletter. The newsletter advocates investment in bank debenture trading programs and makes reference to a "250K program" about which investors may obtain more information.
4. The "250K program" purports to be an offering of preferred shares in a closed end investment that will trade in investment grade fixed income securities. The program promises to pay a return of at least 12% per month over a term of 12 months.
5. The respondents advertise that the shares in the investment are issued by a named registered limited market dealer. The named limited market dealer has no involvement in the advertised program.
6. Neither GPMT nor Cranston is or was registered to trade in securities in any capacity under the Act.
7. By soliciting investments in the trading programs, GPMT and Cranston traded in securities without registration, contrary to Ontario securities law.
8. The trading programs offered by GPMT and Cranston constituted a distribution of securities for which no prospectus was issued and no exemption was available, contrary to Ontario securities law.

**Conduct Contrary To the Public Interest**

9. The conduct of the respondents as described above contravened Ontario securities law and was contrary to the public interest.



10. Staff reserves the right to make such further and other allegations as Staff may submit and the Commission may permit.

December 12<sup>th</sup>, 2000.

### 1.3 News Releases

#### 1.3.1 Yorkton Securities

December 11, 2000

##### RE: IN THE MATTER OF YORKTON SECURITIES PROSPECTUS DISCLOSURE PRACTICES

Toronto - On November 23, 2000, the Ontario Securities Commission held a hearing as a result of the referral of a question to the Commission by the Director pursuant to subsection 61 (4) of the *Securities Act*. The question was referred in the context of a prospectus that had been submitted by an issuer. The Director sought a determination from the Commission as to whether or not the issuer was required to disclose, in its prospectus, that Yorkton Securities Inc., the underwriter of the offering, was the subject of an investigation currently being carried on by Commission Staff. At the conclusion of the hearing, the Commission found that the fact of the investigation was a material fact, disclosure of which was required in the prospectus.

Yorkton and the issuer applied at the beginning of the hearing to have the matter heard and determined *in camera*. The Commission has granted that application, and that order remains in place. The Commission has, with the parties' consent, ordered that the information set out in this release may be publicly disseminated.

References: Rowena McDougall  
Sr. Communications Officer  
(416) 593-8117

#### 1.3.2 OSC Moves Against Operators of Internet Sites

##### OSC MOVES AGAINST OPERATORS OF INTERNET SITES

December 13<sup>th</sup>, 2000

Toronto -- The Ontario Securities Commission today announced Temporary Cease Trading Orders against four individuals operating internet sites alleged to be in violation of securities laws. It is the first time the OSC has moved against operators of Internet sites. A Notice of Hearing and Statement of Allegations was also issued against each of the four individuals. A hearing date has been set for December 20, 2000, at which time Staff will seek an extension of the temporary orders.

"Our goal is to focus on intervening with potentially fraudulent sites at the earliest opportunity," said Colin McCann, an Investigator with the Enforcement Branch of the OSC. "We have taken this action in order to reduce the likelihood of persons falling victim to scams and also to educate the public that investing with unknown Internet entities should not be undertaken without thoroughly researching the person and the company making the offering."

Four individuals, along with their sites and mailing lists, are alleged to be promoting the unauthorized distribution of securities. The four individuals that were served with Cease Trading Orders are:

Monte Friesner, a Toronto resident and president of First Federal Capital Corp. Staff allege that Friesner promoted investment products and services through a web site [www.firstfederalcanada.com](http://www.firstfederalcanada.com). The investment vehicle promoted by Friesner offered annual returns of 50 to 70 percent without risk. Staff allege that this investment scheme is similar in nature to those generally referred to as "Prime Bank Note" schemes. Friesner is not registered with the Commission.

Robert Cranston, a London, Ontario resident and operator of Global Privacy Management Trust. Staff allege that Cranston promoted an offshore debenture trading program via the web site [www.gpmt.com](http://www.gpmt.com). The returns on one of these programs were claimed to be in the range of 12 percent per month. Cranston is alleged to have solicited investors to a Secure Private Placement while claiming affiliation with an entity registered in the Province of Ontario to act as a Limited Market Dealer. The principal behind this registered entity denies having had any formal agreement with Cranston pertaining to the advertised offering. Cranston is not registered with the Commission.

Terry G. Dodsley, a resident of Campbellford, Ontario. Dodsley promoted himself as an international investment consultant via an Internet site, at [www.cashgalore.com/comtrade.htm](http://www.cashgalore.com/comtrade.htm), and ads in a small community newspaper. The investment vehicles he promoted offered a return to investors of 186 percent with minimal or no risk. Dodsley is not registered with the Commission to act as an adviser, and no prospectus was filed with the Commission.

Warren English, a resident of Pickering, Ontario, is alleged to be the operator of Offshore Marketing Alliance. Staff allege that English promoted a number of investment offerings through an electronic mailing list he controlled. One particular investment vehicle directly linked to English offered investors a return of 50 percent in a 90-day period. English is not registered to advise or offer securities in the Province of Ontario.

The move against these Internet sites is the culmination of months of surveillance and investigations focusing on Ontario-based sites by the staff of the OSC.

Copies of the Notice of Hearing and the Statement of Allegations can be obtained from the OSC website at [www.osc.gov.on.ca](http://www.osc.gov.on.ca).

References:

Colin McCann  
Investigator, Enforcement Branch  
(416) 593-8285

Rowena McDougall  
Senior Communications Officer  
(416) 593-8117

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## Chapter 2

# Decisions, Orders and Rulings

## 2.1 Decisions

### 2.1.1 First Data Corporation - MRRS Decision

#### Headnote

Mutual Reliance Review System for Exemptive Relief Applications - trades in common stock of non-reporting issuer to Ontario employees and certain family members jointly are not subject to the registration and prospectus requirements.

#### Applicable Ontario Statutes

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

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

**AND**

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

**AND**

**IN THE MATTER OF  
FIRST DATA CORPORATION  
MRRS DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (collectively, the "Decision Makers") in each of British Columbia, Alberta, Manitoba, Ontario, Quebec and Nova Scotia (collectively, the "Jurisdictions") has received an application from First Data Corporation ("First Data") for a decision under the applicable securities legislation of the Jurisdictions (collectively, the "Legislation") that the requirements contained in the Legislation to be registered to trade in a security (the "Registration Requirement") and to file and obtain a receipt for a preliminary prospectus and a prospectus in respect of such security (the "Prospectus Requirement") shall not apply to trades in securities of First Data under the First Data Employee Stock Purchase Plan, as amended from time to time (the "Plan");

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

**AND WHEREAS** First Data has represented to the Decision Makers that:

1. First Data is a corporation incorporated under the laws of the state of Delaware;
2. First Data is not, and has no present intention of becoming, a reporting issuer or the equivalent under the Legislation of any of the Jurisdictions;
3. First Data is a reporting company with the United States Securities and Exchange Commission (the "SEC"). First Data is subject to the reporting requirements of the Securities Act of 1933, as amended (the "1933 Act") and is current in its reporting obligations thereunder;
4. the authorized share capital of First Data consists of 600,000,000 shares of common stock and 10,000,000 shares of preferred stock, of which approximately 408,554,577 shares of common stock were issued and outstanding as of July 31, 2000;
5. under the Plan, eligible employees of First Data and First Data's affiliates (the "Participants") are able to purchase First Data common stock at a discount from the fair market value;
6. under the Plan, a Participant may elect to have the First Data common stock acquired thereunder registered in the Participant's name or in the name of the Participant and a family member of the Participant (a "Family Member") jointly. For a joint purchase, the Family Member provides no payment for the First Data common stock deposited into the joint account and all consideration for these shares would be from the Participant's payroll deduction. A Family Member includes:
  - (a) a spouse of the Participant;
  - (b) a child of the Participant;
  - (c) a grandchild of the Participant; and
  - (d) a family trust the beneficiaries of which are any one or more of the Participant and the persons in (a) to (c) above;
7. the First Data common stock distributed to Participants pursuant to the Plan may be either newly issued shares, shares from treasury and/or shares purchased from the market;
8. in the United States, the First Data common stock distributed to Participants pursuant to the Plan have been registered under registration statements filed by First Data with the SEC as required by the 1933 Act.

- As of August 9, 2000, the maximum number of shares of First Data common stock that may be issued pursuant to the Plan is 6,000,000;
9. as of July 5, 2000, there were approximately 45 Participants resident in the Jurisdictions;
  10. participation in the Plan is voluntary and Participants are not induced to participate in the Plan or to acquire First Data common stock under the Plan by expectation of employment or continued employment;
  11. First Data will use the services of an agent (the "Agent") to carry out certain administrative functions with respect to the Plan. For example, First Data may rely on the Agent to purchase First Data common stock from First Data, distribute First Data common stock to Participants' accounts or to accounts held jointly by Participants and their Family Members, maintain such accounts and provide record keeping services on behalf of Participants, and their Family Members where accounts are held jointly, in accordance with and pursuant to the Plan. The Participants, and their Family Members where accounts are held jointly, may also use the Agent to carry out first trades in First Data common stock acquired pursuant to the Plan. The Agent is not a registered dealer or equivalent under the applicable Legislation of any of the Jurisdictions. The Agent is and will be registered as a dealer or equivalent under the applicable securities legislation in the United States. References to the Agent may include a subsidiary of the Agent that is registered as a dealer or equivalent under the applicable securities legislation in the United States;
  12. the Agent will not offer any advice to the Purchasers (as defined below) regarding the decision to acquire, hold or sell the First Data common stock acquired under the Plan;
  13. all sales of First Data common stock carried out by the Agent on behalf of the Purchasers pursuant to the Plan will be made through the New York Stock Exchange in accordance with the rules of such exchange;
  14. Participants resident in the Jurisdictions will be provided with a copy of the Plan, the disclosure material relating to the Plan that is provided to all other Participants and this Decision Document, and upon becoming a shareholder of First Data, Purchasers resident in the Jurisdictions will be concurrently provided with the disclosure material relating to First Data that is provided to holders of First Data common stock resident in the United States;
  15. at the time of any issuance of First Data common stock under the Plan, holders of First Data common stock whose last address as shown on the books of First Data is in Canada do not hold more than 10% of the total number of outstanding shares of First Data common stock and do not represent in number more than 10% of the total number of holders of First Data common stock;
  16. First Data common stock is not listed or posted for trading on any securities exchange or over-the-counter market in Canada but is listed and posted for trading on the New York Stock Exchange;
  17. there is no present or anticipated future market in Canada for the First Data common stock;
  18. the Legislation of certain of the Jurisdictions does not contain exemptions from the Prospectus Requirement and/or Registration Requirement for trades in First Data common stock to or by the Participants and/or their Family Members carried out through the Agent; and
  19. where the Agent sells First Data common stock on behalf of Participants and/or their Family Members under the Plan, the Participants, their Family Members and the Agent, as applicable, are not able to rely on the exemption from the Registration Requirement contained in the Legislation for trades made by a person acting solely through a registered dealer under the Legislation.
- AND WHEREAS** under the System this MRRS Decision Document evidences the decision of each of the Decision Makers (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:
- (a) the Registration Requirement and Prospectus Requirement shall not apply to the issuance by First Data of First Data common stock to Participants, or to Participants and their Family Members jointly, (collectively, Participants or Participants and their Family Members are referred to as the "Purchasers") under the Plan, whether such issuance is made directly to the Purchasers or to the Agent on behalf of the Purchasers; provided that the first trades in First Data common stock acquired under this Decision is deemed to be a distribution or a primary distribution to the public under the Legislation unless such trade is executed through the facilities of a stock exchange or organized market outside of Canada and in accordance with all the laws and rules applicable to such exchange or market; and
  - (b) the Registration Requirement shall not apply to the Agent in connection with trades in First Data common stock under the Plan or to the first trades in First Data common stock acquired by Purchasers under the Plan made through the Agent.

DATED at Halifax, Nova Scotia this 27th day of November, 2000.

"H. Leslie O'Brien"

**2.1.2 RBC Dominion Securities Inc., CIBC World Markets Inc. and Mindready Solutions Inc. - MRRS Decision**

**IN THE MATTER OF THE SECURITIES LEGISLATION OF ONTARIO, NEWFOUNDLAND, BRITISH COLUMBIA, and QUEBEC**

**AND**

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

**AND**

**IN THE MATTER OF RBC DOMINION SECURITIES INC., CIBC WORLD MARKETS INC. AND MINDREADY SOLUTIONS INC.**

**MRRS DECISION DOCUMENT**

WHEREAS the securities regulatory authority or regulator (the «Decision Maker») in each of British Columbia, Newfoundland and Québec (the «Jurisdictions») has received a application from RBC Dominion Securities Inc. ("DS") and CIBC World Markets Inc. ("MM"), (the «Filers») 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 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 Filers in respect of a proposed distribution (the «Offering») of Subordinate voting shares «Offered Securities») of Mindready Solutions Inc. (the "Corporation"), pursuant to a prospectus (the «Prospectus»);

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

1. in connection with the initial public offering of Subordinate Voting Shares of the Corporation an exemption be granted by each of the Decision Makers in order to permit the syndicate to be formed to underwrite the Offering to consist of:

Name of Underwriter	Proportion of Offering
DS	50%
CIBC World Markets Inc. ("CW")	25%
Yorkton Securities Inc.	15%
Desjardins Securities Inc.	10%

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications, the *Commission des valeurs mobilières du Québec* is the Principal Jurisdiction for this application.

AND WHEREAS it has been represented to the Decision Makers that:

1. The Corporation was incorporated under the *Canada Business Corporations Act* on September 16, 1999 and is not currently a reporting issuer under the Act.
2. The Corporation's primary business is test engineering solutions, which consists of the design and implementation of electronics test solutions for every step of the quality assurance process required by customers, including but not limited to x-ray, in-circuit, functional and environmental test solutions.
3. The Corporation is proposing to complete the Offering in each of the provinces of Canada and the Offering is to be made by way of a long form prospectus (the «Prospectus»).
4. The head office of the Corporation is in Québec.
5. A preliminary prospectus in respect of the Offering was filed with the securities regulators of each province, with the *Commission des valeurs mobilières du Québec* designated as the principal regulator under National Policy 43-201 (Mutual Reliance Review System for Prospectuses and Annual Information Forms), on October 6, 2000.
6. The nature of the relationship among the Corporation and the Filer has been described in the Preliminary Prospectus and will be described in the Prospectus. The Prospectus will contain the information specified in Appendix «C» of the Multi-Jurisdictional Instrument 33-105 and Companion Policy 33-105 – Underwriting Conflicts ("Proposed Instrument") in connection with indebtedness of the Corporation to CIBC;
7. DS initially approached and began to discuss the possibility of an initial public offering with the Corporation in August 2000.
8. The Corporation is a subsidiary of Nurun Inc. («Nurun»), whose shares are listed for trading on the Toronto Stock Exchange. Nurun is, in turn, an indirect subsidiary of Quebecor Inc. («Quebecor»), the shares of which are also listed on the Toronto Stock Exchange.
9. Quebecor is currently in the process of arranging for financing in connection with its proposed acquisition of all of the common shares of Le Groupe Vidéotron Ltée. The financing will take the form of a non-revolving acquisition facility in the amount of approximately \$2 billion in favour of Quebecor Médiaco Inc. ("Quebecor Médiaco"), an affiliate of Quebecor, by a syndicate of financial institutions to be led by the Royal Bank of Canada («RBC»). A credit facility in the amount of \$1.2 billion will also be extended to Quebecor by a syndicate of financial institutions to be led by RBC.
10. Canadian Imperial Bank of Commerce («CIBC») is a lender to the Corporation (and Beltron Technologies Inc., a company acquired by the Corporation in March

2000 whose activities are now carried on by the Corporation) pursuant to a credit facility in the approximate amount of \$15 million, which includes an operating line of credit and a "bridge loan" in the amount of \$5 million. As of the date hereof, an approximate amount of \$5 million has been drawn down under such credit facility and the Corporation expects that an approximate amount of \$7 million will have been drawn down at the time of the closing of the Offering. It is anticipated that a portion of the proceeds of the Offering will be used to reimburse part of the indebtedness to CIBC.

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

12. DS proposes that the Syndicate consist of:

Name of Underwriter	Proportion of Offering
DS	50%
CW	25%
Yorkton Securities Inc.	15%
Desjardins Securities Inc.	10%

13. Each of DS, CW, Yorkton Securities Inc. and Desjardins Securities Inc. has participated in the drafting of the Prospectus and in the due diligence related to the Offering.

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

15. DS is a wholly-owned subsidiary of RBC and CW is a wholly-owned subsidiary of CIBC.

16. Neither DS nor CW played a role in the decisions of Quebecor, Nurun or the Corporation to accept the financing arrangements described above. Such arrangements are not conditional upon either DS or CW being involved in the Offering or, in fact, upon the Offering being completed. Each of Quebecor, Nurun and the Corporation accepted the financings and the terms thereof independently of any involvement of either DS or CW in the Offering. The net proceeds from the Offering will not be used to repay the indebtedness to the RBC or to CIBC, with the exception of the repayment of a portion of the indebtedness to CIBC by the Corporation as mentioned above.

17. The Corporation is not a «related issuer», as defined in the Legislation, in respect of any of the members of the Syndicate, including DS and CW. The Corporation may be considered to be a «connected issuer», as defined in the Legislation, of DS and/or CW if the indebtedness of Quebecor and Quebecor Médiaco to RBC and/or the indebtedness of Nurun and the Corporation to CIBC is considered to be «indebtedness to, or any other relationship with ...» DS or RBC «that in connection with a distribution of securities of the Corporation, is material to a prospective subscriber of the securities».

18. In connection with the Offering, the Corporation is neither a «related issuer» nor a «connected issuer», as such terms are defined in the Legislation, in respect of either Yorkton Securities Inc. or Desjardins Securities Inc.

19. The Issuer is not a «specified party» as defined in the Proposed Instrument.

20. The applicant has requested an exemption from the relevant provisions of the Legislation, such that DS, CW, Yorkton Securities Inc. and Desjardins Securities Inc. be permitted to underwrite the Offering in the proportions specified above. In light of the facts described above and, specifically, the fact that 25% of the Offering will be underwritten by independent underwriters (namely Yorkton Securities Inc. and Desjardins Securities Inc.), it was respectfully submitted to the Decision Makers that the granting of the exemption requested would not be detrimental to the protection of investors.

**WHEREAS** pursuant to the mutual reliance review system for exemptive relief applications, 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 Independent Underwriter Requirement shall not apply to the Filers in connection with the Offering provided 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.

**DATED** at Montréal, this 29 day of November, 2000.

Le directeur de la Conformité et de l'application,  
(s) "Jean Lorrain"  
M<sup>e</sup> Jean Lorrain



### 2.1.3 Oncolytics Biotech Inc. - MRRS Decision

#### Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Waiver granted pursuant to section 4.5 of National Policy Statement No. 47 to enable issuer to participate in the POP System when it did not meet the "public float" test in the last calendar month of its most recent financial year-end in respect of which its Initial Annual Information Form will be filed provided that it does meet the "public float" test at a date within 60 days before the filing of its preliminary short form prospectus.

#### National Policies Cited

National Policy Statement No. 47 Prompt Offering Qualification System, ss. 4.1 and 4.5.

#### National Instruments Cited

Proposed National Instrument 44-101 Short Form Prospectus Distributions

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

AND

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

AND

**IN THE MATTER OF ONCOLYTICS BIOTECH INC.  
MRRS DECISION DOCUMENT**

1. **WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of Alberta, British Columbia and Ontario (the "Jurisdictions") has received an application from Oncolytics Biotech Inc. (the "Filer") for a decision pursuant to the securities legislation of each of Jurisdictions (the "Legislation") that the requirement (the "Eligibility Requirement"), under National Policy Statement No. 47 (the "POP Requirements"), that the calculation of the aggregate market value of an issuer's outstanding equity securities be based upon the average closing prices during the last calendar month of the issuer's most recently completed financial year shall not apply to the Filer so as to permit the Filer to participate in the prompt offering qualification system (the "POP System");
2. **AND WHEREAS** pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Executive Director of the Alberta Securities Commission is the principal regulator for this application;

3. **AND WHEREAS** the Filer has represented to the Decision Makers that:

- 3.1 the Filer was incorporated on April 2, 1998 pursuant to the *Business Corporations Act* (Alberta);
- 3.2 the principal business office of the Filer is located at 301, 1211 Kensington Road N.W., Calgary, Alberta T2N 3P6. The registered office of the Filer is located at 4500 Bankers Hall East, 855 - 2nd Street S.W., Calgary, Alberta T2P 4K7;
- 3.3 the Filer became a reporting issuer in the provinces of Alberta, British Columbia and Ontario on October 28, 1999. To the best of its knowledge, the Filer is not in default under any securities legislation in any of the provinces of Canada;
- 3.4 the Filer's financial year-end is December 31
- 3.5 the common shares of the Filer are listed and posted for trading on the facilities of The Toronto Stock Exchange (the "TSE") and have been since June 1, 2000. The Filer voluntarily delisted its common shares from the Canadian Venture Exchange (the "CDNX") on August 24, 2000;
- 3.6 as at December 31, 1999 (being the Filer's most recent financial year end), the Filer had 13,669,997 common shares issued and outstanding, being the only class of securities of the Filer that carry a residual right to participate in earnings of the Filer and, upon liquidation or winding up of the Filer, in its assets;
- 3.7 the Filer's common shares are widely held and to the best of Filer's knowledge, based upon public records, none of its common shares are required to be excluded in accordance with subclause 4.1(2)(a) of NP 47 except for 6,750,000 common shares registered in the name of SYNSORB Biotech Inc.;
- 3.8 as at December 31, 1999, the aggregate market value of the Filer's common shares was approximately \$16,469,593 (based on an arithmetic average of the closing trading prices for the month of December, 1999 of \$2.38, as calculated in accordance with NP 47 and excluding the shares registered in the name of SYNSORB Biotech Inc.);
- 3.9 the Filer completed a private placement of 3,000,000 special warrants on February 15, 2000 resulting in the issue of an additional 3,000,000 common shares of the Filer. The Filer filed and received final receipts in March, 2000 from each of the Decision Makers for a prospectus in respect of the distribution of such common shares;

- 3.10 based upon information available from the CDNX and TSE, since March 31, 1999, the arithmetic average of the monthly closing trading prices of the Filer's common shares has been consistently higher than the arithmetic average which would enable the Filer to meet the market value test under subclause 4.1(1)(c) of NP 47;
  - 3.11 as at July 31, 2000, the Filer had 17,189,800 common shares issued and outstanding and the aggregate market value of the Filer's common shares was approximately \$138,536,146 (based on an arithmetic average of the closing trading prices for the month of July, 2000 of \$13.27, as calculated in accordance with NP 47 and excluding the shares registered in the name of SYNSORB Biotech Inc.);
  - 3.12 the Filer currently would fulfil the eligibility requirements of the POP System and the Legislation to enable it to file an Initial AIF but for the fact the Filer has not been a reporting issuer for at least 12 months and the aggregate market value of its common shares for the month of December, 1999 was less than \$75,000,000;
  - 3.13 the Filer would be eligible to participate in the POP System upon the filing and acceptance of its Initial AIF under Proposed National Instrument 44-101 which would replace the current time period for calculating an issuer's aggregate market value under NP 47 for its Initial AIF with a calculation as of a date within sixty (60) days of filing the issuer's preliminary short form prospectus; and
  - 3.14 the Filer intends to file an Initial AIF shortly and may wish to effect an offering prior to the end of its current financial year and is of the view that in its circumstances, a short form prospectus would be the most appropriate vehicle for such an offering;
4. **AND WHEREAS** under the System, this Document evidences the decision of each Decision Maker (collectively, the "Decision");
  5. **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;
  6. **THE DECISION** of the Decision Makers under the Legislation is that the Eligibility Requirements shall not apply to Filer provided that:
    - 6.1 the Filer complies with all of the filing requirements and procedures and each of the other eligibility requirements of NP 47;
    - 6.2 the aggregate market value of the common shares of the Filer, calculated in accordance with subsection 4.1(2) of NP 47, on a date within sixty (60) days before the date of the filing of the Filer's preliminary short form prospectus is at least \$75,000,000;
  - 6.3 the eligibility certificate required to be filed in connection with the Filer's initial annual information form shall provide that the Filer satisfies the Market Capitalization Requirement in accordance with this Decision; and
  - 6.4 this waiver terminates on the earlier of:
    - 6.4.1 140 days after the end of the Filer's financial year ended December 31, 2000; and
    - 6.4.2 the date a renewal annual information form is filed by the Filer in respect of its financial year ended December 31, 2000.

DATED at Edmonton, Alberta this 30<sup>th</sup> day of October, 2000.

"Agnes Lau, C.A."  
Deputy Director, Capital Markets

**2.1.4 Altamira Funds - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - Investment by mutual funds in securities of another mutual fund that is under common management for specified purposes excepted from the requirements of section 101, clause 111(2)(b), and subsection 111(3), clauses 117(1)(a) and (d), subject to certain specified conditions.

**Statutes Cited**

*Securities Act* (Ontario), R.S.O., c.S.5, as am. ss. 101, 104(2)(c), 111(2)(b), 111(3), 113, 117(1)(a), 117(1)(d) and 117(2).

IN THE MATTER OF  
THE SECURITIES LEGISLATION  
OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,  
ONTARIO, QUÉBEC, NOVA SCOTIA AND  
NEWFOUNDLAND

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

ALTAMIRA RSP GLOBAL 20 FUND  
ALTAMIRA RSP HEALTH SCIENCES FUND  
ALTAMIRA RSP GLOBAL TELECOMMUNICATIONS  
FUND  
ALTAMIRA RSP BIOTECHNOLOGY FUND  
ALTAMIRA RSP GLOBAL DIVERSIFIED FUND  
ALTAMIRA INVESTMENT SERVICES INC.  
ALTAMIRA MANAGEMENT LTD.

**DECISION DOCUMENT**

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland (the "Jurisdictions") has received an application from Altamira Investment Services Inc. ("AISI"), as manager and trustee of the Altamira RSP Global 20 Fund, Altamira RSP Health Sciences Fund, Altamira RSP Global Telecommunications Fund, Altamira RSP Biotechnology Fund and Altamira RSP Global Diversified Fund (the "Funds" and together with other mutual funds to be established and managed by AISI from time to time, each having an investment objective or strategy that is linked to the returns or portfolio of another mutual fund managed by AISI while remaining 100% eligible for registered retirement savings plans, registered retirement income funds and deferred profit sharing plans ("Registered Plans") under the *Income Tax Act* (Canada) (the "Tax Act", the "RSP Funds") for a decision by each Decision Maker (collectively, the "Decision") under the securities legislation (the "Legislation") of the Jurisdictions that the following provisions in the Legislation (the "Applicable Requirements") shall not apply to the RSP Funds, AISI, Altamira Management Ltd. ("AML") or a portfolio sub-adviser,

as the case may be, in respect of certain investments to be made by an RSP Fund in the applicable AISI mutual fund from time to time (the funds in which such investments are to be made being collectively referred to as the "Underlying Funds"):

- A. the provisions requiring the management company of a mutual fund to file a report relating to the 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 its related persons or companies;
- B. the provisions prohibiting a mutual fund from knowingly making and 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 unitholder; and
- C. the provisions prohibiting a mutual fund from knowingly making an investment in an issuer in which any officer or a director of the mutual fund, its management company or distribution company or an associate of any of them, or any person or company who is a substantial security holder of the mutual fund, its management company or distribution company, has a significant interest.

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 AISI has represented to the Decision Makers that:

- 1. AISI is a corporation incorporated under the laws of Canada and its head office is located in Ontario. AISI is or will be the manager, trustee and promoter of the RSP Funds and the Underlying Funds (collectively, the "Funds").
- 2. "AML" is a corporation continued under the laws of Ontario and is or will be the investment manager of the Funds.
- 3. The Funds are or will be open-end mutual fund trusts established under the laws of Ontario. The units of the Funds are or will be qualified for distribution in all of the provinces and territories of Canada (the "Prospectus Jurisdictions") pursuant to simplified prospectus(es) and annual information form(s) (the "Prospectus").
- 4. Each of the Funds is or will be a reporting issuer under the Legislation of each of the Prospectus Jurisdictions (other than those jurisdictions which do not recognize reporting issuers).
- 5. The applicable Prospectus will contain disclosure with respect to the investment objective, investment practices and restrictions of the Funds.

6. The investment objectives of each RSP Fund is or will be similar to that of the applicable Underlying Fund. Each RSP Fund will seek to achieve its investment objective primarily by investing in:
- a) forward contracts or other derivatives that are linked to the returns earned by the applicable Underlying Fund;
  - b) cash, bank deposits and/or money market instruments to support their obligations under the forward contracts or other derivatives; and
  - c) units of the applicable Underlying Fund.

All purchases by an RSP Fund of units of the applicable Underlying Fund will be made through AISI (or an affiliate).

- 1. Each RSP Fund will make investments such that its units will be "qualified investments" for Registered Plans.
- 2. The investment objectives of the Underlying Funds will be achieved through investment primarily in foreign securities.
- 3. The direct investment by each RSP Fund in its Underlying Fund will be in an amount not to exceed the amount prescribed from time to time as the maximum permitted amount which may be invested in "foreign property" under the Tax Act without the imposition of tax under Part XI of the Act (the "Foreign Property Maximum").
- 4. The direct investment by each RSP Fund in its Underlying Fund will be within the Foreign Property Maximum (the "Permitted RSP Fund Investment"). The amount of direct investment by each RSP Fund in its Underlying Fund will be adjusted from time to time so that, except for transitional cash, the aggregate of derivative exposure to, and direct investment in, the Underlying Fund (or its portfolio securities) will equal 100% of the net assets of that RSP Fund.
- 5. Except to the extent evidenced by this Decision Document and specific approvals granted by the securities regulatory authorities or regulators under National Instrument NI 81-102 ("NI 81-102"), the investment by the RSP Funds in their Underlying Funds have been or will be structured to comply with the investment restrictions of the Legislation and NI 81-102.
- 6. In the absence of this Decision, each of the RSP Funds is prohibited from knowingly making and holding an investment in the applicable Underlying Fund in which the RSP Fund alone or together with one or more related mutual funds is a substantial unitholder.
- 7. In the absence of this Decision, any RSP Fund would be prohibited from knowingly making an investment in any Underlying Fund in which AISI or an associate of AISI has a significant interest.

- 8. In the absence of this Decision, the Legislation would require AISI to file a report on every purchase or sale of units of an Underlying Fund by an RSP Fund.
- 9. The investment in, or redemption of, units of an Underlying Fund by an RSP Fund will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the RSP Fund.

**AND WHEREAS** pursuant to the System this Decision Document evidences the Decision of each Decision Maker;

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

**THE DECISION** of the Decision Makers pursuant to the Legislation is that the Applicable Requirements shall not apply to AISI, the RSP Funds, AML or a portfolio sub-adviser, as the case may be, in respect of investments to be made by the RSP Funds in units of the Underlying Funds provided that:

- (1) the Decision, as it relates to the jurisdiction of a Decision Maker, will terminate one year after the publication in final form of any legislation or rule of that Decision Maker dealing with the matters in section 2.5 of NI 81-102; and
- (2) the Decision shall apply only to investments in, or transactions with, the applicable Underlying Fund that are made by an RSP Fund in compliance with the following conditions:
  - a) the RSP Fund and the Underlying Fund are under common management and the units of both are offered for sale in the jurisdiction of each Decision Maker pursuant to a prospectus that has been filed with and accepted by the Decision Maker;
  - b) the RSP Fund restricts its aggregate direct investment in units of the Underlying Fund to a percentage of its assets that is within the Foreign Property Maximum;
  - c) the investment by the RSP Fund in units of the Underlying Fund is compatible with the fundamental investment objectives of the RSP Fund; each RSP Fund will not invest in an Underlying Fund whose investment objective includes investing directly or indirectly in other mutual funds;
  - d) the Prospectus discloses the intent of the RSP Fund to invest in units of the Underlying Fund;
  - e) the RSP Fund may change the Permitted RSP Fund Investments if it changes its fundamental investment objective in accordance with the Legislation;

- f) no sales charges are payable by the RSP Fund in relation to its purchases of units of the Underlying Fund;
- g) there are compatible dates for the calculation of the net asset value of the RSP Fund and the Underlying Fund for the purpose of the issue and redemption of units of both mutual funds;
- h) no redemption fees or other charges are charged by the Underlying Fund in respect of the redemption by the RSP Fund of units of the Underlying Fund owned by the RSP Fund (other than an early withdrawal fee of 2% which may be payable when an investor in the RSP Fund redeems units purchased and held less than 90 days);
- i) no fees and charges of any sort are paid by the RSP Fund, the Underlying Fund, the manager or principal distributor of the RSP Fund or the Underlying Fund or by any affiliate or associate of any of the foregoing entities to anyone in respect of the RSP Fund's purchase, holding or redemption of the units of the Underlying Fund;
- j) the arrangements between or in respect of the RSP Fund and the Underlying Fund are such as to avoid the duplication of management fees;
- k) in the event of the provision of any notice to unitholders of the Underlying Fund as required by applicable laws or the constating documents of the Underlying Fund, the notice will also be delivered to the unitholders of the RSP Fund; all voting rights attached to the units of the Underlying Fund that are owned by the RSP Fund will be passed through to the unitholders of the RSP Fund;
- l) in the event that a meeting of unitholders of the Underlying Fund is called, all of the disclosure and notice material prepared in connection with such meeting and received by the RSP Fund will be provided to the unitholders of the RSP Fund; and each unitholder will be entitled to direct a representative of the RSP Fund to vote that unitholder's proportion of the RSP Fund's holding in the Underlying Fund in accordance with his or her direction; and the representative of the RSP Fund will not be permitted to vote the RSP Fund's holdings in the Underlying Fund except to the extent the unitholders of the RSP Fund so direct;
- m) in addition to receiving the annual and, upon request, the semi-annual financial statements of the RSP Fund, unitholders of the RSP Fund will receive the annual and upon request, the semi-annual financial statements, of the Underlying Fund in either a combined report, containing both the RSP Fund's and the Underlying Fund's financial statements, or in a separate report containing the Underlying Fund's financial statements; and)
- n) to the extent that the RSP Fund and the Underlying Fund do not use a combined simplified prospectus, annual information form and financial statements containing disclosure about the RSP Fund and the Underlying Fund, copies of the simplified prospectus, annual information form and financial statements relating to the Underlying Fund may be obtained upon request by a unitholder of the RSP Fund.

December 5th, 2000.

"Howard I. Wetston"

"Stephen N. Adams"

**2.1.5 Cisco Systems Inc. and Pixstream Incorporated - MRSS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - Registration and prospectus relief granted for trades made in connection with a cross-border acquisition of non-reporting Canadian issuer by U.S. public issuer employing exchangeable share structure, subject to certain conditions including first trade restrictions on the common shares of U.S. issuer underlying exchangeable shares.

**Applicable Ontario Statutes**

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

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

**AND**

**IN THE MATTER OF**

**THE MUTUAL RELIANCE REVIEW SYSTEM  
FOR EXEMPTIVE RELIEF APPLICATIONS**

**AND**

**IN THE MATTER OF CISCO SYSTEMS, INC.  
AND PIXSTREAM INCORPORATED**

**MRRS DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Ontario and Newfoundland (collectively, the "Jurisdictions") has received an application from Cisco Systems, Inc. and PixStream Incorporated ("Cisco" and "Pixstream", respectively, and collectively the "Filer") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement to be registered to trade in a security (the "Registration Requirement") and to file and obtain a receipt for a preliminary prospectus and a prospectus (the "Prospectus Requirement") contained in the Legislation shall not apply to certain trades in securities to be made in connection with the proposed acquisition by Cisco of all of the issued and outstanding shares in the capital of PixStream (the "Acquisition") made pursuant to the terms of a merger agreement dated August 29, 2000 (the "Merger Agreement") between Cisco; 3045848 Nova Scotia Company ("Cisco Newco"), an indirect wholly-owned subsidiary of Cisco; 3801110 Canada Inc. ("Cisco Canada"), a wholly-owned subsidiary of Cisco Newco; and PixStream, as amended.

**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. Cisco is a corporation incorporated under the laws of the State of California, with its head office in San Jose, California.
2. Cisco is currently subject to the reporting requirements of the *United States Securities Exchange Act of 1934*, as amended, and is not a "reporting issuer" or the equivalent concept in any of the Jurisdictions.
3. The common shares in the capital of Cisco (the "Cisco Shares") are quoted on the Nasdaq National Market ("Nasdaq").
4. Cisco is the leading global supplier of internetworking solutions, including routers, switches, dial-up access servers and network management software. These products, integrated by the Cisco IOS Software, link geographically dispersed local area networks, wide area networks, and IBM networks. Cisco is a multinational corporation with over US\$12.15 billion in revenues and over 20,000 employees.
5. The authorized capital stock of Cisco consists of 20,000,000,000 Cisco Shares, par value US\$0.001 per share, and 5,000,000 shares of preferred stock, par value US\$0.001 per share, of which there were issued and outstanding as of September 11, 2000, 7,157,664,864 Cisco Shares and no shares of preferred stock. The Cisco Shares are fully participating, voting shares.
6. According to the share register of Cisco as at September 11, 2000, there were 371,092 Cisco Shares registered in the name of 64 holders resident in British Columbia, 1,739,747 Cisco Shares registered in the name of 214 holders resident in Ontario, and no Cisco Shares registered in the name of holders resident in Newfoundland. Those Cisco Shares, combined, represented approximately 0.03% of the total issued and outstanding Cisco Shares.
7. PixStream is a corporation incorporated under the laws of Canada with its head office in Waterloo, Ontario.
8. PixStream is not a "reporting issuer" or the equivalent concept in any of the Jurisdictions and its securities are not quoted or listed on any public market.
9. PixStream develops, manufactures and markets hardware and software solutions that enable network service providers to distribute and manage digital video.
10. PixStream is authorized to issue an unlimited number of Class A voting common shares ("Class A Shares") and an unlimited number of Class B non-voting common shares ("Class B Shares"), of which there were issued and outstanding as of August 29, 2000, 40,846,730 Class A Shares and 3,918,282 Class B Shares.
11. According to the share register of PixStream as at September 11, 2000 there were 16,250 Class A Shares

- held in the name of one holder with a registered address in British Columbia, 40,247,670 Class A Shares held in the name of 200 holders with a registered address in Ontario and 3,918,282 Class B Shares held in the name of 14 holders with a registered address in Ontario, and 20,000 Class A Shares held in the name of one holder with a registered address in Newfoundland.
12. As of August 29, 2000, 15,597,000 Class A Shares had been reserved for issuance and were subject to options ("Options") granted or to be granted prior to completion of the Acquisition pursuant to written agreements between PixStream and holders of Options. Options to purchase 100,000 Class A Shares are held in the name of one holder with a registered address in British Columbia, Options to purchase 12,009,000 Class A Shares are held in the name of approximately 160 holders with a registered address in Ontario, and no Options to purchase Class A Shares are held in the name of holders with a registered address in Newfoundland.
13. As of August 29, 2000, 8,950,000 Class A Shares had been reserved for issuance and were subject to outstanding warrants ("Warrants") pursuant to written agreements between PixStream and holders of Warrants. Warrants to purchase 7,817,400 Class A Shares are held by 45 holders with a registered address in Ontario and no Warrants to purchase Class A Shares are held by holders with a registered address in British Columbia or Newfoundland.
14. PixStream currently holds 100% of the issued and outstanding Class A shares and Class B shares in the capital of Kaparel Corporation ("Kaparel") plus 40% of the issued and outstanding common shares in the capital of Kaparel. PixStream intends to dispose of its interest in Kaparel prior to the completion of the Acquisition (the "Kaparel Disposition").
15. The Acquisition will be effected through the following steps:
- (a) PixStream will apply, under Section 192 of the Canada Business Corporations Act (the "CBCA"), for an order (the "Interim Order") of the Ontario Superior Court of Justice (the "Court") approving a plan of arrangement (the "Plan of Arrangement");
  - (b) PixStream will hold a special meeting (the "Special Meeting") of holders of Class A Shares, Class B Shares, Options and Warrants (collectively, the "PixStream Securityholders") for the purpose of considering a resolution approving the Plan of Arrangement and the Acquisition;
  - (c) subject to obtaining the required approval from the PixStream Securityholders, PixStream will proceed with an application to the Court for a final order approving the Plan of Arrangement (the "Final Order");
- (d) in the event the Kaparel Disposition is not completed prior to the Special Meeting, PixStream will divest its interest in Kaparel to a newly formed corporation ("KHoldco") in exchange for a promissory note (the "KHoldco Note");
  - (e) subject to obtaining the Final Order, PixStream will file with the Director appointed pursuant to Section 260 of the CBCA, Articles of Arrangement and such other documents as may be required under the CBCA to give effect to the Plan of Arrangement;
  - (f) upon endorsement of the Articles of Arrangement, PixStream shall amalgamate (the "Amalgamation") with one of its corporate shareholders ("Holdco") to form "Amalco";
  - (g) upon the Amalgamation, all of the Class A Shares and all of the Class B Shares (except those held by Holdco, which will be cancelled) and all of the outstanding shares of Holdco ("Holdco Shares") will be converted into Amalco common shares ("Amalco Common Shares") and, in the event the Kaparel Disposition is not completed prior to the Special Meeting, Amalco special shares ("Amalco Special Shares");
  - (h) in the event the Kaparel Disposition is not completed prior to the Special Meeting, immediately after the Amalgamation, all of the issued and outstanding Amalco Special Shares will be transferred to KHoldco in exchange for an equal number of KHoldco common shares (the "KHoldco Shares");
  - (i) in the event the Kaparel Disposition is not completed prior to the Special Meeting, immediately after the transfer of Amalco Special Shares to KHoldco, the Amalco Special Shares will be purchased for cancellation by Amalco, such purchase price to be satisfied by the cancellation of the KHoldco Note;
  - (j) immediately after the Amalgamation, all of the issued and outstanding Amalco Common Shares will be exchanged, at an exchange ratio determined by the Merger Agreement, for Cisco Canada exchangeable shares (the "Exchangeable Shares") and certain ancillary rights;
  - (k) each Option shall be assumed by Cisco and will become exercisable for Cisco Shares;
  - (l) each Warrant will be exercised prior to the Amalgamation;
  - (m) Cisco Canada will transfer all of the issued and outstanding Amalco Common Shares to an indirect, wholly-owned subsidiary of Cisco ("ULC #1") which will be a Nova Scotia unlimited liability company, in exchange for ULC #1 preferred shares;

- (n) Amalco will be continued from the jurisdiction of the CBCA as a Nova Scotia company; and
- (o) Amalco will amalgamate with a wholly-owned subsidiary of Amalco ("ULC #2") which will be a Nova Scotia unlimited liability company, and the resulting company will be a Nova Scotia unlimited liability company which is an indirect subsidiary of Cisco.
16. The management proxy circular (the "Circular") to be delivered to PixStream security holders in connection with the Special Meeting is being prepared in conformity with the provisions of the CBCA and the Interim Order and will contain prospectus level disclosure of the business and affairs of Cisco and Cisco Canada and a detailed description of the Acquisition and the Plan of Arrangement.
17. The Exchangeable Shares will provide their holders (the "Exchangeable Shareholders") with a security of a Canadian issuer having economic and voting rights which are, as nearly as possible, equivalent to those of a holder of Cisco Shares. Exchangeable Shares generally will be received by Canadian residents on a tax-deferred roll-over basis.
18. Under the terms of the Exchangeable Shares (the "Exchangeable Share Provisions"), and certain rights to be granted in connection with the Plan of Arrangement, the Exchangeable Shareholders will be able to exchange them at their option for Cisco Shares on a one for one basis.
19. Pursuant to the Exchangeable Share Provisions and certain rights to be granted in connection with the Plan of Arrangement, Cisco Canada and Cisco Newco will be able to redeem, retract or acquire Exchangeable Shares in exchange for Cisco Shares in certain circumstances.
20. In order to ensure that the Exchangeable Shares remain the economic equivalent of Cisco Shares prior to their exchange, the Merger Agreement provides that, in accordance with the customary structure of such cross-border exchangeable share transactions, contemporaneously with the closing of the Acquisition, Cisco, Cisco Newco and Cisco Canada will enter into a support agreement (the "Support Agreement"), which will provide that, among other things, Cisco will (a) not declare or pay any dividends on Cisco Shares unless (i) Cisco Canada has sufficient resources available to pay simultaneous and equivalent dividends on the Exchangeable Shares, and (ii) Cisco Canada simultaneously declares or pays, as the case may be, such equivalent dividends; and (b) ensure that Cisco Canada will be able to honour the redemption and retraction rights and entitlements upon liquidation which are attributes of the Exchangeable Shares.
21. In addition, Cisco, Cisco Canada and Montreal Trust Company of Canada, as trustee (the "Trustee" or the "Depositary") will enter into a voting and exchange trust agreement (the "Voting and Exchange Trust Agreement"), which will, among other things:
- (a) grant to the Trustee, for the benefit of the Exchangeable Shareholders, the right to require Cisco to indirectly exchange the Exchangeable Shares for Cisco Shares upon the occurrence of specified events (the "Exchange Right"); and
- (b) provide for the deposit by Cisco, with the Depositary, of Cisco Shares that will effectively provide the Exchangeable Shareholders with voting rights equivalent to those of Cisco Shares.
22. The Acquisition involves, or may involve, a number of trades (the "Trades") including: (i) the issuance of the Exchangeable Shares and Cisco Shares and the assumption of Options by Cisco; and (ii) the creation and exercise of all the various rights under the Plan of Arrangement, Voting and Exchange Trust Agreement, Support Agreement, and Exchangeable Share Provisions.
23. There may be no registration or prospectus exemptions available under the Legislation for certain of the Trades.
24. If all of the Exchangeable Shares were exchanged and all of the Assumed Options were exercised immediately after completion of the Acquisition, former PixStream security holders resident in the Jurisdictions would not in the aggregate hold more than 10% of the total number of issued and outstanding Cisco Shares or represent more than 10% of the total number of holders of Cisco Shares.
25. There is no organized market for Cisco Shares in the Jurisdictions and none is expected to develop.
26. Upon completion of the Plan of Arrangement and the Acquisition, none of Cisco, Cisco Canada, Amalco, Holdco or KHoldco will become a "reporting issuer" or the equivalent concept in any of the Jurisdictions.
27. All disclosure material furnished to holders of Cisco Shares in the United States will be concurrently furnished to Exchangeable Shareholder resident in the Jurisdictions.

**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 that Legislation is that:

1. the Registration Requirement and the Prospectus Requirement shall not apply to the Trades;
2. the first trade of Exchangeable Shares and Cisco Shares acquired in reliance on paragraph 1 of this Decision shall be a distribution, unless, in respect of the Cisco Shares, the trade is made through the facilities of Nasdaq or other market or exchange outside Canada and in accordance with the rules and regulations applicable to that market or exchange.

December 4th, 2000.

"J.A. Geller"

"R. Stephen Paddon"

## 2.1.6 iUNITS S&P/TSE Funds and Barclays Global Investors Canada Ltd. - MRRS Decision

### Headnote

Relief granted from certain provisions of securities legislation for initial and continuous distribution of units of exchange-traded fund - relief from registration requirement granted to permit the fund and its promoter to disseminate sales communication promoting the fund, subject to compliance with Part 15 of NI 81-102 - relief granted for the fund's prospectus not to contain an underwriter's certificate - relief from the registration requirement granted to permit members of futures exchanges and their partners, directors or officers to trade in units of the fund, subject to specified conditions.

### Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as amended - ss. 25(1), 59(1), 74(1) & 147.

### Rules Cited

National Instrument 81-102 Mutual Funds - Part 15.

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

AND

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

AND

IN THE MATTER OF THE  
iUNITS S&P/TSE 60 CAPPED INDEX FUND  
iUNITS S&P/TSE CANADIAN MIDCAP INDEX FUND  
iUNITS S&P/TSE CANADIAN ENERGY INDEX FUND  
iUNITS S&P/TSE CANADIAN INFORMATION  
TECHNOLOGY INDEX FUND  
iUNITS S&P/TSE CANADIAN GOLD INDEX FUND  
iUNITS S&P/TSE CANADIAN FINANCIALS INDEX FUND

AND

IN THE MATTER OF  
BARCLAYS GLOBAL INVESTORS CANADA LIMITED

### DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia, Prince Edward Island, New Brunswick, Newfoundland,

Yukon, Northwest Territories and Nunavut (the "Jurisdictions") has received an application from the iUnits S&P/TSE 60 Capped Index Fund, the iUnits S&P/TSE Canadian MidCap Index Fund, the iUnits S&P/TSE Canadian Energy Index Fund, the iUnits S&P/TSE Canadian Information Technology Index Fund, the iUnits S&P/TSE Canadian Gold Index Fund, the iUnits S&P/TSE Canadian Financials Index Fund (together, the "Funds") and Barclays Global Investors Canada Limited ("Barclays") (all collectively, the "Applicants") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that

- (a) the registration requirement of the Legislation does not apply to Barclays and the Funds, in connection with their proposed dissemination of sales communications relating to the distribution of securities of the Funds;
- (b) the registration requirement of the Legislation does not apply to trades in units of the Funds by members of a futures exchange, or by the members' partners, directors or officers trading on behalf of such members; and
- (c) in connection with the proposed distribution of securities of the Funds pursuant to a prospectus, the Funds be exempt from the requirement that the prospectus contain a certificate of the underwriter or underwriters who is/are in a contractual relationship with the issuer whose securities are being offered;

**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 Applicants have represented to the Decision Makers as follows:

1. Each Fund is a trust established under the laws of Ontario, with Barclays as the trustee of each Fund. Barclays' head office is located in Toronto, Ontario.
2. Barclays is registered in all provinces and territories, other than the Yukon, as a portfolio manager and investment counsel (or the equivalent categories of registration) under the Legislation of such Jurisdictions.
3. The investment objective of each Fund is to track the performance of the applicable S&P/TSE Index (the "Applicable Index"). The Applicable Index for each Fund is reflected in the name of the Fund.
4. In order to achieve its investment objective, each Fund will invest in and hold baskets of shares (the "Index Shares") of the companies (the "Constituent Companies") that make up the Applicable Index, in approximately the same proportion as they are represented in the Applicable Index (all the baskets of Index Shares collectively, the "Core Asset Shares").
5. Each Fund will issue units of beneficial interest ("Units") which will confer on investors a proportionate share of economic benefits similar to those which an investor could obtain through individual investments in the securities comprising the Applicable Index.

6. It is intended that the value of the Core Asset Shares underlying a Unit of a Fund (the "Core Asset Share Value per Unit") will equal, as closely as possible, 1/10th of the level of the Applicable Index.
7. The Funds have filed a preliminary prospectus with each Jurisdiction for the purpose of the public and continuous distribution of their Units in the Jurisdictions. Upon issuance of a receipt for the Funds' (final) prospectus (the "Prospectus"), each Fund will become a "reporting issuer" under the Legislation of each Jurisdiction where such term is applicable.
8. The Units of each Fund will be listed and posted for trading on The Toronto Stock Exchange (the "TSE"), and will trade at a market price that may not necessarily reflect the Core Asset Share Value per Unit of the Fund.
9. From time to time, there may be a deviation in tracking such that the Core Asset Share Value per Unit will be greater or less than 1/10th of the Applicable Index level. If a significant tracking deviation develops over time, the Funds may acquire or sell Index Shares, may redeem or issue Units, or may cause the number of Units outstanding to be consolidated or split, as necessary, in order to move the Core Asset Share Value per Unit closer to 1/10th of the level of the Applicable Index.
10. Units of the Funds may only be subscribed for or purchased directly from the Funds by
  - a. one or more members of the TSE who are registered dealers or brokers and who have entered into an underwriting agreement with the Funds (the "Underwriters"), or
  - b. one or more members of the TSE who are registered dealers or brokers and who have entered into a designated broker agreement with the Funds (the "Designated Brokers").

Subscription or purchase orders may be placed by an Underwriter or Designated Broker only for Units in the prescribed number (the "Prescribed Number") or an integral multiple thereof on any day on which there is a trading session on the TSE.

11. Each Underwriter or Designated Broker who subscribes for Units of the Funds on the first day on which the Funds accept subscriptions must deliver to the Funds, in respect of each Prescribed Number of units to be issued, a basket of Index Shares together with an amount in cash equal to a specified percentage, as set out in the Funds' Prospectus, of the value of the basket of Index Shares delivered.
12. Every subscription for the Prescribed Number of units of a Fund, subsequent to the first day on which such Fund accepts subscriptions, must be paid for by delivery of a basket of Index Shares and cash in an amount sufficient so that the value of the basket of Index Shares and the cash delivered is equal to the net

asset value of the Fund Units next determined following the receipt of the subscription order.

13. Upon notice given by Barclays from time to time and, in any event, not more than once quarterly, a Designated Broker will subscribe for Units in an amount not to exceed 0.15% of the net asset value of the applicable Fund next determined following delivery of the notice of subscription to that Designated Broker.
14. Neither the Underwriters nor the Designated Brokers will receive any fees or commissions in connection with each Fund's issuance of Units to them. Barclays, as trustee of the Funds may, at its discretion, charge an administration fee on the issuance of Units to the Underwriters.
15. Except as described in paragraphs 10 and 13 above, Units of each Fund may not be purchased directly from the Funds. Investors are generally expected to purchase Units of each Fund through the facilities of the TSE. However, Units of each Fund may be issued directly to Unitholders upon the reinvestment of the Fund's distributions of income or capital gains.
16. While unitholders who wish to dispose of their Units may generally do so by selling their Units on the TSE, a unitholder who holds a Prescribed Number of Units or an integral multiple thereof may exchange such Units for a basket of Index Shares and cash; unitholders may also redeem their Units for cash at a redemption price equal to 95% of the closing price of the units on the TSE on the date of redemption.
17. Members of a futures exchange (or their partners, directors and officers), who are registered only under the commodity futures legislation or requirements (if any) of the Jurisdiction where such members carry on the business of dealing in futures contracts, may have to trade units of the Funds in order to hedge their futures and other derivatives holdings based on the Applicable Index. Their registration under the applicable commodity futures legislation does not permit them to trade in Units of the Funds.
18. As trustee, Barclays will be entitled to receive a fixed annual fee from each Fund. Such annual fee will be calculated as a fixed percentage of the net asset value of each Fund. Barclays will be responsible for the payment of all expenses of the Funds, except for the trustee fee, any issuance fee payable by Underwriters, any redemption fees payable by Unitholders upon the redemption of a Prescribed Number of Units, any expenses incurred by the Funds' securities lending agent, any withholding taxes and any income taxes.
19. Unitholders holding at least the Prescribed Number of Units will be entitled to vote a proportion of the Index Shares of a Constituent Company held by a Fund equal to that Unitholder's proportion of outstanding Units. Unitholders holding less than a Prescribed Number of Units will have no right to vote the Index Shares of a Constituent Company held by a Fund.

**AND WHEREAS** under the System, this MRRS Decision Document evidences the decisions 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

- (a) the registration requirement of the Legislation does not apply to Barclays and the Funds, in connection with any dissemination of sales communications relating to the distribution of Units of the Funds, provided that they comply with Part 15 of National Instrument 81-102 Mutual Funds;
- (b) the registration requirement of the Legislation does not apply to trades in Units of the Funds by members of a futures exchange, or the members' partners, directors or officers trading on behalf of such members, provided that
  - (i) the members or their partners, directors or officers are registered for trading purposes under the commodity futures legislation or requirements (if any) of the Jurisdiction where such members carry on the business of dealing in futures contracts,
  - (ii) the trades in Units of the Funds are made only for such members' own account, and
  - (iii) neither the members nor their partners, directors or officers will trade in Units of the Funds on behalf of their clients.
- (c) in connection with the proposed distribution of Units of the Funds pursuant to the Prospectus or any renewal prospectus, the Funds are exempt from the requirement of the Legislation that the Prospectus or renewal prospectus contain a certificate of the Underwriters as defined in paragraph 10 above.

December 8th, 2000

"Robert W. Korthals"

"Robert W. Davis"

**2.1.7 TD Waterhouse Investor Services(Canada)  
Inc. - MRRS Decision**

**Headnote**

Mutual Reliance Review System for Exemptive Relief Applications - relief from the Suitability Requirements, as reflected in paragraph 1.5(1)(b) of OSC Rule 31-505, pursuant to section 4.1 of OSC Rule 31-505, subject to the terms and conditions set out in the Decision Document.

Decision pursuant to s.21.1(4) of the Act, that the IDA Suitability Requirements do not apply to the Filer, subject to the terms and conditions set out in the Decision Document.

**Applicable Ontario Statute**

Securities Act R.S.O. 1990, c.S.5, as amended, s.21.1(4).

**Rules Cited**

Ontario Securities Commission Rule 31-505 "Conditions of Registration" (1999) 22 O.S.C.B. 731.

**IDA Regulations Cited**

IDA Regulation 1300.1(b), 1800.5(b), 1900.4.

**IN THE MATTER OF THE SECURITIES LEGISLATION OF  
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,  
NEWFOUNDLAND, NOVA SCOTIA AND ONTARIO**

**AND**

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

**AND**

**IN THE MATTER OF TD WATERHOUSE INVESTOR  
SERVICES (CANADA) INC.**

**MRRS DECISION DOCUMENT**

**WHEREAS** the local securities regulatory authority or regulator (the "Decision Maker") in each of the provinces of British Columbia, Alberta, Saskatchewan, Newfoundland, Nova Scotia and Ontario (collectively, the "Jurisdictions") has received an application from TD Waterhouse Investor Services (Canada) Inc. (the "Filer") regarding the operation of the separate division, TD Waterhouse Direct (the "Division") for:

1. a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirements of the Legislation requiring the Division and its registered salespersons, partners, officers and directors ("Registered Representatives") to make inquiries of each client of the Division as are appropriate, in view of the nature of the client's investments and of the type of transaction being effected for the client's account, to determine (a) the general investment needs and objectives of the client and (b) the suitability of a

proposed purchase or sale of a security for the client (such requirements, the "Suitability Requirements") do not apply to the Division and its Registered Representatives; and

2. a decision under the Legislation, other than the securities legislation of Newfoundland and Nova Scotia, that the requirements of the Investment Dealers Association of Canada (the "IDA"), in particular IDA Regulation 1300.1(b), 1800.5(b) and 1900.4, requiring the Division and its Registered Representatives to make inquiries of each client of the Division as are appropriate, in view of the nature of the client's investments and of the type of transaction being effected for the client's account, to determine (a) the general investment needs and objectives of the client and (b) the suitability of a proposed purchase or sale of a security for the client (such requirements, the "IDA Suitability Requirements") do not apply to the Division and its Registered Representatives;

**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 and the Division have represented to the Decision Makers that:

1. the Filer is a corporation incorporated under the *Business Corporations Act* (Ontario) and is an indirect subsidiary of The Toronto-Dominion Bank;
2. the Division is a distinct internal operating division of the Filer;
3. the Filer has 38 branch offices and/or call centres located in all of the provinces of Canada other than Prince Edward Island;
4. the Filer is registered under the Legislation as an investment dealer or equivalent and is a member of the IDA;
5. TD Waterhouse Direct is a trade name of the Filer registered with each of the Jurisdictions;
6. the Division operates independently using its own letterhead, accounts, Registered Representatives and account documentation;
7. the Division and its Registered Representatives do not and will not, except as provided in 14 below, provide advice or recommendations regarding the purchase or sale of any security and the Filer and the Division have adopted policies and procedures to ensure the Division and the Division's Registered Representatives do not and will not, with such exception, provide advice or recommendations regarding the purchase or sale of any security;
8. when the Division provides trade execution services to clients it would, in the absence of this Decision, be required to comply with the Suitability Requirements and IDA Suitability Requirements;

9. clients who request the Division or its Registered Representatives to provide advice or recommendations or advice as to suitability will be referred to another division of the Filer or another dealer;
  10. the Division does not and will not compensate its Registered Representatives on the basis of transactional values;
  11. each client of the Filer will be advised of the Decision of the Decision Makers and requested to acknowledge that:
    - (a) no advice or recommendation will be provided by the Division or its Registered Representatives regarding the purchase or sale of any security, and
    - (b) the Division and its Registered Representatives will no longer determine the general investment needs and objectives of the client or the suitability of a proposed purchase or sale of a security for the client; (both (a) and (b) shall constitute the "Client Acknowledgement");
  12. the Client Acknowledgement will provide the client with sufficient detail and will explain to each client the significance of not receiving either investment advice or a recommendation from the Filer, including the significance of the Filer not determining the general investment needs and objectives of the client;
  13. each client of the Filer will be advised that he or she has the option of transferring his or her account or accounts to another division of the Filer or another dealer at no cost to the client if the client does not wish to provide a Client Acknowledgement (the "Account Transfer Option");
  14. the Division and its Registered Representatives will continue to comply with the Suitability Requirements and IDA Suitability Requirements for client accounts for which no Client Acknowledgement is received until June 30, 2001;
  15. after June 29, 2001, the Division will not permit a transaction in an account for which a Client Acknowledgement has not been received unless the transaction is a sale for cash or a transfer of assets to another account;
  16. all prospective clients of the Division will be advised and required to acknowledge that:
    - (a) no advice or recommendations will be provided by the Division or its Registered Representatives regarding the purchase or sale of any security, and
    - (b) the Division and its Registered Representatives will not determine the general investment needs and objectives of the client or the suitability of a proposed purchase or sale of a security for the client, (both (a) and (b) shall constitute the "Prospective Client Acknowledgement"),
  17. the Prospective Client Acknowledgement will provide the client with sufficient detail and will explain to each client the significance of not receiving either investment advice or a recommendation from the Filer, including the significance of the Filer not determining the general investment needs and objectives of the client, or the suitability of a proposed purchase or sale of a security for the client;
  18. the Filer and the Division have adopted policies and procedures to ensure:
    - (a) that evidence of all Client Acknowledgements, Prospective Client Acknowledgements and Account Transfer Options is established and retained pursuant to the record keeping requirements of the Legislation and the IDA,
    - (b) all client accounts of the Division are appropriately designated as being a client account to which a Client Acknowledgement or Prospective Client Acknowledgement has been received or being a client account to which a Client Acknowledgement has not been received, and
    - (c) for any client of the Division who does not provide a Client Acknowledgement and chooses to exercise the client's Account Transfer Option, the Division will transfer the client's account in an expeditious manner and at no cost to the client; and
  19. the Filer has adopted policies and procedures to ensure that:
    - (a) the Division will operate separately from any other division of the Filer,
    - (b) Registered Representatives of the Division will be clearly employed by the Division and will not handle the business or clients of any other division of the Filer, and
    - (c) a list of Registered Representatives of the Division is maintained at all times;
- 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 Suitability Requirements contained in the Legislation shall not apply to the Division and its Registered Representatives so long as:

1. except as permitted by 6 below, the Division and its Registered Representatives do not provide any advice or recommendations regarding the purchase or sale of any security;
2. clients who request the Division or its Registered Representatives to provide advice or recommendations or advice as to suitability are referred to another division of the Filer or another dealer;
3. the Division operates independently and operates using its own letterhead, accounts, Registered Representatives and account documentation;
4. the Division does not compensate its Registered Representatives on the basis of transactional values;
5. each client of the Filer is advised of the Decision of the Decision Makers and requested to make a Client Acknowledgement or transfer his or her account to another division of the Filer or another dealer if the client does not wish to make a Client Acknowledgement;
6. the Division and its Registered Representatives continue to comply, until June 30, 2001, with their Suitability Requirements and IDA Suitability Requirements for client accounts for which no Client Acknowledgement is received;
7. commencing June 30, 2001, the Division will not permit transactions in an account for which a Client Acknowledgement has not been received unless the transaction is a sale for cash or a transfer of assets to another account;
8. each prospective client of the Division is advised of the Decision of the Decision Makers and required to make a Prospective Client Acknowledgement prior to the Division or its Registered Representation servicing such prospective client;
9. evidence of all Client Acknowledgements, Prospective Client Acknowledgements and Account Transfer Options is established and retained pursuant to the record keeping requirements of the Legislation and the IDA;
10. for any client who elects to exercise the client's Account Transfer Option, the Filer transfers such account or accounts to another division of the Filer or another dealer in an expeditious manner and at no cost to the client;
11. the Division accurately identifies and distinguishes client accounts for which a Client Acknowledgement or Prospective Client Acknowledgement has been provided and client accounts for which no Client Acknowledgement has been provided;
12. the Filer has in force policies and procedures to ensure that:
  - (a) the Division continues to operate separately from any other division of the Filer,

(b) Registered Representatives of the Division are clearly employed by the Division and do not handle the business or clients of any other division of the Filer; and

(c) a list of Registered Representatives of the Division is maintained at all times; and

13. if an IDA rule addressing the IDA Suitability Requirements comes into effect, the Decision with respect to the Suitability Requirements will terminate one year following the date such rule comes into force, unless the Decision Maker determines otherwise.

December 7, 2000

"William R. Gazzard"

**THE DECISION** of the Decisions Makers, other than Newfoundland and Nova Scotia, is that the IDA Suitability Requirements do not apply to the Division and its Registered Representatives so long as:

1. except as permitted by 6 below, the Division and its Registered Representatives do not provide any advice or recommendations regarding the purchase or sale of any security;
2. clients who request the Division or its Registered Representatives to provide advice or recommendations or advice as to suitability are referred to another division of the Filer or another dealer;
3. the Division operates independently and operates using its own letterhead, accounts, Registered Representatives and account documentation;
4. the Division does not compensate its Registered Representatives on the basis of transactional values;
5. each client of the Filer is advised of the Decision of the Decision Makers and requested to make a Client Acknowledgement or transfer his or her account to another division of the Filer or another dealer if the client does not wish to make a Client Acknowledgement;
6. the Division and its Registered Representatives continue to comply, until June 30, 2001, with their Suitability Requirements and IDA Suitability Requirements for client accounts for which no Client Acknowledgement is received;
7. commencing June 30, 2001, the Division will not permit transactions in an account for which a Client Acknowledgement has not been received unless the transaction is a sale for cash or a transfer of assets to another account;
8. each prospective client of the Division is advised of the Decision of the Decision Makers and required to make

- a Prospective Client Acknowledgement prior to the Division or its Registered Representation servicing such prospective client;
9. evidence of all Client Acknowledgements, Prospective Client Acknowledgements and Account Transfer Options is established and retained pursuant to the record keeping requirements of the Legislation and the IDA;
  10. for any client who elects to exercise the client's Account Transfer Option; the Filer transfers such account or accounts to another division of the Filer or another dealer in an expeditious manner and at no cost to the client;
  11. the Division accurately identifies and distinguishes client accounts for which a Client Acknowledgement or Prospective Client Acknowledgement has been provided and client accounts for which no Client Acknowledgement has been provided;
  12. the Filer has in force policies and procedures to ensure that:
    - (a) the Division continues to operate separately from any other division of the Filer,
    - (b) Registered Representatives of the Division are clearly employed by the Division and do not handle the business or clients of any other division of the Filer, and
    - (c) a list of Registered Representatives of the Division is maintained at all times; and
  13. if an IDA rule addressing the IDA Suitability Requirements comes into effect, the Decision with respect to the Suitability Requirements will terminate one year following the date such rule comes into force, unless the Decision Maker determines otherwise.

December 7, 2000.

"Robert W. Davis"

"Robin W. Korthals"

## 2.1.8 GKN PLC - MRRS Decision

### Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Exemption from registration requirement for: (i) trades in ordinary shares of U.K. issuer, represented by American Depository Receipts, made by issuer or administrator of an employee ADR purchase plan, pursuant to the plan, with persons that are employees of the issuer, a subsidiary of the issuer or a specified joint venture corporation in which the issuer has a 50 percent ownership interest; and (ii) first trades in ADRs (or ordinary shares represented by ADRs) that were acquired under the plan by persons that were employees of the issuer, a subsidiary of the issuer or the joint venture corporation, where the trade is made by the plan administrator, or another person or company that is appropriately licensed to carry on the business as a broker/dealer (or the equivalent) in the jurisdiction where the trade is executed, subject to provisos that correspond to the provisos for the registration exemption for first trades by an employee, or an administrator of an issuer on behalf of an employee, set out in section 2.4 of Ontario Securities Commission Rule 45-503 Trades to Employees, Executives and Consultants  
Issuer has a negative veto over important matters concerning the joint venture.

### Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am. ss. 25, 35(1)1, 35(1)10 and 74(1).

### Applicable Ontario Rules

Ontario Securities Commission Rule 45-503 - Trades to Employees, Executives and Consultants.

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

AND

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

AND

IN THE MATTER OF  
GKN PLC

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (a "Decision Maker") in each of the provinces of Ontario, British Columbia, Alberta, Manitoba and New Brunswick (the "Jurisdictions") has received an application from GKN plc ("GKN") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that certain trades in ordinary shares ("Shares") of GKN represented by

American Depositary Receipts (such Shares represented by American Depositary Receipts being referred to herein as "ADRs") to be made in connection with, or as a consequence of, an employee ADR purchase plan (the "Plan") of GKN, shall not be subject to the requirement (the "Registration Requirement") contained in the Legislation to be registered to trade in a security;

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

**AND WHEREAS** GKN has represented to the Decision Makers that:

1. GKN is a global industrial company with operations in more than 40 countries focussed on the automotive, industrial service and aerospace sectors. The head office of GKN is in Redditch, England.
2. GKN is a corporation incorporated under the laws of England and Wales, is not a reporting issuer (or the equivalent) under the Legislation of any Jurisdiction, and has no present intention of becoming a reporting issuer (or equivalent) under the Legislation of any Jurisdiction.
3. As of October 26, 2000, approximately 722 million Shares were issued and outstanding. The Shares are listed on the U.K. Listing Authority and traded on the London Stock Exchange (the "LSE").
4. The ADRs will trade over-the-counter in the United States of America (the "U.S.A."). The ADRs will be issued in the U.S.A by The Bank of New York (the "Agent") pursuant to an agreement with GKN. Each ADR will represent one Share acquired on the LSE.
5. The Shares are not registered under the United States *Securities Act of 1933* but GKN is required under securities legislation in the U.S.A. to furnish to the Securities and Exchange Commission (the "SEC") any information that GKN: (i) has made or is required to make public pursuant to the laws of its home country; (ii) has filed or is required to file with a stock exchange on which its securities are traded and which is made public by that exchange; or (iii) distributes or is required to distribute to its security holders.
6. As of October 26, 2000, the books of GKN showed that: (i) the number of Shares held by holders of record with addresses in any of the Jurisdictions represented less than 1 per cent of the total number of Shares that were issued and outstanding; and (ii) the aggregate number of holders of Shares with addresses of record in Canada represented less than 1 per cent of the total number of holders of record of all outstanding Shares.
7. The Plan has been established to provide a convenient and economic way for participating North American employees ("Participants") of GKN and affiliated entities, including certain joint ventures of GKN, to acquire ADRs. In Canada, it is proposed that

participation in the Plan be offered to the following persons ("Canadian Participants"):

- (a) employees of the following subsidiaries of GKN that operate in Canada:
    - (i) GKN Walterscheid Canada Inc., a corporation incorporated under the laws of Canada that manufactures agritechnical driveline systems and agricultural driveshafts;
    - (ii) GKN Sinter Metals-St Thomas Ltd., a corporation incorporated under the laws of Canada that manufactures powdered metal automotive parts;
  - (b) other, as yet unidentified, subsidiaries of GKN that may operate in Canada; and
  - (c) employees of CHEP Canada Inc. ("CHEP"), a corporation in which GKN has a 50 percent ownership interest with Brambles Industries Limited ("Brambles");
8. CHEP is part of the worldwide joint venture between GKN and Brambles which provides pooling services for pallets, automotive crates and containers. In accordance with the agreement between the shareholders of CHEP, the board of directors of CHEP consists of the President and Chief Executive Officer of CHEP USA (a general partnership formed under New York Law in which GKN and Brambles are equal partners) and two resident Canadians, one of whom is nominated by GKN and one by Brambles. Certain matters must be referred to CHEP USA (acting on behalf of the shareholders) for decision. In effect, GKN and Brambles each has a negative veto over important matters concerning CHEP.
  9. The Agent acts as the depository and custodian under the Plan on behalf of and for the benefit of the Participants. The Agent is a corporation incorporated pursuant to the laws of the United States and is licensed in the State of New York as a banking corporation. The Agent is a registered transfer agent under Section 17A of the United States *Securities Exchange Act of 1934* and is not required to be registered as a dealer or adviser under applicable securities legislation in the U.S.A to perform its functions under the Plan. The Agent is not registered as a dealer or adviser under the Legislation.
  10. Under the Plan, Participants are able to make regular purchases of ADRs using payroll deductions in an amount specified by the Participant. ADRs that are acquired by Participants under the Plan are held by the Agent on behalf of the Participant in an account for the Participant. Administrative costs of purchase and account maintenance costs are paid for by the employer of the Participant and dividends on the ADRs are automatically reinvested in additional ADRs. Participants can sell some or all of their ADRs at any time at their own cost. Sales of ADRs held on behalf of



- a Participant under the Plan are effected on behalf of Participant by the Agent on the open market.
11. A Participant's participation in the Plan automatically terminates upon termination of employment of the Participant or upon the Participant otherwise ceasing to be eligible to participate in the Plan. Participants may instruct the Agent to sell ADRs that are held on their behalf under the Plan. If the Agent has not received sell instructions within 60 days after it is notified that a Participant is no longer an employee or is otherwise not eligible, the Agent will automatically close the Participant's account, issue a certificate for the whole ADRs held in the account, and pay by cheque to the Participant the value of any fractional ADRs held in the account.
  12. Participation in the Plan is voluntary, and employees will not be induced to participate in the Plan by expectation of employment or continued employment.
  13. As of October 26, 2000, there were eligible to participate in the Plan (i) approximately 429 employees resident in Ontario, of which 300 were employed by the subsidiaries of GKN and 129 were employed by CHEP, and (ii) approximately 45 employees in British Columbia, 35 in Alberta, 11 in Manitoba and 15 in New Brunswick all of whom were employed by CHEP.
  14. An employee resident in Canada who chooses to participate in the Plan and acquire ADRs under the Plan will, before he or she acquires such ADRs, be provided with a description of the Plan and the ADRs, and the employee will, while he or she holds such ADRs, be provided with all disclosure material prepared by GKN and which is required to be filed with the SEC, according to securities legislation of the United States, including annual reports and proxy materials, upon request, at the same time and in the same manner as the materials are provided to employees participating in the Plan that are resident in the U.S.A.
  15. GKN may rely on exemptions from the Registration Requirement that is contained in the Legislation for trades it may make in ADRs with Canadian Participants pursuant to the Plan, where the Canadian Participant is an employee of GKN or an affiliate of GKN, in all of the Jurisdictions, except New Brunswick. The Agent cannot rely on any existing exemptions from the Registration Requirement contained in the Legislation of all of the Jurisdictions for trades made by the Agent in ADRs with Canadian Participants pursuant to the Plan or the sale of ADRs that are then held by the Agent under the Plan on behalf of a Canadian Participant, a former Canadian Participant or the legal representative of a former Canadian Participant.
  16. Neither GKN nor the Agent can rely on any existing exemptions from the Registration Requirement that are contained in the Legislation of any of the Jurisdictions for trades made by them in ADRs with Canadian Participants that are employees of CHEP and not employees of GKN or an affiliate of GKN.
  17. Because there is currently in Canada no market for the Shares or ADRs, and none is expected to develop, it is anticipated that any sale of ADRs that were acquired by a Canadian Participant under the Plan will be effected through the facilities of the over-the-counter market in the U.S.A.
  18. Canadian Participants are not able to rely on the exemption from the Registration Requirement provided in the Legislation of each of the Jurisdictions for trades made solely through a registered dealer in order to sell ADRs acquired by the Canadian Participant under the Plan where the trade is made through the facilities of the over-the-counter market in the U.S.A. if the sale is made on behalf of the Canadian Participant by the Agent (or another market intermediary in the U.S.A.) and the Agent (or the other market intermediary) is not then appropriately registered as a "dealer" under the Legislation.
- AND WHEREAS** this MRRS Decision Document confirms 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;
- IT IS THE DECISION** of the Decision Makers, pursuant to the Legislation, that:
- A. the Registration Requirement of the Legislation shall not apply to trades in ADRs made by GKN or the Agent, pursuant to the Plan, with Canadian Participants; and
  - B. the Registration Requirement of the Legislation shall not apply to the first trade in any ADRs (or Shares that were represented by ADRs) that were acquired under the Plan by a person (a "Vendor") who was, at the time of their acquisition of the ADRs, a Canadian Participant, or by another person or company that is the legal representative of a Vendor, where the first trade is:
    - (i) made through the Agent; or
    - (ii) made by the holder through a person or company that is appropriately licensed to carry on business as a broker/dealer (or the equivalent) under the applicable securities legislations in the jurisdiction where the trade is executed,
- provided that, in each case:
1. at the time of the trade, GKN is not a reporting issuer (or the equivalent) under the Legislation of the Jurisdiction;
  2. at the time of the acquisition of the ADRs by the Vendor:
    - (i) persons or companies who last address as shown on the books of GKN, or the books of the Agent in the case of ADRs, was in the

Jurisdiction and who held Shares (including ADRs) (A) did not hold Shares representing more than 10 per cent of the outstanding Shares (including ADRs) and (B) did not represent in number more than 10 per cent of the total number of holders of Shares (including ADRs); or

- (ii) persons or companies who were in the Jurisdiction and who beneficially owned Shares (including ADRs) (A) did not beneficially own more than 10 per cent of the outstanding Shares (including ADRs) and (B) did not represent in number more than 10 per cent of the total number of holders of Shares (including ADRs); and

3. the trade is executed:

- (i) through the facilities of the over-the-counter market in the U.S.A; or
- (ii) through the facilities of the L.S.E.

November 24th, 2000.

"Howard I. Wetston"

"Theresa McLeod"

**2.2 Orders**

**2.2.1 Dynamic Funds - ss. 59(1)**

**Headnote**

Exemption from the fees otherwise due under subsection 14(1) of Schedule 1 of the Regulation to the *Securities Act* on a distribution of units made by an "underlying" fund directly (i) to a "clone" fund, (ii) to the "clone" fund's counterparties for hedging purposes and (iii) on the reinvestment of redistributions on such units.

**Regulations Cited**

Regulation made under the *Securities Act*, R.R.O 1990, Reg. 1015, as am., Schedule 1, ss. 14(1), 14(4) and 59(1).

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

**AND**

**IN THE MATTER OF**

**DYNAMIC AMERICAS FUND  
DYNAMIC EUROPE FUND  
DYNAMIC FAR EAST FUND  
DYNAMIC INTERNATIONAL FUND  
DYNAMIC POWER AMERICAN FUND**

**ORDER**

**(Subsection 59(1) of Schedule 1 of the Regulation made under the above statute (the "Regulation"))**

UPON the application (the "Application") of Dynamic Mutual Funds Ltd. ("Dynamic"), the manager of the Dynamic RSP Americas Fund, Dynamic RSP Europe Fund, Dynamic RSP Far East Fund, Dynamic RSP International Fund and Dynamic RSP Power American Fund (collectively, the "RSP Funds") and Dynamic Americas Fund, Dynamic Europe Fund, Dynamic Far East Fund, Dynamic International Fund, Dynamic Power American Fund (collectively, the "Underlying Funds") to the Ontario Securities Commission (the "Commission") for an order pursuant to subsection 59(1) of Schedule 1 of the Regulation exempting the Underlying Funds from paying duplicate filing fees on an annual basis in respect of the distribution of units of the Underlying Funds to the RSP Funds, the distribution of units of the Underlying Funds to Counterparties (defined herein) with whom the RSP Funds have entered into forward contracts, and on the reinvestment of distributions on such units;

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

AND UPON Dynamic having represented to the Commission that:

1. Dynamic is the trustee and manager of the RSP Funds and the Underlying Funds. Dynamic is a corporation incorporated under the laws of Ontario.

2. Each of the RSP Funds and the Underlying Funds is an open-ended mutual fund trust established under the laws of Ontario.
3. The units of the RSP Funds and the Underlying Funds are qualified for distribution pursuant to simplified prospectuses and annual information forms filed across Canada.
4. Each of the RSP Funds and Underlying Funds is a reporting issuer under the securities laws of each of the provinces and territories of Canada. None of the existing RSP Funds or Underlying Funds is in default of any requirements of the securities legislation, regulations or rules applicable in each of the provinces and territories of Canada.
5. As part of their investment strategy, the RSP Funds enter into forward contracts with one or more financial institutions (the "Counterparties") that link the returns to an Underlying Fund.
6. A Counterparty may hedge its obligations under a forward contract by investing in units (the "Hedge Units") of the applicable Fund.
7. As part of their investment strategy, the RSP Funds may purchase units of the Underlying Funds (the "Fund on Fund Investments").
8. Applicable securities regulatory approvals for the Fund on Fund Investments and the RSP Funds' investment strategies have been obtained.
9. Annually, each of the RSP Funds will be required to pay filing fees to the Commission in respect of the distribution of its units in Ontario pursuant to section 14 of Schedule 1 of the Regulation and will similarly be required to pay fees based on the distribution of its units in other relevant Canadian jurisdictions pursuant to the applicable securities legislation in each of those jurisdictions.
10. Annually, each of the Underlying Funds will be required to pay filing fees to the Commission in respect of the distribution of its units in Ontario, including units issued to the RSP Funds and the Hedge Units, pursuant to section 14 of Schedule 1 of the Regulation and will similarly be required to pay fees based on the distribution of its units in other relevant Canadian jurisdictions pursuant to the applicable securities legislation in each of those jurisdictions.
11. A duplication of filing fees pursuant to Section 14 of Schedule 1 of the Regulation may result when: (a) assets of an RSP Fund are invested in the applicable Underlying Fund; (b) Hedge Units are distributed and (c) a distribution is paid by an Underlying Fund on units of the Underlying Fund held by the applicable RSP Fund or Hedge Units which are reinvested in additional units of the Underlying Fund ("Reinvested Units").

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

IT IS ORDERED by the Commission pursuant to subsection 59(1) of Schedule I of the Regulation that the Underlying Funds are exempt from the payment of duplicate filing fees on an annual basis pursuant to section 14 of Schedule I of the Regulation in respect of the distribution of units of the Underlying Funds to the RSP Funds, the distribution of Hedge Units to Counterparties and the distribution of Reinvested Units, provided that each Underlying Fund shall include in its notice filed under subsection 14(4) of Schedule I of the Regulation a statement of the aggregate gross proceeds realized in Ontario as a result of the issuance by the Underlying Funds of: (1) units distributed to the RSP Funds; (2) Hedge Units; and (3) Reinvested Units; together with a calculation of the fees that would have been payable in the absence of this order.

December 5th, 2000.

"J.A. Geller"

"Robert W. Korthals"

## 2.2.2 MacDonald Oil Exploration et al. - s. 144

### Headnote

Section 144 - Variation of order issued under clauses 104(1)(c), clauses (2) and (5) of subsection 127(1) and subsection 127(2) of the Act in respect of a share exchange take-over bid - Order had required offeror to, among other things, deliver to every offeree to whom offer had been sent a notice containing prescribed information - Order varied to permit offeror to satisfy notice requirement by having depositary for the offer fax the notice to registered representatives of offerees who tendered shares to the offer on their clients' behalf and mail the notice to all other offerees who delivered notices of guaranteed delivery or share certificates directly to the depositary

### Applicable Ontario Statutory Provisions

*Securities Act*, R.S.O. 1990, c. S.5, as amended, ss. 104(1)(c), 127(1)1, 127(1)2, 127(2) and 144(1)

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

**AND**

**IN THE MATTER OF MACDONALD OIL EXPLORATION  
LTD., MACDONALD  
TRADING CORPORATION, RUSSELL MARTEL  
AND BRESEA RESOURCES LTD.**

**ORDER  
(Section 144)**

**WHEREAS** on August 11, 1999, the Ontario Securities Commission (the "Commission") issued an order (the "Order") pursuant to clause 104(1)(c), clauses (2) and (5) of subsection 127(1) and subsection 127(2) of the Act in respect of the offer dated June 8, 1999 (the "Offer") by MacDonald Oil Exploration Ltd. ("MacDonald Oil") to acquire all of the common shares (the "Bresea Shares") of Bresea Resources Ltd. ("Bresea") in exchange for convertible preferred shares and E-Warrants of MacDonald Oil (the "Consideration");

**AND WHEREAS** paragraph 3(A) of the Order provided that MacDonald Oil was to disseminate to the public a news release forthwith that: (i) advised holders of Bresea Shares (the "Bresea Shareholders") that, as a result of the Order, MacDonald Oil could not acquire the Bresea Shares or issue the Consideration in payment for such tendered Bresea Shares; (ii) specified that withdrawal rights were exercisable and continued to be exercisable; and (iii) summarized the manner in which Bresea Shareholders could exercise their rights of withdrawal pursuant to section 95 of the Act;

**AND WHEREAS** paragraph 3(B) of the Order (the "Notification Requirement") provided that, within ten days of the Order's issuance, MacDonald Oil was to deliver to every holder of Bresea Shares to whom the Offer was sent a notice that contained the information specified in paragraph 3(A) of the Order (the "Notice");

**AND WHEREAS** paragraph 6 of the Order provided that trading was to cease in Bresea Shares by MacDonald Oil, any person that was a director, officer, affiliate or associate of MacDonald Oil or acting jointly or in concert with any of the foregoing persons or companies, MacDonald Trading Corporation and Russell Martel (collectively, the "Respondents") unless and until they satisfied the Executive Director of the Commission that: (i) there had been compliance with the orders referred to in paragraphs 3, 4 and 5 of the Order; and (ii) that, with respect to all of the Bresea Shares tendered to the Offer, withdrawal rights had been exercised or such Bresea Shares had been returned to the appropriate Bresea Shareholders;

**AND WHEREAS** MacDonald Oil has made an application (the "Application") to vary paragraph 3(B) of the Order to permit MacDonald Oil to satisfy the Notification Requirement by having the depository for the Offer (the "Depository"):

- (a) distribute the Notice by fax to all registered representatives of Bresea Shareholders who delivered, or sent to the Depository by fax, notices of guaranteed delivery or Bresea Share certificates endorsed for transfer; and
- (b) mail the Notice to all other Bresea Shareholders who delivered notices of guaranteed delivery or Bresea Share certificates endorsed for transfer.

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

**AND UPON** MacDonald Oil having represented to the Commission as follows:

1. MacDonald Oil has complied with paragraphs 1, 2, 3(A) and 4 of the Order.
2. MacDonald Oil's directors and officers have complied with paragraph 5 of the Order.
3. All of the Bresea Shares tendered to the Offer have been returned to the appropriate Bresea Shareholders.
4. After discussions with staff of the Commission regarding MacDonald Oil's request for a variation of the Order in a manner consistent with the terms of this order, MacDonald Oil sent the Notice on August 23, 1999 to every Registered Bresea Shareholder who tendered Bresea Shares to the Offer.
5. In connection with any new offer to acquire Bresea Shares that constitutes a take-over bid, MacDonald Oil will include in the circular to be sent to all holders of Bresea Shares to whom such new offer is made the disclosure required to have been included in the Notice pursuant to paragraph 3(B) of the Order.

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

**IT IS ORDERED** pursuant to subsection 144(1) of the Act that paragraph 3(B) of the Order is varied so as to permit

MacDonald Oil to satisfy the Notification Requirement by having the Depository:

- (a) distribute the Notice by fax to all registered representatives of Bresea Shareholders who delivered, or sent to the Depository by fax, notices of guaranteed delivery or Bresea Share certificates endorsed for transfer; and
- (b) mail the Notice to all other Bresea Shareholders who delivered notices of guaranteed delivery or Bresea Share certificates endorsed for transfer.

October 13<sup>th</sup>, 2000

"J.A. Geller"

"Robert W. Davis"

**2.2.3 Bissett Retirement Fund and Bissett and Associates Investment Management Ltd. - s.144**

**Headnote**

Variation of previously granted order of the Commission permitting a "fund-of-funds" structure in respect of Bissett Retirement Fund. Variation provides that, in addition to the provisions of the previously granted order, paragraphs 117(1)(a) and 117(1)(d) do not apply in respect of investment in, or redemption of, the securities of the underlying funds.

**Statutes Cited**

*Securities Act*, R.S.O. 1990 c. S.5 as am. ss. 106(1), 111(3), 112(2)(b), 113(a), 117(1)(a), 117(1)(d), 117(2), 121(2)(a)(ii), 144

**Rules Cited**

National Policy Statement 39 Mutual Funds  
National Instrument 81-102 Mutual Funds

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

AND

IN THE MATTER OF  
BISSETT RETIREMENT FUND

AND

BISSETT & ASSOCIATES INVESTMENT  
MANAGEMENT LTD.

ORDER  
(Section 144)

UPON the application (the "Application") of Bissett & Associates Investment Management Ltd. ("Bissett") and Bissett Retirement Fund (the "Retirement Fund") to the Ontario Securities Commission (the "Commission") pursuant to section 144 of the Act to vary an order of the Commission dated July 30, 1996 (the "1996 Order");

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

AND UPON the following representations having been made to the Commission:

1. Bissett is a corporation incorporated pursuant to the *Business Corporations Act* (Alberta) and is registered as a portfolio manager and mutual fund dealer under the *Securities Act* (Alberta) and the *Securities Act* (Ontario), and as portfolio manager under the *Securities Act* (British Columbia) and as a Broker Dealer/Investment Counsel restricted to Portfolio Manager under the *Securities Act* (Manitoba).

2. Bissett is the trustee, manager and distributor of the Bissett American Equity Fund, Bissett Bond Fund, Bissett Canadian Equity Fund, Bissett Multinational Growth Fund, Bissett Money Market Fund, Retirement Fund, Bissett Small Cap Fund, Bissett Income Trust Fund, Bissett Microcap Fund, Bissett Large Cap Fund, Bissett Dividend Income Fund and Bissett International Equity Fund (the "Funds") offered for sale under a Simplified Prospectus and Annual Information Form dated November 10, 2000 (the "Prospectus").
3. The Retirement Fund invests only in units of other mutual funds managed by Bissett (the "Underlying Funds") which are qualified for distribution to the public in the Prospectus.
4. The 1996 Order provides that, pursuant to clause 113(a) of the Act, investments by the Retirement Fund in units of the Underlying Funds are not subject to paragraph 111(2)(b) and subsection 111(3) of the Act subject to various conditions.
5. The Retirement Fund is an open-ended mutual fund trust established under the laws of the Province of Alberta by declaration of trust declared by Bissett, with its securities offered for sale under the Prospectus.
6. The investment objective of the Retirement Fund is to obtain long-term capital appreciation through a balance of fixed income and equity investments. The Retirement Fund seeks to achieve such investment by only investing in securities of the Underlying Funds. Bissett has determined that investments by the Retirement Fund in the Underlying Funds pursuant to the investment objectives of the Retirement Fund is in the best interests of the Retirement Fund and the Unitholders thereof.
7. In addition to receiving the annual and, upon request, the semi-annual financial statements of the Retirement Fund, securityholders of the Retirement Fund receive the annual financial statements and, upon request, the semi-annual financial statements of the Underlying Funds in either a combined report containing the Retirement Fund and the Underlying Funds financial statements or in a separate report containing the financial statements of the Underlying Funds.
8. Except to the extent evidenced by this Order, the 1996 Order, and specific approvals granted by the Canadian Securities Administrators pursuant to National Policy Statement No. 39, the investments by the Retirement Fund and the Underlying Funds have been structured to comply with the investment restrictions in the Act and in National Instrument 81-102 Mutual Funds ("NI 81-102").
9. As a result of the definition of "related person or company" in subsection 106(1) of the Act, paragraphs 117(1)(a) and 117(1)(d) of the Act require, in the absence of this order, that Bissett file a report of every transaction of purchase or sale of securities of the Underlying Funds by the Retirement Fund.

10. The investment in, or redemption of, securities of the Underlying Funds by the Retirement Fund represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Retirement Fund.

AND UPON the Commission being satisfied for the purposes of the order requested pursuant to subsections 117(2) and 144(1) of the Act that it would not be prejudicial to the public interest to do so;

IT IS ORDERED pursuant to section 144 of the Act that the 1996 Order be varied by inserting the following after condition (n):

AND IT IS FURTHER ORDERED pursuant to subsection 117(2) of the Act that paragraphs 117(1)(a) and (d) of the Act do not apply in respect of the Retirement Fund's investment in, or redemption of, the securities of the Underlying Funds, subject to the above conditions.

December 5<sup>th</sup>, 2000.

"J. A. Geller"

"Robert W. Korthals"

**2.2.4. Kasten Chase Applied Research Ltd. - ss.59(1)**

**Headnote**

Direct and indirect issuer bids resulting from a reorganization transaction involving issuer and majority shareholder holding company, followed by the holding company's dissolution - issuer bids exempt from sections 95, 96, 97, 98 and 100 where the purpose of the transaction is to enable shareholders to directly own shares previously held indirectly through their holding company - beneficial shareholders to provide indemnity and reimbursement to the issuer and its directors - transaction recommended by issuer's independent board of directors and unanimously approved by entire board of directors - no adverse economic impact or prejudice to issuer or public shareholders.

Subsection 59(1) of Schedule I - issuer is exempt from payment of the fee otherwise payable pursuant to clause 32(1)(b) of Schedule I to the Regulation in respect of reorganization transaction exempted from the issuer bid requirements pursuant to an order under clause 104(2)(c), where the transaction did not result in any change to the share ownership structure of the issuer, subject to the requirement that a minimum fee of \$800 be paid.

**Applicable Ontario Statute**

*Securities Act*, R.S.O. 1990, c. S.5, as am., ss. 93(1)(c), 95, 96, 97, 98, 100, and 104(2)(c).

**Applicable Ontario Regulation**

*Regulation made under the Securities Act*, R.R.O. 1990, Reg. 1015, as am., ss 32(1)(b) and 59(1) 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 THE REGULATION  
UNDER THE SECURITIES ACT,  
R.R.O. 1990, REGULATION 1015, AS AMENDED  
(the "Regulation")**

**AND**

**IN THE MATTER OF KASTEN CHASE  
APPLIED RESEARCH LIMITED**

**ORDER**

UPON the application (the "Application") of Kasten Chase Applied Research Limited ("Kasten Chase") to the Ontario Securities Commission (the "Commission") for an order:

- (i) pursuant to subsection 104(2)(c) of the Act that certain acquisitions by Kasten Chase of its common shares (the "Common Shares"), pursuant to a proposed share exchange

transaction (the "Reorganization") described in clause 8 below, are exempt from the requirements of Sections 95, 96, 97, 98 and 100 of the Act (the "Issuer Bid Requirements"); and

- (ii) pursuant to subsection 59(2) of Schedule I of the Regulation that Kasten Chase be exempt from the requirements under subsection 32(1)(b) of the Regulation to pay a fee in connection with the filing of a report of issuer bid in respect of the Reorganization (the "Fee Requirement"), provided that a minimum fee of \$800 prescribed by the Regulation is paid;

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

**AND UPON** Kasten Chase having represented to the Commission as follows:

1. Kasten Chase is a reporting issuer in Ontario and is not in default of the requirements of the Act.
2. Kasten Chase's authorized capital consists of an unlimited number of Common Shares and 2,804,631 non-voting convertible redeemable preference shares. As of November 13, 2000, there were 51,463,237 Common Shares issued and outstanding.
3. The Common Shares are listed for trading on The Toronto Stock Exchange.
4. To the knowledge of Kasten Chase, the only person who owns, directly or indirectly, or exercises control or direction over greater than 10% of the outstanding Common Shares is Temple Ridge (1996) Limited ("Temple Ridge"), which currently owns 10,593,666 Common Shares, representing approximately 21.7% of the issued and outstanding Common Shares (the "TR Kasten Chase Shares").
5. Temple Ridge is a private holding company owned by Michael Davies, Paul Hyde and the Milligan Family (1998) Trust (collectively, the "Temple Ridge Holders"). Michael Davies is a Non-Executive Chairman and a member of the board of directors (the "Board") of Kasten Chase, Paul Hyde is the CEO and Vice-Chairman of the Board and Mr. Michael Milligan, a trustee for the Milligan Family (1998) Trust, is the Executive Vice-President, Chief Financial Officer, General Counsel and Secretary of Kasten Chase.
6. Temple Ridge currently has a refundable dividend tax on-hand balance (the "RDTOH Balance") for the purposes of the *Income Tax Act* (Canada) (the "ITA").
7. As of this date, and prior to the Reorganization, Temple Ridge has no assets other than the TR Kasten Chase Shares and approximately \$12 million in cash (the "Cash Reserve"). Prior to the occurrence of the Reorganization, a portion of the Cash Reserve will be distributed to the shareholders as a capital dividend and as a reduction of capital. The balance of the Cash Reserve (the "Remaining Cash") will be used to satisfy

Temple Ridge's outstanding tax liabilities and certain other expenses.

8. The steps involved in the Reorganization include the following:
  - (a) Each of the Temple Ridge Holders will transfer all of the shares he holds in Temple Ridge (the "Temple Ridge Shares") to Kasten Chase in exchange for the issuance of a number of newly issued Common Shares equal in the aggregate to the number of TR Kasten Chase Shares (the "Consideration Shares"). The transfers described in the previous paragraph are expected to take place on a tax-deferred basis pursuant to subsection 85.1(1) of the ITA.
  - (b) The cost to Kasten Chase of the Temple Ridge Shares acquired by Kasten Chase will be deemed to be equal to the lesser of their fair market value and their paid-up capital.
  - (c) The Board will resolve to add to the stated capital of Kasten Chase in respect of the issuance of the Consideration Shares an amount equal to the paid-up capital of the Temple Ridge Shares acquired.
  - (d) As a result of the change of control caused by the Reorganization, Temple Ridge will have a deemed tax year-end immediately before the effective date of the Reorganization. Kasten Chase will cause Temple Ridge, as its subsidiary, to file the appropriate tax returns to claim a refund of tax in the amount of the RDTOH Balance.
  - (e) On or prior to January 1, 2001, Temple Ridge will distribute its assets, including the TR Kasten Chase Shares, to Kasten Chase pursuant to the voluntary wind-up provisions in Part XVI of the *Business Corporations Act* (Ontario) and, immediately after such distribution, the TR Kasten Chase Shares will be cancelled.
9. The Reorganization will result in:
  - (a) Temple Ridge Holders directly holding the same aggregate number of Kasten Chase Common Shares that were previously held by Temple Ridge immediately prior to the Reorganization; and
  - (b) the cancellation of all the TR Kasten Chase Shares.
10. The Board formed an independent committee (the "Independent Committee") to review, among other matters, the proposed terms of the Reorganization and to make a recommendation to the Board regarding its implementation. The Independent Committee retained counsel to advise on this matter. Based upon a review of the proposed terms of the Reorganization, and subject to entering into appropriate definitive agreements acceptable to the Independent Committee,



the Independent Committee has unanimously recommended to the Board that Kasten Chase proceed with the transaction. In making its determination to proceed with the Reorganization, the Board has also considered a tax assessment of the consequences of the proposed transaction done by KPMG Inc., the auditors of Kasten Chase.

11. The acquisition by Kasten Chase, as a result of the Reorganization, of the TR Kasten Chase Shares will constitute both a direct and an indirect issuer bid within the meaning of Section 92 and subsection 89(1) of the Act that is not exempt from Part XX of the Act. The exemptions to the Issuer Bid Requirements are not available in respect of the Reorganization.
12. Immediately following the Reorganization, each of the Temple Ridge Holders, as well as the other shareholders of Kasten Chase (the "Public Shareholders"), will beneficially own the same aggregate number and the same relative percentages of Common Shares that they owned immediately prior to the Reorganization and will have the same rights and benefits in respect of such shares that they currently have.
13. The Temple Ridge Holders will jointly and severally indemnify and save harmless each of Kasten Chase and the directors and officers of Kasten Chase (other than the Temple Ridge Holders) from all losses or liabilities that Kasten Chase or such directors and officers may incur as a result of, or arising directly or indirectly out of, or in connection with, the Reorganization. In addition, the Temple Ridge Holders have also jointly and severally agreed to indemnify Kasten Chase from any tax liability of Temple Ridge in excess of the aggregate of the amount of the tax refund Kasten Chase is entitled to receive in connection with the RDTOH Balance and the Remaining Cash.
14. The Temple Ridge Holders will pay all costs (including legal and accounting) incurred by Kasten Chase and Temple Ridge in effecting the Reorganization.
15. The Reorganization will have no adverse economic effect on, or adverse tax consequences to, and will in no way prejudice Kasten Chase or the Public Shareholders.
16. The Reorganization allows the Public Shareholders to have access to information concerning the Temple Ridge Holders' beneficial holdings of Kasten Chase which was not available when such holdings were held through Temple Ridge.
17. The share holding structure resulting from the Reorganization allows the Temple Ridge Holders to pursue their own individual investment goals. However, the Temple Ridge Holders may enter into a voting agreement with respect to the Commons Shares similar to an agreement that they currently have in connection with their Temple Ridge Shares.

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

**IT IS ORDERED** pursuant to subsection 104(2)(c) of the Act that the acquisition by Kasten Chase of the Temple Ridge Shares pursuant to the Reorganization is exempt from the Issuer Bid Requirements;

**IT IS FURTHER ORDERED THAT** Kasten Chase is exempt from the Fee Requirement, provided that a minimum fee of \$800 prescribed by the Regulation is paid.

December 8<sup>th</sup>, 2000.

"Howard I. Wetston"

"J.A. Geller"

## 2.3 Rulings

### 2.3.1 Stephen Miller - ss.74(1)

#### Headnote

Sale of special warrants exempted from sections 25 and 53 of the Act where the purchaser has previously been deemed a sophisticated purchaser and made two previous purchases of the special warrants.

#### Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., ss. 25, 35(1)(5), 53, 72(1)(d), 72(4), 74(1).

#### Rules Cited

OSC Rule 45-501 - Exempt Distributions, s. 3.10;  
OSC Rule 14-501 - Definitions.

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

**AND**

**IN THE MATTER OF STEPHEN MILLER**

**RULING**  
(Subsection 74(1))

UPON the application of Stephen Miller (the "Applicant") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the Act exempting a trade by the Applicant in special warrants (the "Special Warrants") of Wolf Group Integrated Communications Ltd. (the "Issuer") to Bitahon Ltd. (the "Purchaser") from the requirements of sections 25 and 53 of the Act;

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

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

1. The Applicant is an individual resident in the Province of Ontario.
2. The Issuer is an Ontario corporation which is not a reporting issuer under the Act.
3. On May 27, 1997, the Applicant purchased 30,000 Special Warrants of the Issuer with an aggregate acquisition cost to the Applicant of \$150,000 (\$5.00 per Special Warrant) as part of a private placement financing by the Issuer.
4. Each Special Warrant is exercisable for 1.1 common shares in the capital of the Issuer (the "Underlying Shares") without additional cost to the purchaser.
5. The Special Warrants are governed by the terms of a special warrant indenture dated May 27, 1997 (the

"Special Warrant Indenture"), and the Special Warrants and the Underlying Shares are currently subject to an indefinite hold period under the Act.

6. The Applicant has not exercised his Special Warrants.
7. The distribution of the Underlying Shares issuable upon exercise of the Special Warrants has not been qualified in Ontario by the filing of a prospectus by the Issuer and there is no immediate prospect of such a filing taking place.
8. The Special Warrants are transferable in accordance with the terms of the Special Warrant Indenture.
9. The Applicant operates a business under the name "The Allan Windows Group of Companies" through his wholly-owned company, 833915 Ontario Limited (the "Business"), which requires additional financing in order to continue operations.
10. The Applicant has provided all available personal security to the Business' bank lender (the "Bank"), including the pledge of all of the issued and outstanding shares in the capital of 833915 Ontario Limited and the indirect pledge of the Applicant's Special Warrants.
11. As illiquid securities, the Applicant's Special Warrants do not provide significant security for lending purposes.
12. In addition to security for amounts advanced, the Bank requires new capital investment into the Business on an urgent basis.
13. All sources reasonably available to the Applicant have been exhausted, including the liquidation of the Applicant's personal investments.
14. One remaining source of capital for the Business is the sale of the Applicant's Special Warrants.
15. The Purchaser is an investment holding company, the sole shareholder of which is Malcolm Paul Bloom.
16. The Applicant has negotiated the sale of the Special Warrants to the Purchaser for total consideration of \$120,000 (\$4.00 per Special Warrant) (the "Proposed Sale").
17. The Applicant and the Purchaser act at arms' length.
18. The Purchaser is already a holder of Special Warrants, also having purchased 30,000 Special Warrants on May 27, 1997, for an aggregate acquisition cost in the amount of \$150,000, in reliance on the prospectus and registration exemptions contained in clause 72(1)(d) and paragraph 35(1)5 of the Act respectively.
19. The Purchaser also acquired an additional 30,000 Special Warrants at an aggregate acquisition cost of \$150,000 on April 6, 1999, in reliance on the prospectus and registration exemptions contained in clause 72(1)(d) and paragraph 35(1)5 of the Act, respectively.

20. Accordingly, the Purchaser is familiar with the Issuer, the Special Warrants and the risks attendant upon an investment in Special Warrants.
21. The principal of the Purchaser, Malcolm Paul Bloom, is a long-standing registrant under the Act and is a sophisticated participant in the Ontario capital markets.
22. Due to the length of time the Special Warrants have been outstanding and the fact that there is no immediate prospect of qualifying the distribution of the Underlying Shares, the Purchaser is unwilling to pay the original purchase price of \$5.00 per Special Warrant.
23. The Applicant has made best efforts to negotiate the best price for the Special Warrants and is satisfied that \$4.00 is the best available price.
24. The aggregate acquisition cost of \$120,000 for the Proposed Sale is below the threshold of \$150,000 prescribed by paragraph 35(1)5 and subclause 72(1)(d) of the Act (as modified by Commission Rule 45-501 - *Exempt Distributions*).
25. The Proposed Sale is conditional upon the granting of the relief requested by this application.
26. The likely consequence of an inability to complete the Proposed Sale in the immediate future is the failure, or loss of control by the Applicant, of the Business.

**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 Proposed Sale not be subject to section 25 or 53 of the Act, provided that the first trade in the Special Warrants acquired pursuant to this ruling shall be a distribution, unless such first trade is made in accordance with the provisions of subsection 72(4) of the Act, as modified by section 3.10 of Commission Rule 45-501 *Prospectus Exempt Distributions*, as if the Special Warrants had been acquired pursuant to an exemption referred to in subsection 72(4) of the Act, except that, for these purposes, it shall not be necessary to satisfy the requirements in clause 72(4)(a) that the issuer not be in default of any requirement of the Act or the regulations if the seller is not in a special relationship with the issuer, or if the seller is in a special relationship with the issuer, the seller has reasonable grounds to believe that the issuer is not in default under the Act or the regulations, where, for these purposes, A "special relationship" shall have the same meaning as in Commission Rule 14-501 Definition

December 5th, 2000.

"J.A. Geller"

"Robert W. Korthals"

### 2.3.2 Enermark Income Fund - s. 74(1)

#### Headnote

Subsection 74(1) - issuance of put option in connection with private placement of flow-through and common shares, and trade in flow-through and common shares pursuant to the exercise of the put option, exempt from sections 25 and 53 of Act - subject to certain conditions.

#### Statutes Cited

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

#### Regulations Cited

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

#### IN THE MATTER OF THE SECURITIES ACT (ONTARIO) (the "Act")

AND

#### IN THE MATTER OF ENERMARK INCOME FUND

#### RULING

(Subsection 74(1))

**UPON** the Application (the "Application") of EnerMark Income Fund (the "Applicant") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the Act that the trade of the Put Option (as defined below) and the trades in Shares (as defined below) pursuant to the exercise of the Put Option shall not be subject to sections 25 or 53 of the Act;

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

**AND UPON** the Applicant having represented to the Commission as follows:

1. The Applicant is an unincorporated, open-end energy investment trust created under the laws of Alberta pursuant to a declaration of trust and is a reporting issuer in all relevant Canadian jurisdictions.
2. The Applicant's trust units (the "Trust Units") are listed on the Toronto Stock Exchange, and the Applicant has a current market capitalization of approximately \$850 million.
3. EnerMark Inc. ("EnerMark") is a corporation amalgamated under the laws of Alberta, is not a reporting issuer in any jurisdiction in Canada, and is a wholly-owned subsidiary of the Applicant.
4. ACT Energy Inc. ("ACT") is a corporation which was incorporated under the *Business Corporations Act* (Alberta) on August 25, 2000, and is at arm's length to EnerMark and the Applicant.

5. ACT has entered into a joint venture agreement (the "Joint Venture Agreement") with EnerMark pursuant to which it will acquire an interest, or an option to acquire an interest, in oil and gas properties owned by EnerMark by financing exploration programs and incurring Canadian exploration expense ("CEE") and Canadian development expense ("CDE").
6. ACT is proposing to distribute units (the "Offering") in Ontario, with each unit (the "Units") consisting of 900 flow-through common shares (the "Flow-Through Shares") and 100 common shares (the "Common Shares").
7. Each Unit will be issued at a price of \$1,000, with an allocation of \$900 to the Flow-Through Shares and \$100 to the Common Shares, and will be issued in reliance on the prospectus exemption in section 2.4 (the "Exemption") of the Commission's Rule 45-501 - *Exempt Distributions* (the "Rule").
8. As required by the Exemption, ACT will provide each prospective purchaser with an offering memorandum that includes the information required by the Exemption.
9. The Units will be distributed by Omni Capital Inc. (the "Agent") pursuant to an agency agreement entered into by the Agent and ACT.
10. The Agent is registered as an investment dealer under Ontario securities law, and is controlled by Michael Weinberg, who is a director of ACT and currently its principal shareholder; accordingly, ACT may be deemed a "related issuer" or "connected issuer" of the Agent under the Act.
11. ACT will use the net proceeds from the Offering (whose maximum size it is anticipated will be approximately \$1,500,000) to incur such expenses, will use its best efforts to spend, on or before December 31, 2001, the proceeds from the sale of the Flow-Through Shares for the purpose of incurring CEE and CDE eligible for a 100% deduction under the *Income Tax Act* (Canada), and will renounce such CEE and CDE in favour of the subscribers of Flow-Through Shares.
12. It is proposed that ACT, on its behalf and on behalf of the subscribers of Units, the Applicant and EnerMark enter into a put option agreement (the "Option Agreement") prior to the closing of the Offering, pursuant to which the subscribers shall have the option to sell (the "Put Option") to EnerMark, which shall have the obligation to purchase, all, but not less than all, of the Flow-Through Shares and Common Shares (collectively, the "Shares") which they hold in the capital of ACT on the agreed date and subject to the following terms:
  - (a) On or about March 12, 2003, the subscribers shall have the option to sell to EnerMark their Shares at a price equal to the fair market value of the Shares (discounted at 15% on an after-tax basis) on February 1, 2003 (the "Purchase Price"). The fair market value of the Shares shall be determined in accordance with the criteria set out in the Option Agreement by an independent valuator (the "Valuator"), chosen jointly by ACT and EnerMark.
13. ACT is not, nor does it intend to become, a reporting issuer; there currently is no, nor is there anticipated or intended to be, a published market in respect of the Shares; and there will be no more than fifty holders of Shares at the time the Put Option is to be exercised.
  - (b) On or before February 15, 2003, EnerMark will forward to each subscriber a notice setting out the Purchase Price, to which will be attached a copy of the report of the Valuator, in which the fair market value of the Shares shall be set out. In addition, if EnerMark intends to pay the Purchase Price by causing the issuance of Trust Units (as described in paragraph (f) below), EnerMark shall forward to each subscriber the most recent annual report of the Applicant, the most recent financial statements and interim financial statements of the Applicant, if applicable, as well as a copy of all the documents filed within the previous twelve months by the Applicant with the relevant regulatory authorities pursuant to its continuous disclosure obligations as a reporting issuer.
  - (c) Unless EnerMark receives from a subscriber, on or before March 12, 2003, a notice indicating that he does not intend to exercise the Put Option, the subscriber shall be deemed to have exercised the Put Option.
  - (d) If, on or before, March 12, 2003, subscribers holding less than 75% of the Shares exercise the Put Option or are deemed to have exercised the Put Option, EnerMark shall not have the obligation to purchase the Shares and the subscribers will remain shareholders of ACT. ACT will continue to carry on its business in accordance with the Joint Venture Agreement.
  - (e) If, on or before, March 12, 2003, subscribers holding 75% or more of the Shares exercise the Put Option or are deemed to have exercised the Put Option, the subscribers who did not exercise their Put Option shall have the obligation to sell their Shares to EnerMark.
  - (f) The Purchase Price shall be paid by EnerMark, at its option, by payment of an amount in cash or by causing the issuance of Trust Units. If EnerMark decides to pay for the Shares by causing the issuance of Trust Units, the number of Trust Units to be issued shall be determined in the following manner:

Fair market value of the Shares as Determined by the Valuator  $95\% \times$  the weighted average trading price of the Trust Units on The Toronto Stock Exchange during the 60 days preceding February 1, 2003 with the fair market value discounted at 15% on an after-tax basis.

14. The purpose of the Option Agreement and the issuance of the Put Option is to provide subscribers of the Shares with the possibility of an exit strategy, by providing that if the holders of Shares issued pursuant to the Offering exercise the Put Option in 2003, their Shares will be purchased by EnerMark for cash or in exchange for the Trust Units.
15. Pursuant to the terms of the Put Option, each of the subscribers for Shares has covenanted to EnerMark that it will not transfer or otherwise dispose of the Put Option other than in connection with a transfer or disposition, in accordance with applicable securities laws, of the Shares to which such Put Option applies.
16. The issuance of the Trust Units, if required, will be carried out pursuant to registration and prospectus exemptions contained in subclauses 35(1)12(iii) and 72(1)(f)(iii) of the Act.

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 :

- (a) the trade of the Put Option is not subject to sections 25 or 53 of the Act, provided that the first trade in the Put Option shall be a distribution; and
- (b) the trades of Shares to EnerMark pursuant to the exercise of the Put Option shall not be subject to sections 25 or 53 of the Act, provided that the first trade by Enermark in the Shares acquired pursuant to this ruling shall be a distribution unless such trade is made in compliance with subsection 72(5) of the Act and section 2.18(3) of Commission Rule 45-501 as if the Shares had been acquired pursuant to an exemption referred to in section 72(5) of the Act.

November 28<sup>th</sup> , 2000.

"Robert W. Davies"

"Robert W. Korthals"

### 2.3.3 Haddington International Resources Ltd. and Daytona Energy Corp. - ss.74(1)

#### Headnote

Subsection 74(1) - the distribution of shares of two issuers to settlementholders in settlement of litigation shall not be subject to sections 25 and 53 of the Act.

#### Statutes Cited

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

#### Rules Cited

Rule 72-501 Prospectus Exemption for First Trade over a Market Outside Ontario

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

AND

IN THE MATTER OF  
HADDINGTON INTERNATIONAL RESOURCES LTD.

AND

IN THE MATTER OF  
DAYTONA ENERGY CORP.

RULING  
(Subsection 74(1))

UPON the application of Haddington International Resources Ltd. ("Haddington") and Daytona Energy Corp. ("Daytona") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to section 74(1) of the Act that the issuance of the Settlement Shares (as defined below) in settlement of the Litigation (as defined below) shall not be subject to sections 25 and 53 of the Act, subject to certain conditions;

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

AND UPON Haddington and Daytona having represented to the Commission as follows:

1. Haddington is a company incorporated under the laws of Australia and is a reporting issuer in British Columbia. It is not, and has no current intention of becoming, a reporting issuer in Ontario.
2. Daytona is a company incorporated under the laws of Yukon and is a reporting issuer in British Columbia. It is not, and has no current intention of becoming, a reporting issuer in Ontario.
3. The authorized capital of Haddington is unlimited common shares (the "Haddington Common Shares"), of which 8,920,492 Haddington Common Shares were outstanding as at August 22, 2000. The Haddington

- Common Shares are listed on the Canadian Venture Exchange ("CDNX").
4. The authorized capital of Daytona is unlimited common shares (the "Daytona Common Shares"), of which 17,429,806 Daytona Common Shares are outstanding as at August 22, 2000. The Daytona Common Shares are listed on the CDNX.
  5. Kenneth G. Byberg, Andy Byberg, Bonnie Mercer, Terrence Byberg and Wayne Byberg (the "Bybergs") are residents of Ontario.
  6. By a letter agreement dated June 5, 1996 (the "Agreement") the Bybergs, as owners of certain mineral claims located in the Tyrrell Township of Ontario (the "Claims"), agreed to give Haddington and Daytona the right to explore and mine the Claims provided they paid the consideration set out in the Agreement as and when stipulated.
  7. The Agreement provided that each of Haddington and Daytona would pay to the Bybergs certain amounts of money at certain times.
  8. It was also a specific term of the Agreement that Haddington would issue an aggregate of 100,000 Haddington Common Shares and Daytona would issue an aggregate of 66,666 Daytona Common Shares to the Bybergs within 10 business days following regulatory approval of the issuances.
  9. Under the Agreement Haddington and Daytona could terminate their rights by providing the Bybergs with 30 days written notice after which all future obligations to pay any further consideration would end as would any right of Haddington and Daytona to further explore or mine the Claims.
  10. On or about June 28, 1996 Haddington and Daytona received regulatory approval from the Vancouver Stock Exchange of the Agreement including approval to issue 100,000 Haddington Common Shares and 66,666 Daytona Common Shares (the "Approved Shares") to the Bybergs.
  11. Haddington and Daytona subsequently gave notice on or about August 2, 1996 to terminate the Agreement which notice was effective 30 days thereafter in accordance with the Agreement.
  12. Under the Agreement, Haddington and Daytona were to have issued and or delivered the Approved Shares to the Bybergs within 10 days following regulatory approval. Despite demands, Haddington and Daytona have failed to issue or deliver the Approved Shares.
  13. The Bybergs pursued an action in the Supreme Court of British Columbia against Haddington and Daytona for the delivery of the Approved Shares, damages for the failure to deliver the Approved Shares, costs, and such further and other relief as the Court deems just (the "Litigation").
  14. In settlement of the Litigation, Haddington and Daytona agreed to issue 87,500 Haddington Common Shares and 116,667 Daytona Common Shares, having a total value of \$35,000, to the Bybergs (the "Settlement Shares").
  15. Pursuant to the policies of the CDNX, Haddington and Daytona issued a news release on July 18, 2000 disclosing the proposed issuance of the Settlement Shares.
  16. The Settlement Shares would represent 0.98% of the total issued and outstanding Haddington Common Shares and 0.67% of the total issued and outstanding Daytona Common Shares.
  17. Haddington and Daytona have not issued any securities in settlement of litigation in the previous twelve months.
  18. Ontario residents hold less than 10% of the issued and outstanding Haddington Common Shares and represent less than 10% of the number of holders of Haddington Common Shares.
  19. Ontario residents hold less than 10% of the issued and outstanding Daytona Common Shares and represent less than 10% of the number of holders of Daytona Common Shares.

**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 issuance of the Settlement Shares to the Bybergs shall not be subject to sections 25 and 53 of the Act provided that the first trade in the Settlement Shares shall be a distribution unless,

- (a) the first trade is made in accordance with subsection 72(4) of the Act as if the Settlement Shares were acquired pursuant to an exemption referred to in that provision; or
- (b) the first trade is made in accordance with Rule 72-501 *Prospectus Exemption for First Trade over a Market Outside Ontario* as if the Settlement Shares were each a restricted security as such term is defined in the Rule.

December 5<sup>th</sup>, 2000.

"J.A. Geller"

"Robert W. Korthals"

**2.3.4 Stonehouse Capital Management Inc. - ss.74(1)**

**Headnote**

Subsection 74(1) - trades by limited partnership of additional units to existing unitholders who purchased, and continue to hold, units having an aggregate purchase price or net asset value of not less than \$150,000 exempted from sections 25 and 53 of the Act, subject to certain conditions.

Section 147 - trades in units of limited partnership not subject to subsection 72(3) of the Act provided from Form 45-501F1 is filed and applicable fees paid on annual basis.

Section 233 of the Regulation - relief granted from clause 224(1)(c) and sections 223, 226, 227 and 228 of the Regulation, subject to certain conditions

**Applicable Ontario Statutes**

*Securities Act*, R.S.O. 1990, c.S.5 as am, ss. 25, 53, 72(3), 72(4), 74(1) and 147

**Applicable Ontario Regulations**

Regulation made under the *Securities Act*, R.R.O., 1990, Reg. 1015, as am., ss. 223, 224(1)(a), 226, 227 and 228

**Applicable Ontario Rules**

Rule 45-501 Exempt Distributions (1998) 21 O.S.C.B. 6548

**IN THE MATTER OF THE SECURITIES ACT,  
R.S.O. 1990, C.S.5, as amended (the "Act")**

**AND**

**IN THE MATTER OF STONEHOUSE CAPITAL  
MANAGEMENT INC.**

**RULING**

**(Subsection 74(1) and Section 147 of the Act  
and Section 233 of the Regulation)**

UPON the application of Stonehouse Capital Management Inc. (the "Applicant"), the investment manager of The Stonehouse Fund L.P. (the "Partnership"), to the Ontario Securities Commission (the "Commission") for (i) a ruling pursuant to subsection 74(1) of the Act that certain trades in units of the Partnership or of Other Funds (as defined below) to existing holders of units of the Partnership or of the Other Funds are not subject to sections 25 and 53 of the Act; (ii) an order pursuant to section 147 of the Act that trades in units of the Partnership or of the Other Funds are not subject to subsection 72(3) of the Act, provided that a Form 45-501F1 of the Commission and the prescribed fee are filed within 30 days of each financial year end; and (iii) an order pursuant to section 233 of the Regulation exempting the Applicant from certain of the conflict of interest requirements (namely, clause 224(1)(a) and sections 223, 226, 227 and 228 of the Regulation) in respect of distributions of the units of the Partnership or of the Other Funds;

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

AND UPON the Applicant having represented to the Commission that:

1. The Applicant is a corporation incorporated under the laws of the Province of Ontario for the purpose of engaging in the business of advising with respect to securities. The Applicant has been engaged to provide investment advisory services to the Partnership and is responsible for the investment management of the Partnership's assets.
2. The Partnership was formed under the laws of Ontario by filing a Declaration of Limited Partnership under the *Limited Partnerships Act* (Ontario) on August 14, 2000.
3. Stonehouse GenPar Ltd., a corporation incorporated under the laws of the Province of Ontario, is the general partner of the Partnership and is responsible for the administrative management of the Partnership on a day-to-day basis. Stonehouse GenPar Ltd. is an affiliate of the Applicant.
4. The Applicant is registered under the Act as an adviser in the categories of "investment counsel" and "portfolio manager" and as a dealer in the category of "limited market dealer" and is not in default under requirements therein.
5. In order to service its discretionary account clients, the Applicant makes available units of ownership ("Units") in the Partnership and may make available from time to time Units in other limited partnerships or pooled fund trusts to be established and managed by the Applicant (the "Other Funds"). The Applicant will be responsible for the investment management of the assets of the Other Funds.
6. The Applicant coordinates the distribution of Units of the Partnership and will co-ordinate the distribution of Units of the Other Funds.
7. The distribution of Units of the Partnership and the Other Funds is subject to sections 25 and 53 of the Act (the "Registration and Prospectus Requirements").
8. None of the Partnership or the Other Funds is or expects to become a "reporting issuer" as such term is defined in subsection 1(1) of the Act.
9. The Partnership is, and each of the Other funds will be, required by its constating documents to deliver to holders of its Units ("Unitholders") audited annual financial statements and unaudited quarterly financial statements.
10. Units of the Partnership and the Other Funds will not be offered by prospectus. However, an offering memorandum (containing rights of action and rescission as required under the Act) will be delivered to prospective investors in respect of the Partnership and may be delivered to prospective investors in respect of the Other Funds.

11. The assets in the Partnership or Other Funds will be invested from time to time based on objectives, policies and restrictions of each of the Partnership and the Other Funds as set out in their respective constating documents and described in any offering memorandum delivered to prospective investors in respect of the Partnership and the Other Funds.
12. Units of the Partnership and the Other Funds will be distributed on a continuous basis and will be offered to residents in Ontario through the Applicant.
13. Units of the Partnership are not, and Units of the Other Funds may not be, redeemable upon demand by the Unitholder but, if a redemption request is made and approved by Stonehouse GenPar Ltd. (or in the case of the Other Funds, by the manager or general partner, as the case may be), Units would be redeemed at their net asset value on a valuation date determined in accordance with the limited partnership agreement or the trust agreement, as the case may be, of each of the Partnership and the Other Funds. The Partnership has, and the Other Funds may have, additional restrictions on the right to redeem.
14. The minimum initial investment (the "Initial Investment") in Units of the Partnership or Other Funds by an investor resident in Ontario will not be less than \$150,000.
15. The Initial Investment will be made in reliance upon the registration and prospectus exemptions contained in paragraph 35(1)5 and paragraph 72(1)(d) of the Act, as amended by Rule 45-501 of the Commission entitled "Exempt Distributions".
16. Following an Initial Investment in the Partnership or Other Funds by an investor, it is proposed that Unitholders be permitted to acquire additional Units (the "Additional Units") of the Partnership or Other Funds with an aggregate acquisition cost of less than \$150,000 by either:
  - (a) automatically reinvesting distributions or dividends otherwise receivable by the Unitholder which are attributable to outstanding Units, unless otherwise requested by the Unitholder; or
  - (b) subscribing and paying for Additional Units.
17. The Applicant acts in a similar capacity with respect to Units, and will act in a similar capacity with respect to Additional Units, as does a mutual fund dealer or fully registered dealer with respect to associated mutual fund securities.
18. The Applicant is subject to the conflict of interest provisions of clause 224(1)(a) and sections 223, 226, 227 and 228 of the Regulation.

**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 trades by the Applicant on behalf of the Partnership or one of the Other Funds of Additional Units in the Partnership or such Other Fund to Unitholders resident in Ontario, as described in paragraph 16 above, are not subject to sections 25 and 53 of the Act, provided that:

1. the Ruling will terminate upon the publication in final form by the Commission of a rule regarding trades in securities of pooled funds;
2. at the time of the acquisition of Additional Units of the Partnership or such Other Fund, the Unitholder who made the Initial Investment in the Partnership or such Other Fund of at least \$150,000 then owns Units of the Partnership or such Other Fund, as the case may be, having an aggregate purchase price or net asset value of not less than \$150,000;
3. at the time of the acquisition of Additional Units of the Partnership or such Other Fund, the Applicant or any party assisting the Applicant in selling the Units is registered under the Act as a dealer in the appropriate category, and such registration is in good standing; and
4. the first trade in Additional Units acquired pursuant to this ruling shall be a distribution unless such trade is made in accordance with subsection 72(4) of the Act as modified by subsection 2.18(3) of Commission Rule 45-501, as if such Additional Units had been acquired pursuant to an exemption referred to in subsection 72(4) of the Act.

**IT IS FURTHER RULED**, pursuant to section 147 of the Act, that trades in Units of the Partnership or the Other Funds are not subject to subsection 72(3) of the Act, provided that:

1. within 30 days after each financial year end of the Partnership and the Other Funds, the Applicant files a report in accordance with Form 45-501F1 of the Commission in respect of trades in Units of the Partnership or the Other Funds during such financial year; and
2. within 30 days after each financial year end of the Partnership and the Other Funds, the Applicant remits the applicable fee on behalf of the Partnership or such Other Funds, as the case may be.



IT IS ORDERED pursuant to section 233 of the Regulation, that the Applicant is (i) exempt from clause 224(1)(a) and sections 223, 226 and 228 of the Regulation in respect of distributions of Units and Additional Units of the Partnership and the Other Funds, provided that the Order shall terminate 90 days after the publication in final form by the Commission of a rule regarding underwriting conflicts and limited market dealers; and (ii) exempt from the requirements of section 227 of the Regulation in respect of distributions of Units of the Partnership and the Other Funds, provided that the Applicant, before acquiring discretionary authority, secures the specific and informed written consent of the client to the exercise of the discretionary authority in respect of Units of the Partnership and the Other Funds.

December 12<sup>th</sup>, 2000

"Howard I. Wetson"

"J.A. Geller"

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## Chapter 3

# Reasons: Decisions, Orders and Rulings

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IN THIS ISSUE

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## Chapter 4

# Cease Trading Orders

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### 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
Consolidated Trillion Resources Ltd.	Dec 11/00	Dec 22/00		
ARC International Corporation	Dec 12/00	Dec 22/00		
CTM Cafes Inc.	Dec 12/00	Dec 22/00		
Roycefield Resources Ltd.	Dec 13/00	Dec 22/00		

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## Chapter 5

# Rules and Policies

### 5.1 Rules and Policies

### ONTARIO SECURITIES COMMISSION RULE 51-501 AIF AND MD&A

#### 5.1.1 OSC Rule 51-501 AIF and MD&A

#### ONTARIO SECURITIES COMMISSION RULE 51-501 AIF AND MD&A

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#### PART 1 DEFINITIONS AND APPLICATION

##### 1.1 Definitions - In this Rule

"annual MD&A" means, for an issuer, a MD&A for the annual financial statements of the issuer; and

"interim MD&A" means, for an issuer, a MD&A for the interim financial statements of the issuer.

##### 1.2 Application

(1) Except as otherwise provided in Ontario securities law, this Rule applies to a reporting issuer, other than a mutual fund, if

(a) the issuer's shareholders' equity or revenues exceeded \$10,000,000 in the financial year of the issuer completed immediately preceding the coming into force of this Rule or in any subsequent financial year; or

(b) the aggregate market value of the issuer's outstanding equity securities for which there was a published market was \$75,000,000 or more on the last day of the financial year of the issuer completed immediately preceding the coming into force of this Rule or on the last day of any subsequent financial year.

(2) A reporting issuer to which this Rule applies shall file

(a) annual MD&A for financial years of the issuer ending on or after January 1, 2001; and

(b) interim MD&A for interim periods of the issuer beginning

(i) on or after January 1, 2001 if the issuer filed an AIF for a financial year ending in 2000; or

(ii) the day after the end of the financial year for which the issuer files its first annual MD&A if the issuer did not file an AIF for a financial year ending in 2000.

**1.3 Calculation of Aggregate Market Value of an Issuer's Equity Securities**

- (1) For the purposes of sections 1.2 and 1.4, the aggregate market value of the equity securities of an issuer on the last day of a financial year is the aggregate of the market value on that date of each class of its equity securities for which there is a published market, calculated by multiplying
  - (a) the simple average of the closing prices of the class of equity securities for each of the 20 most recent trading days on which there was a closing price; by
  - (b) the simple average number of equity securities of the class outstanding over that 20 trading day period.
- (2) For the purposes of the calculation under subsection (1), the closing price on the published market in Canada on which the class of equity securities is principally traded shall be used, unless there is no published market in Canada on which the class of equity securities is traded, in which case, the published market outside of Canada on which the class of equity securities is principally traded shall be used.

**1.4 Exemption -** Despite section 1.2, this Rule does not apply with respect to a financial year of a reporting issuer if

- (a) neither the shareholders' equity nor the revenues of the issuer exceeded \$10,000,000 in each of the three immediately preceding financial years; and
- (b) the aggregate market value of the issuer's outstanding equity securities for which there was a published market was less than \$75,000,000 on the last day of each of the three immediately preceding financial years.

**PART 2 FILING OF AIF**

**2.1 Filing of AIF**

- (1) An issuer shall file an AIF prepared in accordance with Form 44-101F1 for each financial year within 140 days after the end of the financial year.
- (2) An issuer is not required to file an AIF under subsection (1) for a financial year ended prior to the coming into force of this Rule.

- (3) Despite subsection (1), an issuer that has securities registered under section 12 of the 1934 Act or has a reporting obligation under subsection 15(d) of the 1934 Act may file an AIF in the form of a current annual report on Form 10-K, or on Form 20-F, under the 1934 Act.
- (4) An issuer that files an AIF under subsection (3) shall file the AIF as nearly as practicable contemporaneously with the filing of the Form 10-K or Form 20-F with the SEC.
- (5) An issuer that files an AIF under subsection (3) shall file with the AIF an undertaking to the Director to the effect that the issuer will provide to any person or company, upon request to the secretary of the issuer
  - (i) one copy of the AIF of the issuer, together with one copy of any document, or the pertinent pages of any document, incorporated by reference in the AIF,
  - (ii) one copy of the comparative financial statements of the issuer for its most recently completed financial year for which financial statements have been filed together with the accompanying report of the auditor and one copy of the most recent interim financial statements of the issuer that have been filed, if any, for any period after the end of its most recently completed financial year, and
  - (iii) one copy of the information circular of the issuer in respect of its most recent annual meeting of shareholders that involved the election of directors or one copy of any annual filing prepared instead of that information circular.

**2.2 Filing of Annual MD&A Supplement for Canadian GAAP Discussion**

- (1) An issuer that has filed an AIF in a form permitted under subsection 2.1(3) shall file, concurrently with its AIF, a supplement prepared in accordance with subsection (2) if the issuer
  - (a) is incorporated, organized or continued under the laws of Canada or a jurisdiction; and



- (b) has based the discussion in the annual MD&A that forms part of its AIF on financial statements prepared other than in accordance with Canadian GAAP.
- (2) A supplement required to be filed by an issuer under subsection (1) shall restate, based on financial statements of the issuer prepared in accordance with Canadian GAAP, those parts of the annual MD&A that
  - (a) are based on financial statements of the issuer prepared in accordance with foreign GAAP; and
  - (b) would read differently if they were based on financial statements of the issuer prepared in accordance with Canadian GAAP.

### PART 3 DELIVERY OF ANNUAL MD&A

**3.1 Delivery of Annual MD&A** - An issuer shall send the annual MD&A to all securityholders to whom it sends its annual audited financial statements

- (a) concurrently with the sending to those securityholders of its annual audited financial statements to which the annual MD&A relates; or
- (b) if its annual audited financial statements appear in more than one document that are sent separately to securityholders, then concurrently with the sending to securityholders of one of the documents containing its annual audited financial statements to which the annual MD&A relates, so long as the annual MD&A is sent to securityholders within 140 days after the end of the financial year to which the annual MD&A relates.

**3.2 Delivery of Annual MD&A Supplement for Canadian GAAP Discussion** - An issuer required to file a supplement under section 2.2 shall send the supplement to all securityholders to whom it sends the annual MD&A, concurrently with the sending of the annual MD&A.

### PART 4 INTERIM MD&A

#### 4.1 Filing of Interim MD&A

- (1) An issuer that is required to file an AIF for a financial year shall file in the following financial year, concurrently with the filing of its interim financial statements, an interim MD&A prepared in accordance with section 4.2.

- (2) Despite subsection (1) and section 4.2, an issuer that has securities registered under section 12 of the 1934 Act or has a reporting obligation under subsection 15(d) of the 1934 Act may file an interim MD&A prepared in accordance with paragraph (b) of Item 303 of Regulation S-K under the 1934 Act.
- (3) An issuer that files an interim MD&A under subsection (2) shall file the interim MD&A as nearly as practicable contemporaneously with the filing of the Form 10-Q or Form 6-K with the SEC.

#### 4.2 Content of Interim MD&A

- (1) An issuer's interim MD&A shall include
  - (a) an update of the analysis of the issuer's financial condition in the annual MD&A for the most recently completed financial year;
  - (b) an analysis of the issuer's results from operations and cash flows for the most recently completed interim period; and
  - (c) a comparison of the issuer's financial condition, results of operations and cash flows as at the dates and for the periods set out in subsection (2).
- (2) The dates and periods are:
  - 1. For financial condition, the date of the balance sheet for the issuer's most recently completed financial year and the date of its most recent interim balance sheet.
  - 2. For results of operations
    - (a) the most recent financial year-to-date period for which an income statement of the issuer is provided and the corresponding year-to-date period of the issuer's preceding financial year; and
    - (b) the most recent quarter of the issuer's financial year, and the corresponding quarter of the preceding financial year.
  - 3. For cash flows
    - (a) the most recent financial year-to-date period for which a cash flow statement of the issuer is provided and the corresponding year-to-date period of the issuer's preceding financial year; and

(b) the most recent quarter of the issuer's financial year, and the corresponding quarter of the preceding financial year.

(3) An issuer's interim MD&A shall identify changes in results of operations that are material and any significant elements of the issuer's income or loss from continuing operations that do not arise from, or are not necessarily representative of, the issuer's ongoing business.

(4) An issuer's interim MD&A shall include a discussion of any seasonal aspects of the issuer's business that have had a material effect upon its financial condition, results of operations or cash flows.

**4.3 Delivery of Interim MD&A** - An issuer shall send the interim MD&A referred to in subsection 4.1(1) or (2) to all securityholders to whom it sends its interim financial statements to which the interim MD&A relates, concurrently with the sending to those securityholders of the interim financial statements.

**4.4 Filing of Interim MD&A Supplement for Canadian GAAP Discussion**

(1) An issuer that has filed an interim MD&A prepared in accordance with paragraph (b) of Item 303 of Regulation S-K under the 1934 Act shall file, concurrently with the filing of its interim MD&A, a supplement prepared in accordance with subsection (2) if the issuer

(a) is incorporated, organized or continued under the laws of Canada or a jurisdiction; and

(b) has based the discussion in the interim MD&A on financial statements prepared other than in accordance with Canadian GAAP.

(2) A supplement required to be filed by an issuer under subsection (1) shall restate, based on interim financial statements of the issuer prepared in accordance with Canadian GAAP, those parts of the interim MD&A that

(a) are based on financial statements of the issuer prepared in accordance with foreign GAAP; and

(b) would read differently if they were based on financial statements of the issuer prepared in accordance with Canadian GAAP.

**4.5 Delivery of Interim MD&A Supplement for Canadian GAAP Discussion** - An issuer required to file a supplement under section 4.4 shall send the supplement to all securityholders to whom it sends its interim MD&A to which the supplement relates, concurrently with the sending of the interim MD&A.

#### PART 5 EXEMPTION

**5.1 Exemption** - The Director may grant an exemption to this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

#### PART 6 EFFECTIVE DATE

**6.1 Effective Date** - This Rule comes into force on January, 1, 2001.

**COMPANION POLICY 51-501CP  
TO ONTARIO SECURITIES COMMISSION RULE 51-501  
AIF AND MD&A**

filing requirement is in addition to the requirement to file annual MD&A.

**PART 1 GENERAL**

**1.1 Introduction**

The purpose of this Companion Policy is to provide guidance to assist reporting issuers in complying with their obligations under Rule 51-501. It provides the Commission's views with respect to certain relevant matters.

**1.2 Implementation**

Rule 51-501 applies to annual MD&A for financial years ending on or after January 1, 2001. It applies to interim MD&A for interim periods beginning (i) on or after January 1, 2001 if the issuer filed an AIF for a financial year ending in 2000; or (ii) the day after the end of the financial year for which the issuer files its first annual MD&A if the issuer did not file an AIF for a financial year ending in 2000. Annual MD&A is the foundation upon which interim MD&A is built. Consequently, the requirement to file interim MD&A does not arise until an annual MD&A has been filed. For example, interim MD&A for the interim period beginning February 1, 2001 and following interim periods must be filed if an issuer has an obligation to file an AIF for the financial year ending October 31, 2000. If an issuer is subject to an obligation to file an AIF for the first time for the financial year ending January 31, 2001, interim MD&A must be filed and delivered for the interim period beginning February 1, 2001 and following interim periods. Refer to Appendix A for further examples.

**1.3 Debt-Only Reporting Issuers**

Rule 51-501 requires all reporting issuers that exceed the thresholds in section 1.2 of Rule 51-501, other than mutual funds, to file an AIF, including annual MD&A, and interim MD&A for the periods required under Rule 51-501. This includes reporting issuers that are reporting issuers solely because they have debt securities outstanding. However, debt-only reporting issuers are not required under Rule 51-501 to send the annual or interim MD&A to securityholders.

**1.4 Interrelationship with NI 44-101**

National Instrument 44-101 Short Form Prospectus Distributions ("NI 44-101") requires most issuers to file an AIF in order to be qualified to distribute securities under a short form prospectus. Form 44-101F1, the form of AIF, incorporates Form 44-101F2, the form of annual MD&A. An issuer that files an AIF under NI 44-101 within 140 days after its financial year end satisfies the requirement to file an AIF for its financial year under Rule 51-501 without filing a separate AIF under Rule 51-501. The interim MD&A

**PART 2 MD&A**

**2.1 Sending of Annual MD&A** - An issuer may satisfy the obligation in section 3.1 of Rule 51-501 to send the annual MD&A to its securityholders by including the annual MD&A in an annual report sent to securityholders.

**2.2 MD&A Supplement for Canadian GAAP Discussion** - A Canadian issuer that files its AIF in the form of a current annual report on Form 10-K, or Form 20-F, under the 1934 Act and prepares MD&A based on financial statements that have been prepared in accordance with foreign GAAP is required under section 2.2 of Rule 51-501 to file a supplement to its annual MD&A and under section 4.4 to file a supplement to its interim MD&A. The purpose of the supplement is to identify, and to restate based on financial statements prepared in accordance with Canadian GAAP, those parts of the MD&A that would have been different if the MD&A had been based on the financial statements prepared in accordance with Canadian GAAP. The supplement does not need to restate the MD&A in its entirety.

**2.3 Interim MD&A**

(1) In preparing the interim MD&A, issuers may presume that readers of the MD&A have read or have access to the annual MD&A. Issuers should discuss both the current quarter and the year-to-date period in the interim MD&A and how they compare to the corresponding periods in the previous year, including commentary on any known trends or uncertainties that have had or that the issuer reasonably expects will have a favourable or unfavourable effect. Prominence should be given to the discussion of the current quarter and how events and changes occurring in the quarter will affect the issuer. The interim MD&A should include a discussion of changes that are likely to have a significant impact in the future. A discussion that would largely duplicate the disclosure contained in the annual MD&A need not be repeated. For example, a discussion of the external economic and industry factors affecting the issuer need not be repeated if those factors are substantially unchanged from the annual MD&A. A statement that those factors remain substantially unchanged would suffice. On the other hand, when external factors or the specific circumstances of an issuer have changed subsequent to the end of the most recently completed financial year, disclosure is required. For example, significant changes in the nature and extent of an issuer's use of financial instruments would require discussion.

- (2) In preparing the interim MD&A, it is not sufficient for an issuer to recite, without explanation, the amount of changes from period to period that are readily computable from the financial statements. The discussion need not repeat numerical data contained in the financial statements. The issuer should include information that is available to the issuer and does not clearly appear in the issuer's financial statements.
- (3) In preparing the interim MD&A, issuers are required to address changes that are material. Materiality is a matter of judgement in particular circumstances, and should generally be determined in relation to an item's significance to investors, analysts and other users of the information. An item of information, or an aggregate of items, is considered by the Commission to be material if it is probable that its omission or misstatement would influence or change an investment decision with respect to the issuer's securities. In considering whether items are material, issuers should consider the potential significance of items individually rather than on a net basis where factors have an offsetting effect. An issuer should also take into account both quantitative and qualitative factors. This concept of materiality is consistent with the financial reporting notion of materiality contained in the Handbook.
- (4) An issuer may combine the interim MD&A with the annual MD&A, if the issuer's interim financial statements to which the interim MD&A relates are presented together with its annual audited financial statements.
- (5) The Commission is not mandating the form of the interim MD&A. Issuers are not required to prepare a formal glossy quarterly report. Issuers are encouraged to prepare the interim MD&A in a format that provides investors with quality information on a timely basis.

**2.4 Review by Audit Committee** - In the Commission's view, if an issuer has an audit committee, MD&A should be carefully reviewed and considered by the audit committee.

**2.5 Additional Guidance** - Commission staff from time to time publishes MD&A guides and reports on MD&A and financial statement reviews. Issuers are encouraged to refer to this material.

**APPENDIX A  
TO  
COMPANION POLICY 51-501CP  
TO ONTARIO SECURITIES COMMISSION RULE 51-501  
AIF & MD&A**

Implementation Examples

Financial Year End	October 31	October 31	December 31	December 31
Filed AIF for 2000 financial year	Yes	No	No	Yes
Q1, 2001 Interim MD&A	No	No	No	Yes
Q2, 2001 Interim MD&A	Yes	No	No	Yes
Q3, 2001 Interim MD&A	Yes	No	No	Yes
Filed AIF for 2001 financial year under Rule 51-501	Yes	Yes	Yes	Yes
Q1, 2002 Interim MD&A	Yes	Yes	Yes	Yes
Q2, 2002 Interim MD&A	Yes	Yes	Yes	Yes
Q3, 2002 Interim MD&A	Yes	Yes	Yes	Yes

5.1.2 OSC Rule 52-501 Financial Statements

ONTARIO SECURITIES COMMISSION RULE 52-501  
FINANCIAL STATEMENTS

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ONTARIO SECURITIES COMMISSION RULE 52-501  
FINANCIAL STATEMENTS

PART 1 DEFINITION AND APPLICATION

- 1.1 **Definition** - In this Rule, "foreign issuer" means an issuer that is not incorporated or organized under the laws of Canada or a jurisdiction, unless
- (a) voting securities carrying more than 50 percent of the votes for the election of directors are held of record directly or indirectly by residents of Canada, and
  - (b) any one or more of
    - (i) the majority of the senior officers or directors of the issuer are residents of Canada,
    - (ii) more than 50 percent of the assets of the issuer are located in Canada, or
    - (iii) the business of the issuer is administered principally in Canada.

1.2 **Application**

- (1) Except as otherwise provided in Ontario securities law, this Rule applies to all reporting issuers other than mutual funds.
- (2) This Rule applies to
  - (a) annual financial statements for financial years of the issuer beginning on or after January 1, 2001; and
  - (b) interim financial statements for interim periods in financial years of the issuer beginning on or after January 1, 2001.

PART 2 FINANCIAL STATEMENTS

2.1 **Annual Financial Statements**

- (1) The comparative financial statements required to be filed under section 78 of the Act shall include
  - (a) a balance sheet as at the end of the applicable period referred to in subsection 78(1) of the Act;
  - (b) an income statement for the applicable period referred to in subsection 78(1) of the Act;
  - (c) a statement of retained earnings for the applicable period referred to in subsection 78(1) of the Act; and

- (d) a cash flow statement for the applicable period referred to in subsection 78(1) of the Act.
- (2) The balance sheet referred to in paragraph (1)(a) shall distinguish at least the following items
  - 1. Cash and cash equivalents.
  - 2. Temporary investments.
  - 3. Long term investments.
  - 4. Accounts and notes receivable.
  - 5. Investments accounted for using the equity method.
  - 6. Inventories.
  - 7. Property, plant and equipment.
  - 8. Intangible assets.
  - 9. Accounts payable.
  - 10. Current interest bearing liabilities.
  - 11. Long-term debt.
  - 12. Minority interest.
  - 13. Share capital.
  - 14. Contributed surplus.
- (3) Despite subsection (2), an item listed in subsection (2) need not be distinguished if the item represents less than five percent of the total assets as at the balance sheet date.
- (4) Every financial statement required to be filed under section 78 of the Act shall be reviewed by the audit committee, if any, and approved by the board of directors of the reporting issuer and the approval shall be evidenced by the signatures of two directors authorized to evidence the approval.

## 2.2 Interim Financial Statements

- (1) The interim financial statements required to be filed under subsection 77(1) of the Act shall include
  - (a) a balance sheet as at the date to which the financial statements are prepared and a comparative balance sheet as at the end of the immediately preceding financial year;
  - (b) an income statement for the most recent financial year-to-date period for which the financial statements are

prepared and comparative financial information for the corresponding period in the immediately preceding financial year;

- (c) a statement of retained earnings for the most recent financial year-to-date period for which the financial statements are prepared and comparative financial information for the corresponding period in the immediately preceding financial year; and
- (d) a cash flow statement for the most recent financial year-to-date period for which the financial statements are prepared and comparative financial information for the corresponding period in the immediately preceding financial year.
- (2) In addition to the interim financial statements required to be filed under subsection 77(1) of the Act, an issuer shall file, within 60 days of the date to which it is made up,
  - (a) an income statement and cash flow statement for the three-month period ended on the date of the balance sheet required under paragraph (1)(a), other than the last three-month period in its financial year; and
  - (b) comparative financial information for the corresponding period in the preceding financial year.
- (3) The financial statements required under subsection (1) and (2) shall include notes.
- (4) The interim balance sheet referred to in paragraph (1)(a) shall distinguish at least the items listed in subsection 2.1(2).
- (5) Despite subsection (4), an item in subsection 2.1(2) need not be distinguished if the item represents less than five percent of the total assets as at the interim balance sheet date.
- (6) The board of directors shall review the financial statements referred to in subsection (1) and (2) prior to filing and delivery of the statements to securityholders.
- (7) In fulfilling the requirement in subsection (6), the board of directors may delegate the review of the financial statements to an audit committee of the board.
- (8) Subsection (6) does not apply to a foreign issuer.
- (9) The income statement and cash flow statement required to be filed under

subsection (2) shall be sent by the issuer at the same time and to the same securityholders as the financial statements referred to in subsection (1) are required to be sent.

- (10) The interim financial statements required to be filed under subsection 77(1) of the Act and subsection (2) need not include an auditor's report.

### PART 3 TRANSITION

- 3.1 **Transition** - Despite sections 2.1 and 2.2, an issuer is not required to provide comparative information in financial statements for the financial year, and for interim periods in the financial year, in which the issuer is first subject to this Rule if
- (a) it is impracticable to present prior period information on a basis consistent with this Rule;
  - (b) the prior period information that is available is presented; and
  - (c) the fact that the prior period information has not been prepared in accordance with this Rule is disclosed.

### PART 4 EXEMPTION

- 4.1 **Exemption** - The Director may grant an exemption to this Rule, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

## COMPANION POLICY 52-501CP TO ONTARIO SECURITIES COMMISSION RULE 52-501 FINANCIAL STATEMENTS

### PART 1 GENERAL

1.1 **Introduction** - The purpose of this Companion Policy is to provide guidance to assist reporting issuers in complying with their obligations under Rule 52-501.

#### 1.2 Interrelationship with Canadian GAAP

- (1) Reporting issuers are required to prepare their annual financial statements in accordance with both Canadian GAAP and the requirements of Rule 52-501. For example, if Canadian GAAP relating to preparation of annual financial statements requires the disclosure of an item on the face of the balance sheet and the item either is not listed in subsection 2.1(2) of Rule 52-501 or is listed in subsection 2.1(2) but represents less than five percent of total assets as at the balance sheet date, then the item would be required to be disclosed on the face of the balance sheet. Similarly, if Canadian GAAP does not specifically require an item to be presented on the face of the balance sheet but the item is listed in subsection 2.1(2) and represents five percent or more of total assets, the item would be required to be disclosed on the face of the balance sheet.
- (2) Interim financial statements are also required to be prepared in accordance with both Canadian GAAP and the requirements of Rule 52-501. For example, Section 1751 Interim Financial Statements of the Handbook requires that the interim financial statements include, at a minimum: each of the headings and subtotals included in the most recent annual financial statements; the line items required by the Handbook sections regarding annual financial statements; and the specific disclosures required by Section 1751. Subsection 2.2(4) of Rule 52-501 requires the interim balance sheet to distinguish the items listed in subsection 2.1(2) other than items that represent less than five percent of total assets as at the balance sheet date. Issuers must ensure that interim financial statements comply with both Section 1751 of the Handbook and Rule 52-501.

1.3 **Foreign Issuer** - For the purposes of the definition of "foreign issuer", it is the Commission's view that, in determining the voting securities that are directly or indirectly held of record by residents of Canada, an issuer should

- (a) include securities held of record by a broker, dealer, bank, trust company or nominee for any of them for the accounts of customers resident in Canada;



- (b) count securities beneficially owned by residents of Canada as reported on reports of beneficial ownership; and
- (c) assume that a customer is a resident of the jurisdiction or foreign jurisdiction in which the nominee has its principal place of business if, after reasonable inquiry, information regarding the jurisdiction or foreign jurisdiction of residence of the customer is unavailable.

**1.4 Interrelationship with Rule 51-501 AIF and MD&A regarding Implementation** - Rule 52-501 and Rule 51-501 AIF and MD&A do not necessarily apply for the first time to the same financial periods. Rule 52-501 applies to annual financial statements for financial years beginning on or after January 1, 2001 and to interim financial statements for interim periods in financial years beginning on or after January 1, 2001. Rule 51-501 AIF and MD&A applies to annual MD&A for financial years ending on or after January 1, 2001 and to interim MD&A for interim periods beginning on or after January 1, 2001. For example, if an issuer has a January 31 year end, it would file an AIF for the financial year ending January 31, 2001 but would not be required to comply with the annual financial statement requirements of Rule 52-501 until the financial year ending January 31, 2002. If an issuer filed an AIF for a financial year ending December 31, 2000, the issuer would file interim financial statements in accordance with Rule 52-501 and interim MD&A in accordance with Rule 51-501 commencing with the interim period beginning January 1, 2001.

## **PART 2 REVIEW BY BOARD OF DIRECTORS**

**2.1 Auditor Involvement with Interim Financial Statements** - In the Commission's view, the board of directors of an issuer, in discharging its responsibilities for ensuring the reliability of interim financial statements, should consider engaging an external auditor to carry out a review of such financial statements.

## **PART 3 BALANCE SHEET**

**3.1 Balance Sheet Line Items** - The balance sheet line item requirements in subsections 2.1(2) and 2.2(4) of Rule 52-501 establish a minimum level of balance sheet disclosure. An issuer should consider its industry sector, stage of development and transactions and determine whether additional items should be included in the balance sheet or the notes to provide information that is necessary for an investor's overall understanding of the issuer's financial position.

**3.2 Line Item Disclosure** - Section 2.1(2) of Rule 52-501 does not prescribe the order or format in which the items are to be presented. The descriptions and ordering of items should be adapted to create a clear balance sheet presentation thereby enhancing disclosure to investors of the financial position of the issuer.

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## Chapter 6

# Request for Comments

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## Chapter 7

# Insider Reporting

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This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see [www.carswell.com](http://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](http://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

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
28Nov00	ACT Energy Inc. - Units	1,145,000	1,145
22Sep00	Algorithmics Incorporated - Series I Convertible Note	US\$10,114,632	\$1
01Nov00	Bank of Ireland Asset Management Ltd. - Units	2,300,000	160,882
01Nov00	Bank of Ireland Asset Management Ltd. - Units	300,000	20,982
01Nov00	Bank of Ireland Asset Management Ltd. - Units	400,000	27,978
23Nov00	Canadian Golden Dragon Resources Ltd. - Common Shares	2,750	12,500
28Nov00	Canadian Superior Energy Inc. - Common Shares	3,650,000	3,733,334
17Nov00	Canadian Superior Energy Inc. - Common Shares	1,340,000	1,340,000
15Sep00	Cytovax Biotechnologies Inc. - Special Warrants (Amended)	3,304,000	826,000
24Nov00	Devine Entertainment Corporation - Special Warrants	600,000	1,200,000
24Nov00	Eldorado Gold Corporation - Special Warrants	6,225,001	11,318,184
20Nov00	EMI Beach Palms Inc. - Units	465,210	300
20Nov00	EMI Beach Palms Inc. - Units	1,221,951	788
01Nov00	Evergreen Solar, Inc. - Common Stock	2,202,200	110,000
24Nov00	Headline Media Group Inc. - Class A Subordinate Voting Shares	22,500,000	7,500,000
30Oct00	Honeybee Technology Inc. - Common Shares	412,500	275,000
13Oct00	Lifepoints Achievement Fund - Units	16,651	83
16Oct00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Fixed Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	195,388	1,659
17Oct00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	154,694	1,355
13Oct00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	115,762	1,041
11Oct00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Fixed Income Fund, Russell Global Equity Fund - Units	40,787	318
10Oct00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Fixed Income Fund, Russell Global Equity Fund - Units	20,036	155
19Oct00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund - Units	28,265	227

**Notice of Exempt Financings**

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
19Oct00	Lifepoints Achievement Fund, Lifepoints Opportunity Fund, Lifepoints Progress Fund - Units	12,740	113
27Oct00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Fixed Income Fund, Russell Global Equity Fund - Units	29,158	241
26Oct00	Lifepoints Achievement Fund, Russell Canadian Equity Fund - Units	25,833	172
25Oct00	Lifepoints Balanced Growth Fund - Unit	15	14
10Oct00	Lifepoints Balanced Long Term Growth - Units	6,236	52
24Oct00	Lifepoints Balanced Income Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Long Term Growth Fund - Units	4,772	42
27Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell Overseas Equity Fund - Units	257,614	2,263
26Oct00	Lifepoints Balanced Long Term Growth - Units	547	4
13Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	59,303	489
23Oct00	Lifepoints Balanced Growth Fund, Lifepoints Balanced Long Term Growth Fund - Units	4,587	39
23Oct00	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Growth, Lifepoints Balanced Income - Units	15,778	140
12Oct00	Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	106,398	992
24Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	2,610,414	13,226
20Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	11,671,053	99,402
26Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	18,064	155
16Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	25,088	158
12Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	86,847	744
19Oct00	Lifepoints Balanced Long Term Growth Fund - Units	452	3
10Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	195,943	1,533
17Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	69,913	628
18Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Russell Canadian Equity Fund, Russell Global Equity Fund, Russell U.S. Equity Fund - Units	5,565	36
25Oct00	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell Global Equity Fund, Russell U.S. Equity Fund, Russell Overseas Equity Fund - Units	141,597	1,128
13Oct00	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Growth, Lifepoints Balanced Income - Units	15,745	140
24Oct00	Lifepoints Opportunity Fund - Units	6,849	57

**Notice of Exempt Financings**

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
25Oct00	Lifepoints Opportunity Fund - Units	45,853	391
27Oct00	Lifepoints Opportunity Fund - Units	795	6
20Oct00	Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Fixed Income Fund - Units	54,658	461
17Oct00	Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	1,207	10
10Oct00	Lifepoints Progress Fund, Lifepoints Achievement Fund, Lifepoints Opportunity Fund - Units	86,233	745
27Oct00	Lifepoints Progress Fund, Russell Canadian Fixed Income Fund - Units	17,403	161
13Oct00	Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	103,919	898
15Nov00	March Networks Corporation - Common Shares	16,212,474	13,510,395
28Nov00	Musicrypt.com Inc. - Common Shares	75,000	50,000
09Nov00	Quebecor World Inc. - Subordinate Voting Shares	50,000	50,000
23Nov00	Queenstake Resources Ltd. - Special Warrants	999,999	5,405,405
30Nov00	Ripped Canada Artists Inc. - Common Shares	150,000	250,000
20Oct00	Russell Canadian Equity Fund, Lifepoints Balanced Long Term Growth Fund - Units	58,643	326
27Oct00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Lifepoints Balanced Long Term Growth Fund - Units	76,373	562
25Oct00	Russell Canadian Equity Fund - Units	450,352	1,916
24Oct00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	184,785	935
23Oct00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	225,163	1,331
16Oct00	Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund, Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	112,965	1,005
25Oct00	Russell Canadian Equity Fund, Russell US Equity Fund, Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund - Units	29,300	135
13Oct00	Russell Canadian Equity Fund - Units	9,722	40
13Oct00	Russell Canadian Fixed Income Fund, Russell Overseas Equity Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	162,936	1,467
23Oct00	Russell Canadian Equity Fund - Units	25,516	106
19Oct00	Russell Canadian Equity Fund, Russell Overseas Equity Fund, Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	45,298	304
26Oct00	Russell Canadian Equity Fund - Units	39,926	171
18Oct00	Russell Canadian Equity Fund, Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund - Units	112,166	521
17Oct00	Russell Canadian Fixed Income Fund, Russell US Equity Fund, Lifepoints Balanced Long Term Growth Fund - Units	121,563	1,034
11Oct00	Russell Canadian Equity Fund, Russell Global Equity Fund - Unit	108	.51
11Oct00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund - Units	89,040	727
16Oct00	Russell Canadian Fixed Income Fund - Units	3,044	25
12Oct00	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Fixed Income Fund, Russell Global Equity Fund - Units	2,223	12
10Oct00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	170,260	1,194
25Oct00	Russell Canadian Equity Fund - Units	9,960	42
26Oct00	Russell Overseas Equity Fund, Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Income Fund - Units	117,539	1,019
23Oct00	Russell Overseas Equity Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	173,136	1,551
20Oct00	Russell Overseas Equity Fund, Lifepoints Opportunity Fund - Units	80,160	663



**Notice of Exempt Financings**

<u>Trans. Date</u>	<u>Security</u>	<u>Price (\$)</u>	<u>Amount</u>
19Oct00	Russell Overseas Equity Fund - Units	2,495	19
23Oct00	Russell Overseas Equity Fund - Units	306,693	2,417
17Oct00	Russell Overseas Equity Fund - Units	121,512	965
12Oct00	Russell U.S. Equity Fund - Units	17,153	118
12Oct00	Russell US Equity Fund, Russell Overseas Equity Fund - Units	122,110	868
27Oct00	Samsco.com Inc. - Special Warrants	150,000	150,000
22Nov00	Sentinel Hill Alliance Atlantis Equicap Millennium Limited Partnership - Units	70,511,568	4,406
22Nov00	Sentra Resources Corporation - Special Warrants	650,000	260,000
11Oct00	SKY Perfect Communications Inc. - Shares of Common Stock	4,533,760	1,012
24Nov00	Sportscope Television Network Ltd. - Common Shares	5,000,001	66,928
15Nov00	Stonestreet Limited Partnership - Limited Partnership Units	3,995,330	399,533
25Oct00	Thornbury River Walk Limited Partnership - Limited Partnership Unit	150,000	1
22Nov00	Tikal Resources Corp. - Flow-Through Common Shares	243,750	195,000
28Aug00	VIMAC Early Stage Fund Limited Partnership - Limited Partnership Interest	\$3,944,700	4

**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)**

<u>Name of Company</u>	<u>Date the Company Ceased to be a Private Company</u>
Sportscope Television Network Ltd.	21Nov00

**Notice of Intention to Distribute Securities Pursuant to Subsection 7 of Section 72 - (Form 23)**

<u>Seller</u>	<u>Security</u>	<u>Amount</u>
Paros Enterprises Limited	Aktion Corporation - Common Shares	2,000,000
Melnick, Larry	Champion Natural Health.com Inc. - Subordinate Voting Shares	29,900
Hennick, Jay S.	FirstServices Corporation - Subordinate Voting Shares	50,000
Timins, Frank	Gabriel Resources Ltd. - Common Shares upon the exercise of Warrants and Common Shares	1,000,000, 1,500,000 Resp.
Black, Conrad M.	Hollinger Inc. - Series II Preference Shares	1,611,039
Scad Family Trust	Husky Injection Moulding Systems Ltd. - Common Shares	140,000
963037 Ontario Limited	Jetcom Inc. - Common Shares	1,000,000
Funda, Sam & Giomardi Holdings	Leader Capital Corp. - Common Shares	200,000, 133,000 Resp.
DKRT Investments Corp.	Thomson Corporation, The - Common Shares	100,000

## Chapter 9

# Legislation

### 9.1.1 Amendment to Regulation 1015 - Re: OSC Rule 41-501

#### REGULATION TO AMEND REGULATION 1015 OF THE REVISED REGULATIONS OF ONTARIO, 1990 MADE UNDER THE SECURITIES ACT

Note: Since the end of 1999, Regulation 1015 has been amended by Ontario Regulations 3/00, 108/00, 133/00, 222/00, 342/00 and 468/00. Previous amendments are listed in the Table of Regulations published in *The Ontario Gazette* dated January 22, 2000.

1. Subsection 1 (4) of Regulation 1015 of the Revised Regulations of Ontario, 1990 is amended by striking out "Subject to section 58" and substituting "Subject to Ontario Securities Commission Rule 41-501 *General Prospectus Requirements* and to National Instrument 44-101 *Short Form Prospectus Distributions and*".

2. (1) Subsection 2 (3) of the Regulation is revoked and the following substituted:

(3) If the issuer is a bank listed in Schedule 1 or II to the *Bank Act* (Canada) or is a company undertaking and transacting life insurance that is licensed under the *Insurance Act*, the issuer's financial statements are not required to comply with the following provisions if the financial statements are prepared in accordance with a statute incorporating, continuing or governing the issuer and in accordance with any applicable generally accepted accounting principles:

1. Subsection (1).
2. Subsection 9.1 (1) of Ontario Securities Commission Rule 41-501 *General Prospectus Requirements*.
3. Subsection 7.1 (1) of National Instrument 44-101 *Short Form Prospectus Distributions*.

(2) Subsection 2 (5) of the Regulation is amended by striking out "sections 9, 52, 65, 91 and 94" and substituting "sections 9, 91 and 94".

3. Sections 34, 35, 36 and 37 of the Regulation are revoked.

4. Paragraphs 1, 2, 4, 5, 6 and 7 of subsection 38 (1) of the regulation are revoked.

5. Sections 39, 40, 41 and 42 of the Regulation are revoked.

6. Sections 45, 46, 47, 48 and 49 of the Regulation are revoked.

7. Sections 52, 53, 55, 56, 57, 58 and 59 of the Regulation are revoked.

8. Sections 61, 62, 63, 64, 65 and 66 of the Regulation are revoked.

9. Section 72 of the Regulation is revoked and the following substituted:

72. The following provisions apply with necessary modifications to a statement of material facts:

1. Section 60.
2. Subsection 3.2 (4), section 4.9, Part 9, section 10.1, paragraphs 2 and 3 of subsection 13.2 (1), paragraph 6 of subsection 13.2 (2), paragraphs 7 and 8 of subsection 13.3 (1), paragraph 1 of subsection 13.3 (2), section 13.4 and clause 13.7 (3) (d) of Ontario Securities Commission Rule 41-501 *General Prospectus Requirements*.
3. Item 9 of Form 41-501F1 *Information Required in a Prospectus*.

10. Sections 80, 81 and 82 of the Regulation are revoked.

11. Forms 12, 13 and 14 of the Regulation are revoked.

12. This Regulation comes into force on the day that the rule made by the Ontario Securities Commission on September 12, 2000 entitled "Ontario Securities Commission Rule 41-501 *General Prospectus Requirements*" comes into force.

ONTARIO SECURITIES COMMISSION:

"J.A. Geller", Vice-Chair  
"Stephen N. Adams", Commissioner

Dated on September 12, 2000.

Note: The rule made by the Ontario Securities Commission on September 12, 2000 entitled "Ontario Securities Commission Rule 41-501 *General Prospectus Requirements*" comes into force on December 31, 2000.

**9.1.2 Amendment to Regulation 1015  
- Re: NI 41-101**

**REGULATION TO AMEND  
REGULATION 1015 OF THE REVISED REGULATIONS  
OF ONTARIO, 1990  
MADE UNDER THE  
SECURITIES ACT**

Note: Since the end of 1999, Regulation 1015 has been amended by Ontario Regulations 3/00, 108/00, 133/00, 222/00, 342/00 and 468/00. Previous amendments are listed in the Table of Regulations published in *The Ontario Gazette* dated January 22, 2000.

1. Sections 50 and 51 of Regulation 1015 of the Revised Regulations of Ontario, 1990 are revoked.

2. This Regulation comes into force on the day that the rule made by the Ontario Securities Commission on September 12, 2000 entitled "National Instrument 41-101 *Prospectus Disclosure Requirements*" comes into force.

ONTARIO SECURITIES COMMISSION:

"J.A. Geller", Vice-Chair

"Stephen N. Adams", Commissioner

Dated on September 12, 2000.

Note: The rule made by the Ontario Securities Commission on September 12, 2000 entitled "National Instrument 41-101 *Prospectus Disclosure Requirements*" comes into force on December 31, 2000.

**9.1.3 Amending Regulation 1015 of R.R.O 1990**

reg2000.0538.e

**ONTARIO REGULATION  
made under the  
SECURITIES ACT  
Amending Reg. 1015 of R.R.O. 1990  
(General)**

Note: Since the end of 1999, Regulation 1015 has been amended by Ontario Regulations 3/00, 108/00, 133/00, 222/00, 342/00 and 468/00. Previous amendments are listed in the Table of Regulations published in *The Ontario Gazette* dated January 22, 2000.

1. Regulation 1015 of the Revised Regulations of Ontario, 1990 is amended by adding the following section:

6.1 (1) Sections 7, 8 and 9 apply with respect to interim financial statements for periods beginning before January 1, 2001.

(2) This section is revoked on May 31, 2001.

2. Section 7 of the Regulation is amended by adding the following subsection:

(3) This section is revoked on May 31, 2001.

3. Section 8 of the Regulation is amended by adding the following subsection:

(2) This section is revoked on May 31, 2001.

4. Section 9 of the Regulation is amended by adding the following subsection:

(2) This section is revoked on May 31, 2001.

5. The Regulation is amended by adding the following section:

9.1 (1) Sections 10, 11 and 13 apply with respect to financial statements for fiscal years beginning before January 1, 2001.

(2) This section is revoked on May 31, 2002.

6. Section 10 of the Regulation is amended by adding the following subsection:

(3) This section is revoked on May 31, 2002.

7. Section 11 of the Regulation is amended by adding the following subsection:

(2) This section is revoked on May 31, 2002.

8. Section 13 of the Regulation is amended by adding the following subsection:

- (2) This section is revoked on May 31, 2002.
9. Section 246 of the Regulation is amended by striking out "subsection 12 (8) and".
10. This Regulation comes into force on the day the rule made by the Ontario Securities Commission on October 10, 2000 entitled "Ontario Securities Commission Rule 52-501 *Financial Statements*" comes into force.

Ontario Securities Commission:

"Stephen N. Adams"  
Commissioner

Stephen N. Adams Q.C.

"Theresa McLeod"  
Commissioner

October 10<sup>th</sup>, 2000.

**Note:** The rule made by the Ontario Securities Commission on October 10, 2000 entitled "Ontario Securities Commission Rule 52-501 *Financial Statements*" comes into force on December 12, 2000.

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## Chapter 11

# IPOs, New Issues and Secondary Financings

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**Issuer Name:**

Boralex Inc.  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Prospectus dated December 8th, 2000  
Mutual Reliance Review System Receipt dated December 11th, 2000

**Offering Price and Description:**

\$33,000,000 - 6,000,000 Class A Shares issuable upon the exercise of Special Warrants

**Underwriter(s), Agent(s) or Distributor(s):**

NewCrest Capital Inc.  
National Bank Financial Inc.  
Desjardins Securities Inc.

**Promoter(s):**

N/A  
Project #319403

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**Issuer Name:**

COM DEV International Ltd.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated December 8th, 2000  
Mutual Reliance Review System Receipt dated December 8th, 2000

**Offering Price and Description:**

\$33,111,750 - 2,703,000 Common Shares issuable upon the exercise of previously issued Special Warrants

**Underwriter(s), Agent(s) or Distributor(s):**

Sprott Securities Inc.  
Canaccord Capital Corporation  
CIBC World Markets Inc.  
NewCrest Capital Inc.

**Promoter(s):**

N/A  
Project #319245

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**Issuer Name:**

Landmark Global Financial Corporation  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Prospectus dated December 12th, 2000  
Mutual Reliance Review System Receipt dated December 13th, 2000

**Offering Price and Description:**

N/A  
Underwriter(s), Agent(s) or Distributor(s):

N/A  
Promoter(s):

N/A  
Project #319972

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**Issuer Name:**

Pinnacle American Large Cap Growth Equity Fund  
Pinnacle RSP American Large Cap Growth Equity Fund  
Principal Jurisdiction - Ontario

**Type and Date:**

Preliminary Simplified Prospectus dated December 8th, 2000  
Mutual Reliance Review System Receipt dated December 11th, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Scotia Capital Inc.

**Promoter(s):**

Scotia Capital Inc.  
Project #319322

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**Issuer Name:**

Telesystem International Wireless Inc.  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Short Form Prospectus dated December 12th, 2000  
Mutual Reliance Review System Receipt dated December 12th, 2000

**Offering Price and Description:**

Rights to Purchase 39,451,448 Units and Concurrent offering of 5,063,944 Units, at a purchase price of Cdn \$9.05 per Unit

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A  
Project #319870

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**Issuer Name:**

Tudor Corporation Ltd.

**Type and Date:**

Preliminary Prospectus dated December 11th, 2000  
Received December 11th, 2000

**Offering Price and Description:**

\$2,500,000 to \$3,500,000 - \* Units

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A  
Project #319422

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**Issuer Name:**

WestJet Airlines Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Preliminary Short Form Prospectus dated December 6th, 2000

Mutual Reliance Review System Receipt dated December 6th, 2000

**Offering Price and Description:**

\$49,500,000 - 2,200,000 Common Shares

**Underwriter(s), Agent(s) or Distributor(s):**

CIBC World Markets Inc.  
HSBC Securities (Canada) Inc.  
RBC Dominion Securities Inc.  
National Bank Financial Inc.

**Promoter(s):**

N/A

**Project #318848**

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**Issuer Name:**

Centerfire Growth Fund Inc.

**Type and Date:**

Amendment #1 dated December 4th, 2000 to Prospectus dated January 26th, 2000

Accepted 7th day of December, 2000

**Offering Price and Description:**

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

CFG Sponsor Inc.  
Centrefire Investment Management Ltd.

**Project #229158**

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**Issuer Name:**

Working Ventures Canadian Fund Inc.  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 dated December 1st, 2000 to Prospectus dated December 29th, 1999

Mutual Reliance Review System Receipt dated December 12th, 2000

**Offering Price and Description:**

**Underwriter(s), Agent(s) or Distributor(s):**

AGF Funds Inc.

**Promoter(s):**

N/A

**Project #220732**

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**Issuer Name:**

Canadian Science and Technology Growth Fund Inc.  
Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated December 8th, 2000

Mutual Reliance Review System Receipt dated 13th day of December, 2000

**Offering Price and Description:**

Class A Shares

**Underwriter(s), Agent(s) or Distributor(s):**

CATCA Sponsor Corp.  
Technology Investments Management Corporation

**Promoter(s):**

N/A

**Project #308428**

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**Issuer Name:**

Corner Bay Minerals Inc.  
Principal Regulator - Ontario

**Type and Date:**

Final Prospectus dated December 5th, 2000

Mutual Reliance Review System Receipt dated 7th day of December, 2000

**Offering Price and Description:**

\$5,500,000.00 - 3,666,667 Units Each Unit consisting of one Common Share and one-half Common Share Purchase Warrant

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

**Project #307355**

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**Issuer Name:**

Darnley Bay Resources Limited

**Type and Date:**

Final Prospectus dated December 8th, 2000

Received 13th day of December, 2000

**Offering Price and Description:**

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

La Prairie Limited

**Project #307959**

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**Issuer Name:**

Great Basin Gold Ltd.  
Principal Regulator - British Columbia

**Type and Date:**

Final Prospectus dated November 30th, 2000

Mutual Reliance Review System Receipt dated 5th day of December, 2000

**Offering Price and Description:**

\$10,000,000.00 - 5,000,000 Common Shares and 2,500,000 Warrants

**Underwriter(s), Agent(s) or Distributor(s):**

Loewen Ondaatje McCutcheon Limited

**Promoter(s):**

Robert G. Hunter  
Robert A. Dickinson

**Project #299100**

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**Issuer Name:**

Intrinsyc Software, Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Final Prospectus dated December 8th, 2000  
Mutual Reliance Review System Receipt dated 8th day of December, 2000

**Offering Price and Description:**

\$13,500,000.00 - 3,000,000 Units issuable upon the exercise of Special Warrants

**Underwriter(s), Agent(s) or Distributor(s):**

Loewen, Ondaatje, Mccutcheon Limited  
Yorkton Securities Inc.

**Promoter(s):**

Derek W. Spratt

Project #309913

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**Issuer Name:**

Nexia Biotechnologies Inc.  
Principal Regulator - Quebec

**Type and Date:**

Final Prospectus dated December 8th, 2000  
Mutual Reliance Review System Receipt dated 8th day of December, 2000

**Offering Price and Description:**

\$40,000,000.00 - 5,000,000 Common Shares

**Underwriter(s), Agent(s) or Distributor(s):**

National Bank Financial Inc.  
RBC Dominion Securities Inc.  
BMO Nesbitt Burns Inc.  
HSBC Securities (Canada) Inc.

**Promoter(s):**

N/A

Project #305646

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**Issuer Name:**

Sustainable Energy Technologies Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Final Prospectus dated December 1st, 2000  
Mutual Reliance Review System Receipt dated 5th day of December, 2000

**Offering Price and Description:**

\$4,500,000.00 - 6,000,000 Common Shares

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

Project #299123

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**Issuer Name:**

Alberta Energy Company Ltd.  
Principal Regulator - Alberta

**Type and Date:**

Final Short Form Prospectus dated December 12th, 2000  
Mutual Reliance Review System Receipt dated 12th day of December, 2000

**Offering Price and Description:**

\$200,000,000.00 - 8.50% Capital Securities due December 20, 2040

**Underwriter(s), Agent(s) or Distributor(s):**

RBC Dominion Securities Inc.  
Merrill Lynch Canada Inc.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
Scotia Capital Inc.  
TD Securities Inc.

**Promoter(s):**

N/A

Project #318248

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**Issuer Name:**

Canadian Apartment Properties Real Estate Investment Trust

Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated December 11th, 2000  
Mutual Reliance Review System Receipt dated 11th day of December, 2000

**Offering Price and Description:**

\$35,495,000.00 - 3,100,000 Units

**Underwriter(s), Agent(s) or Distributor(s):**

CIBC World Markets Inc.  
Merrill Lynch Canada Inc.  
Scotia Capital Inc.  
National Bank Financial Inc.  
TD Securities Inc.  
BMO Nesbitt Burns Inc.  
HSBC Securities (Canada) Inc.

**Promoter(s):**

N/A

Project #317315

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**Issuer Name:**

Canadian Tire Corporation, Limited  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Shelf Prospectus dated December 11th, 2000

Mutual Reliance Review System Receipt dated 13th day of December, 2000

**Offering Price and Description:**

\$500,000,000.00 - Medium Term Notes (unsecured)

**Underwriter(s), Agent(s) or Distributor(s):**

BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
National Bank Financial Inc.  
Merill Lynch Canada Inc.  
RBC Dominion Securities Inc.

Scotia Capital Inc.

TD Securities Inc.

**Promoter(s):**

N/A

**Project #310726**

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**Issuer Name:**

Royal Bank of Canada  
Principal Regulator - Quebec

**Type and Date:**

Final Short Form PREP Prospectus dated December 12th, 2000

Mutual Reliance Review System Receipt dated 12th day of December, 2000

**Offering Price and Description:**

\$\* - 10,600,000 Common Shares

**Underwriter(s), Agent(s) or Distributor(s):**

RBC Dominion Securities Inc.  
BMO Nesbitt Burns Inc.  
CIBC World Markets Inc.  
Scotia Capital Inc.  
TD Securities Inc.  
Credit Suisse First Boston Securities Canada Inc.  
Goldman Sachs Canada Inc.  
Merrill Lynch Canada Inc.  
National Bank Financial Inc.  
HSBC Securities (Canada) Inc.  
UBS Bunting Warburg Inc.  
Trilon Securities Corporation

**Promoter(s):**N/A

**Project #317277**

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**Issuer Name:**

Stantec Inc.  
Principal Regulator - Ontario

**Type and Date:**

Final Short Form Prospectus dated December 7th, 2000  
Mutual Reliance Review System Receipt dated 7th day of December, 2000

**Offering Price and Description:**

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

N/A

**Project #313252**

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**Issuer Name:**

Capital International - International Equity  
Capital International - U.S. Equity  
Capital International - Global Small Cap  
Capital International - Global Discovery  
Capital International - U.S. Small Cap  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus and Annual Information Form dated October 13th, 2000

Mutual Reliance Review System Receipt dated 8th day of December, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

N/A

**Promoter(s):**

Capital International Asset Management (Canada) Inc.

**Project #304293**

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**Issuer Name:**

Dynamic Dividend Growth Fund  
Dynamic Focus Plus Canadian Fund (Formerly Dynamic Infinity Canadian Fund)  
Dynamic Fund of Canada  
Dynamic Power Canadian Growth Fund  
Dynamic Small Cap Fund  
Dynamic Americas Fund  
Dynamic RSP Americas Fund  
Dynamic Europe Fund  
Dynamic RSP Europe Fund  
Dynamic Far East Fund  
Dynamic RSP Far East Fund  
Dynamic Focus Plus American Fund (Formerly Dynamic Infinity American Fund)  
Dynamic International Fund  
Dynamic RSP International Fund  
Dynamic Power American Fund  
Dynamic RSP Power American Fund  
Dynamic Fund of Funds  
Dynamic Global Partners Fund  
Dynamic Partners Fund  
Dynamic Power Balanced Fund  
Dynamic Dividend Fund  
Dynamic Focus Plus Income and Growth Fund (Formerly Dynamic Infinity Income and Growth Fund)  
Dynamic T-Bill Fund (Formerly Dynamic Infinity T-Bill Fund)  
Dynamic Global Bond Fund  
Dynamic Income Fund  
Dynamic Money Market Fund  
Dynamic Power Bond Fund  
Dynamic Canadian Real Estate Fund  
Dynamic Canadian Resource Fund  
Dynamic Dollar-Cost Averaging Fund  
Dynamic Wealth Management Fund (Formerly Dynamic Infinity Wealth Management Fund)  
Dynamic Global Precious Metals Fund  
Dynamic Global Resource Fund  
Dynamic Global Technology Fund  
Dynamic RSP Global Technology Fund  
Dynamic Health Sciences Fund  
Dynamic RSP Health Sciences Fund  
Dynamic Precious Metals Fund  
Dynamic Quebec Fund  
Dynamic Real Estate Equity Fund  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus and Annual Information Form dated December, 7th, 2000  
Mutual Reliance Review System Receipt dated 13th day of December, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Dynamic Mutual Funds Ltd.

**Promoter(s):**

Dynamic Mutual Funds Ltd.

Project #308414

**Issuer Name:**

MACKENZIE UNIVERSAL RSP SELECT MANAGERS FAR EAST FUND (formerly, Universal RSP Select Managers Far East Fund)  
MACKENZIE UNIVERSAL RSP SELECT MANAGERS INTERNATIONAL FUND (formerly, Universal RSP Select Managers International Fund)  
MACKENZIE UNIVERSAL RSP SELECT MANAGERS JAPAN FUND (formerly, Universal RSP Select Managers Japan Fund)  
MACKENZIE UNIVERSAL RSP SELECT MANAGERS USA FUND (formerly, Universal RSP Select Managers USA Fund) (Series A, F, I and O Units)  
Principal Regulator - Ontario

**Type and Date:**

Final Simplified Prospectus and Annual Information dated December 7th, 2000  
Mutual Reliance Review System Receipt dated 8th day of December, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Registered Dealer

**Promoter(s):**

MacKenzie Financial Corporation

Project #250243

**Issuer Name:**

Phillips, Hager & North Global Equity Fund  
Phillips, Hager & North Overseas Equity Fund  
Phillips, Hager & North Overseas Equity Pension Trust  
Phillips, Hager & North Global Equity Pension Trust  
Principal Regulator - British Columbia

**Type and Date:**

Final Simplified Prospectus and Annual Information dated December 7th, 2000  
Mutual Reliance Review System Receipt dated 8th day of December, 2000

**Offering Price and Description:**

Mutual Fund Securities - Net Asset Value

**Underwriter(s), Agent(s) or Distributor(s):**

Phillips Hager & North Investment Management Ltd.

**Promoter(s):**

Phillips Hager & North Investment Management Ltd.

Project #307542

**Issuer Name:**

Certicom Corp.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Short Form Prospectus dated October 26th, 2000  
Withdrawn 11th day of December, 2000

**Offering Price and Description:**

**Underwriter(s), Agent(s) or Distributor(s):**

**Promoter(s):**

N/A

Project #307622

**Issuer Name:**

Kinetek Pharmaceuticals, Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Prospectus dated October 19th, 2000  
Withdrawn 1st day of December, 2000

**Offering Price and Description:**

**Underwriter(s), Agent(s) or Distributor(s):**

Goepel McDermid Inc.  
CIBC World Markets Inc.  
Yorkton Securities Inc.  
National Bank Financial Inc.

**Promoter(s):**

N/A

**Project #305789**

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**Issuer Name:**

MGI Software Corp.

**Type and Date:**

Preliminary Short Form PREP Prospectus dated September 21st, 2000

Withdrawn 16th day of November, 2000

**Offering Price and Description:**

N/A

**Underwriter(s), Agent(s) or Distributor(s):**

Salomon Smith Barney Canada Inc.  
BMO Nesbitt Burns Inc.  
Octagon Capital Corporation  
Groome Capital.com Inc.

**Promoter(s):**

N/A

**Project #299628**

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**Issuer Name:**

Supratek Pharma Inc.  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Prospectus dated September 29th, 2000  
Withdrawn 22nd day of November, 2000

**Offering Price and Description:**

\$\* - \* Common Shares

**Underwriter(s), Agent(s) or Distributor(s):**

Dundee Securities Corporation  
BLC Securities Inc.  
Canaccord Capital Corporation  
BayStreetDiect Inc.

**Promoter(s):**

N/A

**Project #302027**

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## Chapter 12

# Registrations

### 12.1.1 Securities

Type	Company	Category of Registration	Effective Date
New Registration	Veritas Investment Research Corporation Attention: Michael Wayne Palmer PO Box 10, 95 Wellington Street West Suite 908 Toronto ON M5J 2N7	Limited Market Dealer (Conditional)  Investment Counsel	Nov 24/00
New Registration	Turner Investment Partners, Inc. c/o Torys, Attn: M. J. Davidge Maritime Life Tower, Suite 3000 79 Wellington Street West Toronto ON M5K 1N2	International Adviser  Investment Counsel & Portfolio Manager	Dec 12/00
Change of Name	Goodwood Inc. Attention: Curt Sandin Cumming 121 King Street West, Suite 2525 Toronto ON M5H 3T9	From: Rabin Puccetti & Partners Inc.  To: Goodwood Inc.	Nov 30/00
Change of Name	Berkshire Private Client Group Inc./ Gestion Privee Berkshire Inc. Attention: Kris Shailer Astaphan 1375 Kerns Road Burlington ON L7P 4V7	From: Aderes Portfolio Management Limited  To: Berkshire Private Client Group Inc./ Gestion Privee Berkshire Inc.	Aug 23/00
Change of Name	Merrill Lynch HSBC Canada Inc. Attention: Susan Jane Bell 70 York Street Toronto ON M5J 1S9	From: HSBC Investdirect (Canada) Inc.  To: Merrill Lynch HSBC Canada Inc.	Nov 29/00

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## Chapter 13

# SRO Notices and Disciplinary Proceedings

### 13.1 SRO Notices and Disciplinary Decisions

#### 13.1.1 Midland Walwyn Capital Inc.

December 7, 2000

No. 2798

#### By-Laws and Regulations

Discipline – Penalties Imposed on Midland Walwyn Capital Inc. (now known as Merrill Lynch Canada Inc.) - Regulation 1300.2 and Policy 2

#### Member Disciplined

The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on **Midland Walwyn Capital Inc.** (now known as Merrill Lynch Canada Inc.), a Member of the Association.

#### By-laws, Regulations, Policies Violated

On November 27, 2000 the District Council considered, reviewed and accepted a Settlement Agreement that had been negotiated by the Association Enforcement Division staff with Midland Walwyn Capital Inc. ("Midland Walwyn"). Under the Settlement Agreement Midland Walwyn did not contest that it failed to adequately supervise client accounts by failing to monitor and ensure that trading restrictions that it placed on a Registered Representative had been complied with. As well, Midland Walwyn did not contest that it failed to ensure that all required documentation had been obtained from various clients and reviewed by the branch manager prior to opening new margin accounts contrary to Regulation 1300.2 and Policy No. 2.

#### Penalty Assessed

The discipline penalty assessed against Midland Walwyn is an Order of a fine in the amount of \$25,000 and payment of the Association's costs of this proceeding in the amount of \$5,000.

#### Summary of Facts

The Kitchener office of Midland Walwyn placed trading restrictions on its Registered Representative, George Georgiou between May 31, 1993 and November 19, 1993. The Branch Manager was responsible for supervising George Georgiou and ensuring compliance with these restrictions. Midland Walwyn does not contest that it failed to adequately supervise client accounts by failing to monitor and ensure that trading restrictions that it placed on George Georgiou had been complied with. As well, Midland Walwyn does not contest that it failed to ensure that all required documentation had been obtained from various clients and reviewed by the branch manager prior to opening new margin accounts. During this

time, George Georgiou, conducted a number of transactions that he was either restricted or prohibited from effecting on clients' behalf.

Suzanne M. Barrett  
Association Secretary

### IN THE MATTER OF A DISCIPLINARY ACTION PURSUANT TO BY-LAW 20 OF THE INVESTMENT DEALERS ASSOCIATION OF CANADA

RE: **MIDLAND WALWYN CAPITAL INC.**  
(now known as **MERRILL LYNCH CANADA INC.**)

#### SETTLEMENT AGREEMENT

Pursuant to By-law 20.25 of the Investment Dealers Association of Canada ("the Association"), the Respondent, **Midland Walwyn Capital Inc.** (now known as Merrill Lynch Canada Inc.), a Member of the Association, agrees and consents to the following:

#### I. STATEMENT OF FACTS

1. At all material times, the named Respondent was a body corporate and Member of the Association with its head office located at 181 Bay Street, Suite 400, BCE Place, Toronto, Ontario. On August 26, 1998, five years after the event in question, Midland Walwyn was acquired by Merrill Lynch and commenced carrying on business as Merrill Lynch Canada Inc. At all material times, the Respondent maintained a branch office in Kitchener, Ontario (the "Kitchener" office).
2. At all material times, the Respondent employed George Georgiou ("Georgiou") in the Kitchener branch office as a Registered Representative. Georgiou was terminated for cause by the Respondent on November 19, 1993.
3. Restrictions had been placed on Georgiou's trading activities as of August 24, 1990, by Ross Beatty ("Beatty"), the Branch Manager of the Kitchener office at that time. Further restrictions were added to Beatty's trading restrictions on June 26, 1992 by Peter Chandler ("Chandler"), the Branch Manager of the Kitchener office following Beatty. These restrictions were contained in written memoranda that were kept in Georgiou's file at the branch office and copied to Head Office Compliance Department.
4. The restrictions imposed on Georgiou included, among other things, a prohibition against the opening of new margin accounts or new purchases in existing margin

accounts and a prohibition against short sales, without prior manager approval. Georgiou was also cautioned specifically in writing on June 19, 1991 regarding discretionary trading and the suitability of trade recommendations in his client accounts.

5. The restrictions imposed on Georgiou were not rescinded in writing at any time by either Beatty or Chandler.
6. On or about June 1, 1993, Charles Sobering ("Sobering") was appointed as Branch Manager of the Kitchener office.
7. Between May 31 to November 19, 1993, Georgiou effected 25 discretionary trades in 10 client accounts, contrary to Regulation 1300.4(a) and (b). Of the 25 discretionary trades, 13 transactions [9 short sales and 4 closing purchases] related to short sales in 6 client accounts. [See Schedule "A" attached]
8. Georgiou was able to open new margin accounts for 3 clients to facilitate the discretionary short sales transactions without having obtained the necessary signed margin agreements or New Account Application Forms ("NAAF") from the clients. The 3 clients have stated that they did not understand what a short sale was, nor were they aware that Georgiou had opened margin accounts for them.
9. Georgiou was able to effect the 9 short sale transactions without obtaining prior approval from Sobering, and despite the restrictions that had been previously placed on Georgiou prohibiting him from opening new margin accounts and conducting short sales without prior manager approval.
10. The Respondent failed to adequately supervise Georgiou's trading activity in certain of his client accounts by failing to monitor and enforce restrictions that Beatty and Chandler had previously placed on Georgiou's trading activities.
11. During the time period set out in paragraph 7, the Respondent's policy regarding the opening of new margin accounts was that a Registered Representative was required to obtain from the client, a signed and updated New Account Application Form ("NAAF") and a signed margin agreement. The Branch Manager was responsible for reviewing these documents to ensure that they were properly completed and signed prior to approving or permitting trades in the new margin account. Once the Branch Manager approved the opening of the account, the wire operator would send a wire to the new accounts department at the Respondent's Head office. The new accounts department would then open the new margin account on the basis that all of the necessary documentation had already been obtained and reviewed at the branch level by the Branch Manager. Copies of the NAAFs and margin agreements were kept at the branch office

with the originals subsequently forwarded to the Respondent's Head office. The new accounts department would then become responsible for monitoring new accounts for missing documents, after the new margin accounts had already been opened.

12. The Respondent failed to ensure, in respect of the activity described in paragraph 7 hereof, that all required documentation had been obtained, completed and reviewed prior to the opening of a new margin account.
13. The Respondent further failed to ensure that the opening a margin account was suitable for the particular client referred to in paragraph 7 in light of the clients' investment objectives, risk tolerances and financial circumstances.
14. Finally, the Respondent failed to ensure that short sales conducted in client account were suitable for the particular clients referred to in paragraph 7 in light of the clients' investment objectives, risk tolerances and financial circumstances.
15. The Respondent changed its policy regarding the opening of new margin accounts and the monitoring of short sales transactions in client accounts in late 1993. Currently, new accounts require approval by branch management and account details are sent electronically to the Toronto head office of Merrill Lynch Canada Inc. where the accounts are opened.
16. The Respondent further reversed the 13 short sales-related transactions in the 6 client accounts effected by Georgiou. The Respondent further resolved the majority of the 25 discretionary trades effected by Georgiou.

**II. STATUTES OR REGULATIONS THERETO, BY-LAWS, REGULATIONS, RULINGS OR POLICIES NOT COMPLIED WITH:**

The Respondent failed to comply with the Policies of the Association as follows:

- 1.) During the period between May 31, 1993 to November 19, 1993, the Respondent failed to adequately supervise client accounts by failing to monitor and ensure that trading restrictions that the Respondent had previously placed on George Georgiou, a Registered Representative in the Respondent's Kitchener branch office, had been complied with and failed to ensure that all required documentation had been obtained from various clients and reviewed by the branch manager prior to the opening of new margin accounts and prior to permitting short sales transactions in the new margin accounts, contrary to Regulation 1300.2 and Policy No. 2.

**III. FUTURE COMPLIANCE**

The Respondent hereby states that in the future it will comply with the Regulations and Policies of the Association not complied with as described in Part II of this Settlement Agreement.

**IV. CONSENT AND AGREEMENT**

The Respondent hereby consents and agrees with the terms of settlement as set out in this Settlement Agreement.

**V. ACCEPTANCE OF PENALTY**

The Respondent accepts the imposition by the Association of the following disciplinary penalties:

- i) A fine in the amount of \$25,000.00, to be paid to the Association within 30 days of the date of acceptance of this Settlement Agreement by the District Council;

**VI. ASSOCIATION COSTS**

The Respondent agrees to pay the Association for its costs of the investigation in this matter in the amount of \$5,000.00, to be paid to the Association within 30 days of the date of acceptance of this Settlement Agreement by the District Council.

**VII. EFFECT OF NON-COMPLIANCE WITH PENALTIES**

The Respondent admits notice of By-law 20.35 of the Association:

20.35 In the event that a fine or condition imposed by the District Council pursuant to By-law 20.6 or 20.10 is not paid or complied with, respectively, within the time prescribed by the District Council, the applicable District Council may, upon application by the Senior Vice-President, Member Regulation, and without further notice to the individual or Member concerned, suspend the approval of such individual or the rights and privileges of such Member, respectively, until such fine is paid or condition fulfilled.

**VIII. WAIVER**

The Respondent hereby waives the right to a hearing pursuant to the Association's By-laws in respect of the matters described herein and any right of appeal or review which may be available pursuant to such By-laws or any applicable legislation.

**IX. EFFECTIVE DATE AND NOTICE OF PENALTY**

This Settlement Agreement shall only become effective in accordance with its terms upon acceptance or imposition of a lessor penalty or less onerous terms by the District Council of the Association in accordance with By-law 20.26 of the Association and, in such event, the Respondent shall be

deemed to have been penalized pursuant to By-law 20.10 for the purpose of giving notice thereof.

The Respondent pleads no contest to the allegations contained herein.

**DATED** at the City of "Toronto" in the Province of Ontario, this "21st" day of "September", 2000.

"Bradley Doney"  
WITNESS

Merrill Lynch Canada Inc.

**ACCEPTED** by the Ontario District Council of the Investment Dealers Association of Canada, this "27th" day of "November", 2000.

INVESTMENT DEALERS ASSOCIATION OF CANADA  
(ONTARIO DISTRICT COUNCIL)

Per: "Fred Kaufman", public member

Per: "Robert Guilday", industry member

Per: "Norm Fraser", industry member



**13.1.2 Sharon Gill**

December 4, 2000

No. 2796

**By-Laws and Regulations**

**Discipline – Penalties Imposed on Sharon Gill - Various By-Laws and Regulations**

**Person Disciplined**

The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on Sharon Gill at the relevant time a Registered Representative with the Ottawa branch of Richardson Greenshields of Canada Limited, a Member of the Association.

**By-laws, Regulations, Policies Violated**

By written decision dated September 29, 2000, the Ontario District Council concluded that Ms. Gill was culpable of six offences, including conduct unbecoming of a Registered Representative contrary to By-law 29.1(i) and failing to use due diligence to ensure that recommendations made for various clients were appropriate pursuant to Regulation 1300.1(c). On November 8, 2000, the Ontario District Council held a penalty hearing and imposed a penalty on Ms. Gill.

**Penalty Assessed**

The discipline penalty assessed against Ms. Gill is an Order of a suspension from acting in any capacity with a Member for a period of one year. She must also pay a fine of \$38,000 and disgorgement of commissions in the amount of \$3,000. Ms. Gill must also pay the Association's costs of this proceeding in the amount of \$8,350. As a condition of her continued approval Ms. Gill must re-write and pass the Conduct and Practices Handbook for Securities Industry Professionals.

**Summary of Facts**

Ms. Gill worked with Richardson Greenshields of Canada Limited from 1981 until her termination on May 16, 1996 as a Registered Representative. The Ontario District Council found that she did not properly document and update a New Account Application Form for a client. The Ontario District Council also found that she made recommendations that were not in keeping with the stated investment objectives of income and safety of three clients. She placed them in securities that were unsuitable and degraded the quality of their portfolios. Finally, the Ontario District Council found that Ms. Gill engaged in conduct unbecoming of a Registered Representative when she:

1. revealed the existence of an RESP fund that she had set up for a client's child at a creditors meeting for client's impending bankruptcy;
2. permitted a co-mingling of client's assets with her own account for the purpose of selling off the client's assets to re-pay a debt owed to her by the client; and
3. did not disclose to her firm that she held a power of attorney for a client.

Suzanne M. Barrett  
Association Secretary

**Settlement Agreement to Sharon Gill**

8 November 2000

Having heard the parties' lengthy submissions, we have concluded that an appropriate penalty is :

1. Fine  
Count 1 : a fine of \$10,000.00  
Count 3 : a fine of \$ 5,000.00  
Count 5 : a fine of \$ 7,500.00  
Count 6 : a fine of \$ 7,500.00  
Count 7 : a fine of \$ 3,000.00  
Total: \$38,000.00
2. Disgorgement of \$ 3,000.00
3. Costs as asked \$ 8,350.00  
\$49,350.00
4. A suspension of registration with any member of the association for one year (calculated from the date our decision on the merits was released, 29 September, 2000).
5. Successfully complete the Conduct & Practices Handbook for Securities Industry Professionals examination before becoming employed in the industry in a registered capacity.

13.1.3 Edward Sobering

December 7, 2000

No. 2797

By-Laws and Regulations

Discipline – Penalties Imposed on Charles Edward Sobering - Regulation 1300.2 and Policy 2

Person Discipline

The Ontario District Council of the Investment Dealers Association of Canada has imposed discipline penalties on Charles Sobering at the relevant time a Branch Manager with the Kitchener branch of Midland Walwyn Capital Inc. (now known as Merrill Lynch Canada Inc.), a Member of the Association.

By-laws, Regulations, Policies Violated

On November 27, 2000 the District Council considered, reviewed and accepted a Settlement Agreement that had been negotiated by the Association Enforcement Division staff with Mr. Sobering. Under the Settlement Agreement Mr. Sobering did not contest that he failed to properly supervise a Registered Representative who engaged in conduct unbecoming of a Registered Representative pursuant to Regulation 1300.2 and Policy No. 2.

Penalty Assessed

The discipline penalty assessed against Mr. Sobering is an Order of a fine in the amount of \$12,000 and payment of the Association's costs of this proceeding in the amount of \$3,000. As a condition of his continued approval Mr. Sobering must re-write and pass the Branch Manager's examination.

Summary of Facts

While a Branch Manager at the Kitchener office of Midland Walwyn (now Merrill Lynch Canada Inc.), Charles Sobering was responsible for supervising George Georgiou, a Registered Representative between May 31, 1993 and November 19, 1993. Restrictions had previously been placed on Georgiou's trading activities and it was Sobering's duty to ensure compliance with these restrictions. Charles Sobering does not contest that he failed to properly supervise George Georgiou, when the latter conducted a number of transactions that he was either restricted or prohibited from effecting on clients' behalf.

Suzanne M. Barrett  
Association Secretary

IN THE MATTER OF A DISCIPLINARY ACTION  
PURSUANT TO BY-LAW 20 OF  
THE INVESTMENT DEALERS ASSOCIATION OF  
CANADA

RE: CHARLES EDWARD SOBERING

SETTLEMENT AGREEMENT

Pursuant to By-law 20.25 of the Investment Dealers Association of Canada ("the Association"), the Respondent, Charles Edward Sobering agrees and consents to the following:

I. STATEMENT OF FACTS

1. Charles Edward Sobering (the "Respondent") has been registered and employed as a Registered Representative, Branch Manager and a Vice President, as those terms are defined in the Association's By-laws, as follows:

Merrill Lynch of Canada Inc.

Sept 1976	Registered Representative
1981	Branch Manager (Kitchener, Ont.)
1984	Administration Manager (Toronto – Main Branch)
1988	National Administration Manager

Wood Gundy

1990	Manager – Client Services Training
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Midland Walwyn Inc.

May 31 '93	Registered Representative and Vice-President
	Acting Branch Manager (Kitchener, Ont.)

Aug 22 '93 to	
Nov 11 '94	Branch Manager (Kitchener, Ont.)

Financial Concept Group Securities Co.

Sept 26 '95 to	
Aug 28 '96	Registered Representative and Branch Manager

Credential Securities Inc.

Nov 18 '96	
to present	Branch Manager (Toronto, Ont.)

Dec 9 '97	
to present	National Manager (Alberta)

Jan 6 '98	
to present	National Manager (Saskatchewan)

2. Sobering was, during the material time, a new employee to Merrill and its Kitchener branch. He commenced employment at the branch on May 31, 1993 and was responsible for the supervision of eighteen Registered Representatives.

3. George Georgiou ("Georgiou") began working as a Registered Representative in the Kitchener branch office of Midland prior to the Respondent's appointment as acting Branch Manager or Branch Manager of the Kitchener branch office.
4. Restrictions had been placed on Georgiou's trading activities on June 19, 1991 and on June 26, 1992 by Peter Chandler, the Respondent's predecessor as Branch Manager at Midland. These restrictions were contained in written memoranda that were kept in Georgiou's file at the branch office and at all times available to the Respondent.
5. The restrictions imposed on Georgiou included, among other things, a prohibition against the opening of new margin accounts or new purchases in existing margin accounts and a prohibition against short sales, without prior manager approval. Georgiou was also cautioned in writing specifically regarding discretionary trading and the suitability of trade recommendations in his client accounts.
6. Between May 31 to November 19, 1993, Georgiou effected 25 discretionary trades in 10 client accounts, contrary to Regulation 1300.4(a) and (b). Of the 25 discretionary trades, 13 transactions [9 short sales and 4 closing purchases] related to short sales in 6 client accounts. [See Schedule "A" attached]
7. Georgiou was able to effect the 9 short sale transactions without the Respondent's prior approval as Branch Manager, even though at the relevant time, restrictions had been placed on Georgiou prohibiting him from conducting short sales without prior manager approval.
8. Three of the clients in which Georgiou effected short sales in their accounts were not even aware that Georgiou had opened margin accounts for them in order to facilitate the short sales transactions.
9. The Respondent allowed the opening of the 3 margin accounts and permitted short sales transactions in the 3 client accounts without having Georgiou obtain the required documentation from each of the clients, namely a properly signed margin agreement and an updated and signed New Account Application Form ("NAAF").
10. The Respondent further failed to exercise due diligence to ensure that the margin accounts or the short sales transactions were suitable for the 6 clients in light of the clients' respective investment objectives, risk tolerances and financial circumstances.
11. However, on receipt of the first material "client complaint" in November of 1993, the Respondent took steps to terminate George Georgiou's employment for cause.
12. Georgiou engaged in business conduct unbecoming a Registered Representative or detrimental to the public interest by lending funds to a client to cover margin calls on two occasions and by receiving funds from the

same client on a third occasion, contrary to By-law 29.1 and the Conduct and Practices Handbook, General Rules of Conduct – Part C(iii) Guidelines.

13. A Compliance Monitor Bulletin 93-07 regarding personal financial dealings with clients was sent to all financial advisors and branch managers on or about May 19, 1993. The Bulletin clearly stated the following:

Please note that the following are **prohibited** under the rules:

- loans by you or other forms of payments to or from clients
- interests in client accounts, other than commissions charged

Business and other financial investments with clients, not involving securities (e.g. real estate) must be disclosed to your Branch Manager. Any exceptions to the rules must be approved in writing by your Branch Manager. Any current arrangements covered by these rules must be discussed with your Branch Manager as soon as possible...

14. On May 25, 1993, Georgiou wrote the Respondent a hand-written memorandum referring to the May 19, 1993 Compliance Monitor Bulletin and advising the Respondent of the following:

"I would like to inform you that I do have clients who are personal friends that I have financial dealings with outside of Midland Walwyn that involves the transfer of funds."

15. The Respondent failed to take appropriate action upon receipt of the May 25, 1993 memorandum from Georgiou. The Respondent failed to take steps to ascertain from Georgiou which clients were involved and the nature of the financial dealings between Georgiou and the clients.
16. The Respondent failed to properly supervise Georgiou by failing to ensure that the handling of client business was within the bounds of ethical conduct, consistent with just and equitable principles of trade and not detrimental to the interests of the securities industry, contrary to Regulation 1300.2 and Policy No. 2.
17. The Respondent has a clean industry record and has co-operated completely with the Association investigation in this matter.

**II. STATUTES OR REGULATIONS THERETO, BY-LAWS, REGULATIONS, RULINGS OR POLICIES NOT COMPLIED WITH:**

The Respondent failed to comply with the Policies of the Association as follows:

During the period between May 31, 1993 to November 19, 1993, Charles Edward Sobering, a Branch Manager of a Member of the Association, failed to properly supervise a Registered Representative, namely George Georgiou, by failing to ensure that the handling of client business was within the bounds of ethical conduct, consistent with just and

## **SRO Notices and Disciplinary Decisions**

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equitable principles of trade and not detrimental to the interests of the securities industry, contrary to Regulation 1300.2 and Policy No. 2.

### **III. FUTURE COMPLIANCE**

The Respondent hereby states that in the future he will comply with the Policy not complied with as described in Part II of this Settlement Agreement.

### **IV. CONSENT AND AGREEMENT**

The Respondent hereby consents and agrees with the terms of settlement as set out in this Settlement Agreement.

### **V. ACCEPTANCE OF PENALTY**

The Respondent accepts the imposition by the Association of the following disciplinary penalties:

- i) A fine in the amount of \$12,000.00, to be paid to the Association within 30 days of the date of acceptance of this Settlement Agreement by the District Council;
- ii) As a condition of his continued approval by the Association in any supervisory capacity with a Member of the Association, the Respondent must successfully re-write and pass the Branch Manager's examination administered by the Canadian Securities Institute within 90 days of the acceptance of this Settlement Agreement by the District Council. Evidence of successful completion of the examination is to be provided to the Association by the Respondent within the specified time period.

### **VI. ASSOCIATION COSTS**

The Respondent agrees to pay the Association for its costs of the investigation in this matter in the amount of \$3,000.00, to be paid to the Association within 30 days of the date of acceptance of this Settlement Agreement by the District Council.

### **VII. EFFECT OF NON-COMPLIANCE WITH PENALTIES**

The Respondent admits notice of By-law 20.35 of the Association:

20.35 In the event that a fine or condition imposed by the District Council pursuant to By-law 20.6 or 20.10 is not paid or complied with, respectively, within the time prescribed by the District Council, the applicable District Council may, upon application by the Senior Vice-President, Member Regulation, and without further notice to the individual or Member concerned, suspend the approval of such individual or the rights and privileges of such Member, respectively, until such fine is paid or condition fulfilled.

### **VIII. WAIVER**

The Respondent hereby waives the right to a hearing pursuant to the Association's By-laws in respect of the matters described herein and any right of appeal or review which may be available pursuant to such By-laws or any applicable legislation.

### **IX. EFFECTIVE DATE AND NOTICE OF PENALTY**

This Settlement Agreement shall only become effective in accordance with its terms upon acceptance or imposition of a lesser penalty or less onerous terms by the District Council of the Association in accordance with By-law 20.26 of the Association and, in such event, the Respondent shall be deemed to have been penalized pursuant to By-law 20.10 for the purpose of giving notice thereof.

The Respondent pleads no contest to the allegations contained herein.

**DATED** at the City of "Toronto" in the Province of Ontario, this "18th" day of "September", 2000.

"Charles Sobering"

**ACCEPTED** by the Ontario District Council of the Investment Dealers Association of Canada, this "27th" day of "November", 2000.

INVESTMENT DEALERS ASSOCIATION OF CANADA  
(ONTARIO DISTRICT COUNCIL)

Per: "Fred Kaufman" public member

Per: "Norm Fraser" industry member

Per: "Robert Guilday" industry member

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**Chapter 25**  
**Other Information**

**25.1 Other Information**

**25.1.1 Securities**

**TRANSFER WITHIN ESCROW**

<u>COMPANY NAME</u>	<u>DATE</u>	<u>FROM</u>	<u>TO</u>	<u>NO. OF SHARES</u>
Gildan Activewear Inc.	Sept. 29, 2000	Harco Holdings Ltd.	H. Greg Chamandy	356,697.7 Class B Multiple Voting shares
Gildan Activewear Inc.	Sept. 29, 2000	Harco Holdings Ltd.	Glenn J. Chamandy	356,697.7 Class B Multiple Voting shares
Gildan Activewear Inc.	Sept. 29, 2000	Harco Holdings Ltd.	Edwin B. Tisch	77,276.6 Class B Multiple Voting shares

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