The Ontario Securities Commission

OSC Bulletin

February 16, 2001

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

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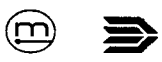

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Notices / News Releases

1.1 Notices

1.1.1 Current Proceedings Before The Ontario Securities Commission

February 16, 2001

CURRENT PROCEEDINGS

BEFORE

ONTARIO SECURITIES COMMISSION

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

The Harry S. Bray Hearing Room
Ontario Securities Commission
Cadillac Fairview Tower
Suite 1700, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

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Derek Brown	—	DB
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John A. Geller, Q.C.	—	JAG
Robert W. Korthals	—	RWK
Mary Theresa McLeod	—	MTM
R. Stephen Paddon, Q.C	—	RSP

SCHEDULED OSC HEARINGS

Date to be announced	**Mark Bonham and Bonham & Co. Inc.** s. 127 Mr. A.Graburn in attendance for staff. Panel: TBA
Feb 19/2001 10 a.m.	**Lois Doreen King** s. 127 Mr. Tim Moseley in attendance for staff. Panel: HIW / JAG
Feb 22/2001 10:00 a.m.	**YBM Magnex** s. 127 Mr. M. Code and Ms. K. Daniels for Staff Panel: HIW / RWD / MTM
Mar 8/2001 2:00 p.m.	**Michael Bourgon** s. 127 Mr. Hugh Corbett in attendance for staff. Panel: HIW
Mar 19/2001	**Wayne Umetsu** s. 60 of the Commodity Futures Act Ms. K. Wootton in attendance for staff. Panel: TBA

Apr 16/2001- 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	ADJOURNED SINE DIE
May 7/2001- May 18/2001 10:00 a.m.	**YBM Magnex International Inc., Harry W. Antes, Jacob G. Bogatin, Kenneth E. Davies, Igor Fisherman, Daniel E. Gatti, Frank S. Greenwald, R. Owen Mitchell, David R. Peterson, Michael D. Schmidt, Lawrence D. Wilder, Griffiths Mcburney & Partners, National Bank Financial Corp., (formerly known as First Marathon Securities Limited)** s. 127 Mr. I. Smith in attendance for staff. Panel: HIW / DB / MPC	**Terry G. Dodsley** **Offshore Marketing Alliance and Warren English** **First Federal Capital (Canada) Corporation and Monter Morris Friesner** **Southwest Securities** **Global Privacy Management Trust and Robert Cranston** **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
Jan 29/2001 - Jun 22/2001	**John Bernard Felderhof** Mssrs. J. Naster and I. Smith for staff. Courtroom TBA, Provincial Offences Court Old City Hall, Toronto
Jan 25/2000 10:00 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 NI 81-102, 81-102CP Mutual Funds, NI 81-101& 81-101CP Mutual Fund Prospectus Disclosure

Notice of Approval of Amendments to National Instrument 81-102 and Companion Policy 81-102CP Mutual Funds and to National Instrument 81-101 and Companion Policy 81-101CP Mutual Fund Prospectus Disclosure, and to Form 81-101F1 Contents of Simplified Prospectus and to Form 81-101F2 Contents of Annual Information Form.

NOTICE OF APPROVAL OF AMENDMENTS TO NATIONAL INSTRUMENT 81-102 AND COMPANION POLICY 81-102CP MUTUAL FUNDS

AND

TO NATIONAL INSTRUMENT 81-101 AND COMPANION POLICY 81-101CP MUTUAL FUND PROSPECTUS DISCLOSURE,

AND

TO FORM 81-101F1 CONTENTS OF SIMPLIFIED PROSPECTUS

AND

TO FORM 81-101F2 CONTENTS OF ANNUAL INFORMATION FORM

On February 14, 2001, the Canadian Securities Administrators (the "CSA") approved amendments to National Instrument 81-102 and Companion Policy 81-102CP Mutual Funds, and to National Instrument 81-101 and Companion Policy 81-101CP Mutual Fund Prospectus Disclosure, and to Form 81-101F1 Contents of Simplified Prospectus and Form 81-101F2 Contents of Annual Information Form (the "Amendments"). The Amendments were initially published for comment in draft form on January 28, 2000 at (2000) 23 OSCB (Supp.) 133, and on June 16, 2000 at (2000) 23 OSCB 4195. The substance and purpose of the Amendments is to permit mutual funds to enter into securities lending, repurchase and reverse repurchase transactions, and to permit index mutual funds to better meet their investment objectives by allowing them to track their target indices without concentration limits, subject to enhanced disclosure requirements.

The Commission is publishing in this issue of the OSC Bulletin a Notice of Rules and Policies Made Under the Securities Act which summarizes the changes to the proposed rules and policies since publication for comment.

The Amendments were sent to the Minister of Finance on February 16, 2001. The Amendments are being published in Chapter 5 of the Bulletin.

1.1.3 31-506 SRO Membership - Mutual Fund Dealers

NOTICE OF RULE
RULE 31-506 SRO MEMBERSHIP - MUTUAL FUND DEALERS

On February 6, 2001, the Commission made Rule 31-506 SRO Membership - Mutual Fund Dealers (the "Rule") for a second time. The Rule was published for comment on October 3, 1997 at (1997) 20 OSCB 5051, June 19, 1998 at (1998) 21 OSCB 3875 and June 16, 2000 at (2000) 23 OSCB (Supp.) 163. The Rule was first made by the Commission on October 10, 2000 and published at (2000) 23 OSCB 6985. The Rule was returned for further consideration by the Minister of Finance; a Notice in this regard was published at (2000) 23 OSCB 8466.

The Rule was sent to the Minister of Finance on February 6, 2001. The Rule is being published in a Supplement to this issue of the Bulletin.

February 16, 2001.

1.1.4 Commission Recognition of the MFDA of Canada as a SRO for Mutual Fund Dealers

NOTICE OF COMMISSION RECOGNITION
OF THE MUTUAL FUND DEALERS ASSOCIATION OF CANADA
AS A SELF-REGULATORY ORGANIZATION FOR MUTUAL FUND DEALERS

On February 6, 2001, the Commission recognized the Mutual Fund Dealers Association of Canada (the "MFDA") as a self-regulatory organization ("SRO") for mutual fund dealers pursuant to section 21.1(1) of the *Securities Act*.

The following documents are being published in a Supplement to this issue of the Bulletin, following the Notice of Final Rule and the text of Rule 31-506:

- the Commission's Recognition Order, with the Terms and Conditions of Recognition;
- MFDA By-law No. 1;
- MFDA Rules;
- MFDA Notice regarding Transition Periods; and
- MFDA's "Overview of Public Comments on MFDA Application for Recognition and MFDA Response".

February 16, 2001.

1.1.5 33-107 Multilateral Instrument - Financial Planning Proficiency Rule

MULTILATERAL INSTRUMENT 33-107
FINANCIAL PLANNING PROFICIENCY RULE

NOTICE OF FINAL RULE UNDER SECURITIES ACT

The Commission is publishing in Chapter 5 of today's Bulletin a Notice and the Financial Planning Proficiency Rule.

1.1.6 Speech by David A. Brown

MAINTAINING CONFIDENCE AND COMPETITIVENESS
IN
CANADIAN CAPITAL MARKETS

REMARKS BY
DAVID A. BROWN, Q.C.
CHAIR
ONTARIO SECURITIES COMMISSION

THE CANADIAN INSTITUTE
11TH ANNUAL SECURITIES SUPERCONFERENCE
Four Seasons Hotel, Toronto

February 13, 2001

I'm delighted to keynote this year's Securities Super Conference. These conferences are becoming a benchmark. Flip through the agenda over the past few years, and the workshops and symposia titles add up to a road map of the direction financial services has been taking.

Just consider how many of the issues being discussed at this conference would not have been broadly foreseen 11 years ago, at the first Canadian Institute SuperConference. Yesterday morning, for example, the panels included Alternative Trading Systems, which didn't even exist until the mid-1990s. Selective disclosure wasn't a major issue. And what would participants at the 1990 SuperConference have had to say about Webcast meetings and online voting?
Kind of makes you wonder what will be discussed at the 21st SuperConference in the year 2011. Of one thing we can be sure: There will be a great deal of change over the next decade, perhaps more than there has been over the past one. Like everyone else, regulators must keep up with it.

More and more people in the market are recognizing the role regulation must play in ensuring Canada's ability to compete. Countries around the world are chasing after overlapping pools of investment dollars. Given the globalization of capital, regulators must examine our policies and operations, and apply twin tests: Are we creating a viable market that is attractive to Canadian and foreign investors? Are we creating a regulatory framework that will allow market participants to compete globally?

Securities regulators around the world face an increasingly common challenge: Making the changes that are necessary to accommodate globalized markets. One of these challenges is to facilitate cross-border capital flows while also maintaining high levels of investor protection. For example, to what extent are capital markets impaired by differences in offering, listing and reporting requirements in different jurisdictions?

Concern about that question has prompted development of a set of core International Accounting Standards, which would allow inter-listed companies to avoid the cost of having to prepare different statements for different markets.
For Canada, that raises several ancillary questions: If foreign issuers are to be permitted to access Canadian markets using the International Accounting Standards, should we also consider allowing Canadian issuers to prepare their

statements according to international standards? Especially issuers who also seek capital in other markets?

As our North American capital markets become more and more closely integrated, should we allow U.S. issuers to access Canadian markets using financial statements prepared under U.S. GAAP, without the necessity of preparing a statement reconciling the numbers to Canadian GAAP? Should we make the same allowance for Canadian companies that are registered with the SEC?

I want to focus on these questions today. They are among several that the Ontario Securities Commission and the Canadian Securities Administrators are addressing.

First I should point out that we are also considering several issues that cut to the heart of the integrity of the markets, and the rights of investors.

Issues such as continuous disclosure. With the secondary markets now accounting for 90 per cent of all securities transactions, it's crucial to mandate and monitor disclosure beyond the initial IPO. A level playing field demands that all investors have access to the same information at the same time. But a corporate survey we released in August found there were too many bumps and chasms in that playing field. For example, more than 80 per cent did not invite retail investors to the quarterly conference call. And 98 per cent typically comment in some form on draft analyst reports – in effect defining analyst expectations.

The Canadian Securities Administrators will soon be publishing for comment a policy statement with practical steps for companies to ensure they meet disclosure requirements, including using advances in technology to achieve better information dissemination. And we will continue to pursue vigorous enforcement in any case where a select few are given advance information of a material fact or change.

We're addressing issues such as the quality and accuracy of company reporting, and the pressures that drive management to employ creative or aggressive accounting techniques to meet quarterly expectations. With the level of capital invested today, a difference of a penny or two per share in earnings can lead to a difference of a billion or two in capitalization. The quarterly report has become a quarterly report card, and the pressure to get straight As is enormous.

Over the past year the OSC took an important step in raising the bar on financial reporting, when we issued two rules that will upgrade current quarterly reporting requirements. Reporting issuers are now required to include a balance sheet, selected financial statement notes, and a management discussion and analysis with each quarterly filing.

The issue of financial reporting is also being addressed by the task force on corporate governance, co-sponsored by the TSE , the CDNX and the Canadian Institute of Chartered Accountants, and headed by Guylaine Saucier. An interim report of that committee is expected to be released for comment next month. Among the governance issues the committee has been examining are questions relating to the audit committee. For example, should audit committees be composed exclusively of directors unrelated to management or a controlling shareholder? Should they include directors who are financially literate? Should audit committees have a formal charter?

The Saucier Committee is also looking at the ways in which corporations communicate with their external audiences, particularly in the context of new challenges to corporate communications ushered in by the Internet and the markets' emerging retail buyside.

In all of these areas – continuous disclosure, aggressive accounting, audit committees – the goal is both to ensure a fair market for investors, and a competitive market that can attract capital. After all, a vigorous capital market depends upon credibility.

It also depends upon a regulatory recognition of modern realities. One of these realities is the differences I alluded to among GAAP requirements in different countries, and the potential costs that creates for both issuing companies and investors.

The importance of addressing these differences in financial reporting has grown as the world's capital markets have become more closely integrated.

Companies routinely raise capital beyond the borders of their domestic jurisdiction, and investors look far and wide for investment opportunities beyond their own domestic markets.

- In 1990, one out of every three dollars in debt and equity financings by Canadian issuers was raised in foreign markets. By last year, it had increased to half.

- Twenty years ago, about 80 companies listed on the Toronto Stock Exchange were interlisted on exchanges outside Canada. Now it's three times that many.

There is a time lag between market practice and regulatory action. While companies increasingly engage in **international** practices, financial reporting is still very much based on **national** rules.

Actually, the issue of financial reporting is an updated version of a challenge faced by the market system hundreds of years ago: How to ensure that the broadest group of people can determine the real value of a business at any given time? The big leap forward was taken by Italian merchants during the Renaissance, when they built on concepts developed by Arab traders to create double-entry bookkeeping. I don't think very many people outside the accounting profession would list that as one of the most exciting innovations of the last millennium. But as the economic historian Werner Sombart put it: "One cannot imagine what capitalism would be without double-entry bookkeeping."

For thousands of years, acquisitions, partnerships, and cross-investment among merchants of different cultures had been stymied by lack of a common way of valuing their businesses. Not to mention the challenge of keeping books using Roman numerals!

But double entry made it possible to determine the net worth of a business at any given point, creating the concepts of

transparency and comparability. That made possible the capital formation that powered the shift to an industrial economy.

Now, we must ensure that the appropriate financial reporting mechanisms are in place as we complete the transformation to an information economy.

An information age characterized by multinational companies and multinational investment portfolios seems to raise the need for a kind of financial Esperanto – a common reporting language that everyone can use and everyone can understand.

If you're going to raise capital, you have to be able to explain your financials in a way that investors will understand – regardless of what country they happen to be in. If you're going to invest, you'll want to follow company statements, regardless of where they originate. In a globalized information age, financial information has to be readily understandable, comparable, and transparent. The numbers can't suddenly change their meaning when they cross a border.

That is why, for decades, regulators and representatives of the accounting profession have been trying to achieve a set of globally acceptable accounting standards that would allow investors around the world to accurately compare financial information – what you might call a global GAAP.

The effort took a major turn seven years ago when the International Organization of Securities Commissions concluded that development of a single disclosure document for use in cross-border offerings and listings would be facilitated by the development of internationally accepted accounting standards. They asked the International Accounting Standards Committee to devise a set of core accounting standards that nations could subscribe to.

Last year we saw a series of breakthroughs:

- In May, the International Organization of Securities Commissions approved 30 core standards for international filings, basically as developed by the International Accounting Standards Committee.

- One month later, the European Commission announced a plan to require all listed companies in the European Union to report in accordance with International Accounting Standards by 2005. While the proposal still has to be passed by a majority of EU countries and by the EU Parliament, Commission approval is a major step. The rules would cover 6700 European companies – of which 6300 do not currently follow the International Accounting Standards.

- At the about the same time, the SEC issued a Concept Paper on International Accounting Standards. That was encouraging because it indicated a potential willingness by the United States to consider accepting the use of the International Standards by foreign issuers without full reconciliation to U.S. GAAP.

Acceptance of the International Accounting Standards depends to a large extent on the credibility of the International Accounting Standards Committee. After all, support for standards depends a great deal on the nature of the standards-setter. That is why it was a major breakthrough last spring when the International Accounting Standards Committee began to restructure itself into a truly independent and full-time standards-setting body. The new international board is composed of 14 individuals -- all of them accounting technocrats -- 12 of whom will be engaged full-time in designing and building support for a high-quality set of world-wide accounting standards.

If this transformation is implemented successfully, it will greatly facilitate the convergence of national standards. Instead of the current international smorgasbord of GAAP standards and requirements, convergence would eventually allow issuers to use their own national standards of GAAP to prepare statements, in confidence they would be accepted in foreign markets.

The potential result? Reduced compliance costs. Less uncertainty. Greater transparency for investors. Since markets tend to charge a premium for uncertainty, that could translate into a reduced cost of capital for issuers.

Canadians have to consider our options when it comes to requirements of both foreign and Canadian issuers. Options that include allowing foreign companies to report under international standards, or even the accounting standards of their own country – and allowing Canadian companies that list in the United States the option of using U.S. GAAP in Canada.

Currently, Canadian issuers that are listed on U.S. exchanges or wish to tap U.S. equity markets must either prepare a reconciliation statement or prepare two sets of financial statements. This imposes additional costs on Canadian entities. Having two sets of financial statements showing potentially different results can also lead to confusion and uncertainty.

Whether one uses U.S. or Canadian GAAP can have a significant impact on the bottom line – or at least on the way the bottom line is reported.

For example, there are differences in the treatment of stock option benefits, and the way R&D assets are treated in an acquisition.

Reported profit or loss could depend upon which rules you use. Granted that's only a difference on paper. But it's still a difference that, some argue, places Canadian companies at a competitive disadvantage in U.S. capital markets, especially when it comes to executing business acquisition strategies.

For some Canadian companies, the corporations with whom they are competing for capital are U.S.-based. The best way to increase their profile in U.S. markets may be by using the language of U.S. business. Investors view accounting standards they are unfamiliar with as a risk. Like any risk, they assign a penalty to it in assessing their value. A Canadian company seeking to raise capital in the United States can

either bear that market penalty, or bear the cost of reporting to two different standards – costs that are ultimately paid by investors.

Some companies believe they have little choice but to prepare and distribute two complete sets of financial statements – under U.S. and Canadian GAAP. For some issuers, a majority of trading takes place in U.S. markets. Their shareholder base has shifted south of the border to such an extent that they feel it is more appropriate to communicate financial information on the basis that is most understandable to U.S. investors.

The Canadian Securities Administrators are preparing to release a Discussion Paper on this issue. The Chief Accountant of the OSC, John Carchrae, will be discussing the issue in more detail this afternoon.

We're going to be seeking feedback – from investors, from issuing companies, and from all other interested individuals, as well as the accounting profession. The information we are seeking will in some cases be detailed – but we expect illuminating. In the end, the crunch question will be: should Canadian issuers be permitted to prepare a single set of statements using U.S. GAAP or international standards?

While there are a lot of considerations to take into account, and a lot of concerns about how far to take change in this area, there is no question in my mind that change is necessary.

We're living in era when 40 per cent of Canadian investors are trading online. An era when companies are ignoring national borders when it comes to raising capital, and using the Internet when it comes to publishing their financial reports.

In an era when investors want to compare companies across borders, we should be looking at ways to make the information as straightforward as possible to compare. Like the Italian merchants who recognized the need to revolutionize the nature of financial accounting centuries ago, we may be on the verge of our own renaissance – one that will overhaul the manner of financial reporting and truly globalize the nature of financial information.

Thank you.

1.1.7 Amendments to the Rules & Policies of the TSE Electronic Volume Weighted Average Price Trading System

The Toronto Stock Exchange
Amendments to the Rules and Policies of The Toronto Stock Exchange Inc.
Electronic Volume Weighted Average Price Trading System
Notice of Commission Approval

The Commission has approved the *Amendments to the Rules and Policies of The Toronto Stock Exchange Electronic Volume Weighted Average Price Trading System*. The Amendments were proposed in order to implement an electronic volume weighted average price trading system as a facility of the Exchange (the "eVWAP Facility") and allow Participating Organizations and eligible institutional clients access to the eVWAP Facility. The proposed rule amendments were initially published on October 6, 2000 at (2000) 23 OSCB 6953. Resulting from comments received and comments made by the OSC, some changes have been made to the rule. The changes are being republished in Chapter 13 of this Bulletin, along with a summary of comments received and responses from the Toronto Stock Exchange Inc.

1.2 Notice of Hearings

1.2.1 Amalgamated Income Ltd. Partnership - s. 127 & 127.1

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

AND

IN THE MATTER OF
AMALGAMATED INCOME LIMITED PARTNERSHIP
AND 479660 B.C. LTD.

NOTICE OF RETURN OF HEARING
(Sections 127 and 127.1)

TAKE NOTICE that the Ontario Securities Commission (the "Commission") will hold a hearing pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act") at the Commission offices, 20 Queen Street West, 17th Floor, in the Hearing Room, Toronto, Ontario commencing on Monday the 12th of February, 2001 at 10:00 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 that the respondents cease trading in securities, permanently or for such time as the Commission may direct;

(b) to make an order that any exemptions contained in Ontario securities law do not apply to the respondents permanently, or for such period as specified by the Commission;

(c) to make an order that the respondents submit to a review of their practices and procedures and institute such changes as may be ordered by the Commission;

(d) to make an order that the respondents be reprimanded;

(e) to make an order that the respondents, or any of them, pay the costs of Staff's investigation in relation to the matters subject to this proceeding;

(f) to make an order that the respondents, or any of them, pay the costs of this proceeding incurred by or on behalf of the Commission; and/or

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

BY REASON OF the allegations set out in the Statement of Allegations dated April 26, 2000 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.

February 8, 2001.

John Stevenson
Secretary to the Commission

1.3 News Releases

1.3.1 Amalgamated Income Ltd. Partnership and 479660 B.C. Ltd.

FOR IMMEDIATE RELEASE
February 8, 2001

AMALGAMATED INCOME LIMITED PARTNERSHIP AND 479660 B.C. LTD.

Toronto - On April 26, 2000 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing and related Statement of Allegations against Amalgamated Income Limited Partnership ("Amalgamated") and 479660 B.C. Ltd. ("479660"). The hearing in respect of Amalgamated and 479660 is scheduled for Monday, February 12, 2001 at 10:00 a.m. at the offices of the Commission, 20 Queen Street West, 17th Floor, the large Hearing Room. The purpose of the hearing will be for the Commission to consider whether to approve a proposed settlement of this matter. The terms of the proposed settlement will only be released if and when the Commission approves the proposal.

The allegations made by Staff of the Commission against the Respondents as set out in the Notice of Hearing issued on April 26, 2000 and related Statement of Allegations include the following:

- Amalgamated is a limited partnership and a reporting issuer in all the provinces of Canada. Amalgamated is engaged in the business of acquiring, holding and trading units of mutual fund limited partnerships.
- The general partner of Amalgamated is 479660, a company incorporated under the laws of the Province of British Columbia. The head office of 479660 is located in British Columbia. 479660 has carried on business as the general partner of Amalgamated since about November 18, 1994.
- In early 1995, Amalgamated commenced purchasing units in certain limited partnerships (the "Limited Partnerships"), more particularly described in the Statement of Allegations. During the material times, Amalgamated breached certain requirements of the *Ontario Securities Act* (the "Act") including the failure to file required reports under sections 101 and 107 of the Act, the failure to pay required fees, the failure to honour representations made to Staff that Amalgamated would comply with its reporting requirements, and breach of requirements of Part XX of the Act in that Amalgamated made acquisitions which constituted non-exempt take-over bids.

References:

Michael Watson
Director, Enforcement Branch
416-593-8128

Rowena McDougall
Sr. Communications Offier
416 593-8115

1.3.2 Noram Capital Management & Andrew Willman

FOR IMMEDIATE RELEASE
February 9, 2001

OSC APPROVES SETTLEMENT AGREEMENT AND IMPOSES SANCTIONS AGAINST NORAM CAPITAL MANAGEMENT INC. AND ANDREW WILLMAN

Toronto - At a hearing today, the Ontario Securities Commission (the "Commission") approved a settlement agreement entered into between Staff of the Commission and Noram Capital Management, Inc. ("Noram") and Andrew Willman (the "Respondents").

The Respondents admitted that they contravened Ontario securities law and acted in a manner contrary to the public interest. In the Settlement Agreement, the Respondents admitted that they failed to deal fairly, honestly and in good faith with clients of Noram, over more than a seven year period by among other things, making unsuitable investments, failing to adequately disclose the risks associated with certain investments, including leveraged investments, making misleading statements to clients regarding investments, making misleading and inaccurate representations in advertising and promotional materials, engaging in personal trading and principal trading and self-dealing. In addition, the Respondents admitted that they breached an Order of the Commission dated September 29, 1999, which suspended Noram's registration effective October 7, 1999, by failing to provide the Commission with certain financial reporting documentation.

The Commission held that on the basis of the facts admitted in the Settlement Agreement, Andrew Willman showed a complete lack of concern for his clients and the marketplace and that his conduct was as serious as any that has recently been before the Commission. The Commission held that Staff's characterization of the Respondents' conduct as "egregious" was a "mild understatement". The Commission stated that on the basis of the admitted facts the panel was prepared to make a finding that Mr. Willman was a "scoundrel".

The Commission ordered the following sanctions:

- Willman and Noram's registration be terminated permanently;
- Willman cease trading in securities permanently, including for his own personal account;
- Willman is prohibited from becoming or acting as a director or officer of any issuer permanently;
- Willman and Noram are reprimanded; and
- Willman and Noram pay costs in the amount of $82,500 to the Commission.

Copies of the Notice of Hearing, Statement of Allegations and the Settlement Agreement are available at **www.osc.gov.on.ca** or from the Commission, 19th Floor, 20 Queen Street West, Toronto, Ontario. Any questions from members of the investing public can be directed to the inquiries line at the Commission at (416) 593-8314.

References:

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

Rowena McDougall
Senior Communications Officer
(416) 593-8117

1.3.3 Chapters in Respect of Trilogy Enterprises' Take-Over Bid

FOR IMMEDIATE RELEASE
February 12, 2001

OSC RELEASES DECISION DECLINING TO GRANT ORDER REQUESTED BY CHAPTERS IN RESPECT OF TRILOGY ENTERPRISES' TAKE-OVER BID

Toronto - The Ontario Securities Commission today released its Decision on Chapters' application for an order directing Trilogy to amend and re-circulate its take-over bid documents to disclose more information about Indigo's financial condition, at a hearing held on January 10, 2001.

A copy of the Decision is attached and is available from the Commission's website at **www.osc.gov.on.ca.**

Reference:

Rowena McDougall
Senior Communications Officer
(416) 593-8117

1.3.4 Amalgamated Income Limited Partnership & 479660 B.C. Ltd.

FOR IMMEDIATE RELEASE
February 12, 2001

OSC APPROVES SETTLEMENT OF PROCEEDING AGAINST AMALGAMATED INCOME LIMITED PARTNERSHIP AND 479660 B.C. LTD.

Toronto – At a hearing today, the Ontario Securities Commission (the "Commission") approved a settlement agreement entered into between Staff of the Commission and Amalgamated Income Limited Partnership ("Amalgamated") and 479660 B.C. Ltd. (the "General Partner") (collectively, the "Respondents").

The Respondents admitted that they contravened Ontario securities law and acted in a manner contrary to the public interest. In the Settlement Agreement, the Respondents admitted to contraventions of the early warning reporting, insider trading reporting and take-over bid requirements contained in Parts XX and XI of the *Securities Act* (the "Act") during the period beginning from 1995 to 2000 in connection with certain acquisitions by Amalgamated of units in various limited partnerships, as well as a breach of representations to Staff concerning Amalgamated's compliance with these requirements. 479660, by virtue of its powers, duties and obligations as the General Partner of Amalgamated, admitted to authorizing the contraventions of the Act by Amalgamated contrary to the public interest.

In accordance with the terms of the approved settlement, Amalgamated has filed the outstanding reports, and represented to Staff that it undertakes to comply with its reporting requirements under Ontario securities law. Outstanding filing fees in the amount of $60,038.86 have been paid to the Commission by Amalgamated, as well as the payment in the amount of $20,000.00 to the Commission in respect of a portion of the Commission's costs with respect to this matter.

The Settlement Agreement also sets out representations by the Respondents to Commission Staff of the steps taken by the General Partner since May, 2000 to address a number of the foregoing contraventions, including the following:

- the Board of the General Partner dismissed the then President and Chief Operating Officer of the General Partner on May 16, 2000, and retained Christopher Boatman to act as President and Chief Operating Officer of the General Partner, along with Shawn Strandberg, C.A., as Chief Financial Officer of the General Partner.
- the respondents represent that Mr. Boatman's mandate has included the task of reviewing and making recommendations on the policies and procedures for the management of Amalgamated and the General Partner.
- Strandberg was retained to assist Mr. Boatman in the review of the financial record-keeping and reporting procedures of Amalgamated.
- In late May 2000, the Board of Directors of the General Partner suspended all purchases of additional units of mutual fund limited partnerships pending the resolution of this proceeding.
- On October 1, 2000, Amalgamated retained the accounting firm Norgaard Neale Camden ("Norgaard") to review the partnership units held by Amalgamated in various limited partnerships as of September 30, 2000 as a result of Mr. Boatman's concern that Amalgamated may not have accurate records of its holdings in various limited partnerships. The respondents have undertaken to provide the report prepared by Norgaard to Commission Staff and to file amended report(s) under sections 101 and 107 of the Act, and section 203.1(1)(b)(i) of the Regulation to the Act, in the event that reports previously filed by Amalgamated contain inaccurate information as to Amalgamated's holdings in various limited partnerships.
- The respondents have represented to Staff that the General Partner has initiated appropriate compliance procedures to ensure regulatory compliance by Amalgamated with Ontario securities law.

The settlement further provides that the Respondents will submit to a review by Blake, Cassels & Graydon LLP of their compliance practices and procedures and report in writing to Staff and Blake, Cassels & Graydon LLP as to the implementation of the recommendations within reasonable timeframes.

Copies of the Notice of Return of Hearing, Statement of Allegations and Settlement Agreement are available at the website at **www.osc.gov.on.ca** or from the Commission, 19th Floor, 20 Queen Street West, Toronto, Ontario.

References:

Rowena McDougall
Sr. Communications Officer
416-593-8117

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 DY 4 Systems Inc.- MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Issuer has only one security holder - Issuer deemed to have ceased to be a reporting issuer.

Applicable Ontario Statutory Provisions

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

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

AND

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

AND

IN THE MATTER OF
DY 4 SYSTEMS INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Makers") in each of Alberta, Saskatchewan, Ontario, Quebec, Nova Scotia and Newfoundland (the "Jurisdictions") have received an application from DY 4 Systems Inc. (the "Filer") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that the Filer be deemed to have ceased to be a reporting issuer under the Legislation;

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

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

1. The Filer is a corporation incorporated under the *Business Corporations Act* (Ontario) ("OBCA"), is a reporting issuer in each of the Jurisdictions and is not in default of any of the requirements of the Legislation.

2. The Filer's head office is located at 333 Palladium Drive, Kanata, Ontario, K2V 1A6.

3. The authorized capital of the Filer consists of an unlimited number of common shares (the "Common Shares"). As at November 29, 2000, 13,427,493 Common Shares were issued and outstanding.

4. The Common Shares of the Filer were de-listed from the Toronto Stock Exchange (the "Exchange") on December 19, 2000 and no securities of the Filer are listed on any stock exchange or quoted on any market.

5. On October 20, 2000 C-MAC Industries Inc. ("C-MAC") made an offer (the "Offer") to purchase all of the outstanding Common Shares (including Common Shares issuable upon exercise of outstanding options) in exchange for common shares in the share capital of C-MAC, on the terms and conditions set forth in an Offer and accompanying circular of C-MAC dated October 20, 2000.

6. A total of 13,131,536 Common Shares, representing over 97% of the total number of issued and outstanding Common Shares, were validly deposited in response to the Offer and taken-up and paid for by C-MAC.

7. C-MAC mailed a notice of compulsory acquisition on December 4, 2000 to holders of Common Shares who did not deposit their Common Shares pursuant to the Offer.

8. On January 11, 2001, following the mailing of a notice of cancellation to holders of Common Shares who did not deposit their Common Shares pursuant to the Offer, C-MAC became the sole shareholder of the Filer.

9. The Filer does not have any securities, including debt securities, issued and outstanding other than the Common Shares.

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

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

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

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

January 31, 2001.

John Hughes
Manager, Continuous Disclosure

2.1.2 UPM-Kymmene Canada Holdings Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - It is not prejudicial to the public interest for issuer not to be a reporting issuer - Issuer deemed to have ceased being a reporting issuer.

Applicable Ontario Statutory Provisions

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

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

AND

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

AND

IN THE MATTER OF
UPM-KYMMENE CANADA HOLDINGS INC.
MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (collectively, the "Decision Makers") in each of Alberta, Saskatchewan, Ontario, Quebec, Nova Scotia and Newfoundland (collectively, the "Jurisdictions") has received an application from UPM-Kymmene Canada Holdings Inc. ("Amalco"), formerly 3796477 Canada Inc., for a decision, pursuant to the securities legislation (the "Legislation") of each of the Jurisdictions that Amalco, as successor to Repap Enterprises Inc. ("Repap") by amalgamation, cease to be a reporting issuer or the equivalent thereof under the Legislation;

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 Amalco has represented to the Decision Makers that:

1. Repap was a reporting issuer, or the equivalent thereof, under the Legislation.

2. On October 16, 2000, Repap was amalgamated (the "Amalgamation") with 3796477 Canada Inc., with Amalco continuing as the amalgamated corporation. Subsequent to the Amalgamation, 3796477 Canada Inc.'s name was changed to UPM-Kymmene Canada Holdings Inc. As a result, Amalco is a reporting issuer, or the equivalent thereof, under the Legislation.

3. As of December 4, 2000, Amalco was in default of its obligations as a reporting issuer, or the equivalent thereof, under the Legislation, solely by virtue of the fact that Repap's interim financial statements for the quarter ended September 30, 2000 have not been filed with the Decision Makers.

4. Upon the Amalgamation, all of the common shares of Repap (other than those held by dissenting shareholders and other than those held by 3796477 Canada Inc., which in each case were cancelled) were converted into special shares of Amalco ("Special Shares"). The common shares of 3796477 Canada Inc. (all of which were held by UPM-Kymmene Corporation) were converted into common shares of Amalco ("Common Shares").

5. Immediately following the Amalgamation, all of the Special Shares were transferred or deemed to have been transferred to a wholly-owned subsidiary ("Callco") of UPM-Kymmene Corporation pursuant to the terms of those shares. Holders of Special Shares were paid Cdn.$0.20 in cash for each Special Share transferred or deemed to have been transferred.

6. The Special Shares were de-listed from the Toronto Stock Exchange and no securities of Amalco are listed on any stock exchange or quoted on any market.

7. The head office of Amalco is located in Miramichi, New Brunswick.

8. UPM-Kymmene Corporation, Callco and 10 registered holders of debentures now convertible into Special Shares ("Convertible Debentures") and originally issued by Repap on a private placement basis in the United States, the obligations of which have been assumed by Amalco, are the only holders of securities of Amalco. Accordingly, Amalco has fewer than 15 holders of securities whose latest address, as shown on its books, is in each of the Jurisdictions.

9. Other than the Special Shares, Common Shares and Convertible Debentures, there are no securities of Amalco outstanding.

10. Amalco does not intend to seek public financing by way of an offering of its securities.

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

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

THE DECISION of the Decision Makers pursuant to the Legislation is that Amalco, as the successor to Repap, is deemed to have ceased to be a reporting issuer or the equivalent thereof under the Legislation.

February 1, 2001.

John Hughes
Manager, Continuous Disclosure

2.1.3 Chapters Inc. & Chapters Online Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - retention agreements between offeror and certain key officers and executives of offeree made for reasons other than to increase the value of the consideration paid to the key officers and executives and may be entered into despite the prohibition on collateral agreements in the Legislation.

Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 97 and 104(2)(a).

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ONTARIO AND QUEBEC

AND

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

AND

IN THE MATTER OF
CHAPTERS INC.
AND CHAPTERS ONLINE INC.

MRRS DECISION DOCUMENT

WHEREAS the securities regulatory authority or regulator (the "Decision Maker") in each of Ontario and Quebec (the "Jurisdictions") has received an application from Chapters Inc. (the "Offeror") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that, in connection with an offer dated January 19, 2001 (the "Offer") by the Offeror to acquire all of the issued and outstanding common shares (the "Online Shares") of Chapters Online Inc. ("Online"), certain retention arrangements entered into between the Offeror and certain officers and executives of Online have been entered into for reasons other than to increase the value of the consideration paid to such officers executives of Online for their Online Shares and may be entered into despite the provision in the Legislation that prohibits an offeror who makes or intends to make a take-over bid and any person acting jointly or in concert with the offeror from entering into any collateral agreement, commitment or understanding with any holder or beneficial owner of securities of the offeree issuer that has the effect of providing to the holder or owner a consideration of greater value than that offered to other holders of the same class of securities (the "Prohibition on Collateral Agreements");

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 Offeror has represented to the Decision Makers that:

1. The Offeror is a corporation incorporated under the *Business Corporations Act* (Ontario), with its head office located in Toronto, Ontario.

2. The Offeror is the largest book retailer in Canada, operating bookstores in all provinces under the names of Chapters, Coles, SmithBooks/ LibrairieSmith, The Book Company and World's Biggest Bookstore.

3. The Offeror is a reporting issuer or the equivalent in all provinces of Canada and its common shares are listed for trading on The Toronto Stock Exchange (the "TSE") under the symbol "CHP".

4. Online is a corporation incorporated under the *Business Corporations Act* (New Brunswick).

5. Online is a leading online retailer in Canada of books, music CDs, videos, DVDs, software and video game cartridges, as well as digital downloads and consumer electronics through its *chapters.ca* website. Online also operates the *villa.ca* website which features a wide selection of home and garden products.

6. The authorized capital of Online consists of an unlimited number of Online Shares and an unlimited number of preference shares, issuable in series ("Preference Shares"). As of January 2, 2001, there were 17,814,574 Online Shares and no Preference Shares issued and outstanding.

7. Online is a reporting issuer or the equivalent in all provinces of Canada and the Online Shares are listed and posted for trading on the TSE under the symbol "COL".

8. The Offeror is the majority owner of Online and currently holds 12,398,416 Online Shares, representing approximately 69.6% of the issued and outstanding Online Shares.

9. Sequoia Capital Franchise Fund, Sequoia Capital Franchise Partners and Sequoia Capital Partners and each of their respective affiliates and associates (collectively, "Sequoia") currently hold 2,080,000 Online Shares, representing approximately 11.7% of the issued and outstanding Online Shares.

10. Online has established an independent committee (the "Independent Committee") of its board of directors to, among other things, consider the Offer.

11. The Offer is for all of the issued and outstanding Online Shares, including any Online Shares which may become outstanding on the exercise of stock options or other rights, in exchange for $3.40, subject to conditions that are customary for transactions of this nature, including that there be validly deposited under the Offer and not withdrawn at the expiry time at least 50.1% of the outstanding Online Shares to which the Offer relates, excluding Online Shares presently owned by the Offeror.

12. If the Offeror takes up and pays for not less than 50.1% of the Online Shares (excluding Online Shares held by the Offeror and its associates and affiliates) but is unable to rely on the compulsory acquisition provisions under the *Business Corporations Act* (New Brunswick) or if the Offeror elects not to pursue such right, the Offeror intends to propose an amalgamation, statutory arrangement, merger, reorganization, liquidation or other transaction with Online that constitutes a going-private transaction. The Offeror has sought exemptive relief from the Quebec Securities Commission in connection with such proposed going-private transaction.

13. On December 7, 2000, the Offeror and SCFF Management LLC, as general partner of Sequoia, entered into an agreement (the "Lock-Up Agreement") pursuant to which, among other things, Sequoia agreed to deposit all of 2,080,000 Online Share held by Sequoia, together with any additional Online Shares acquired after the date of the Lock-Up Agreement and prior to the expiry of the Offer, to the Offer.

14. On December 27, 2000, the Offeror and Online entered into an agreement (the "Support Agreement") pursuant to which, among other things, the Offeror agreed to make the Offer on certain terms and conditions, including representations and warranties by Online that the Independent Committee recommend to its directors that it had determined that it would be in the best interests of Online for its board of directors to recommend acceptance of the Offer to holders of the Online Shares and for Online to co-operate with the Offeror in connection with the Offer and to take all reasonable actions to support the Offer.

15. Heather Nicol ("Nicol") is the Chief Financial Officer of Online. Nicol holds, directly and indirectly, or exercises control or direction over 2,300 Online Shares. Nicol also currently holds options to purchase 130,000 Online Shares pursuant to the Online stock option incentive plan (the "Online Stock Option Plan").

16. Doug Caldwell ("Caldwell") is the Chief Technical Officer of Online. Caldwell holds, directly and indirectly, or exercises control or direction over no Online Shares. Caldwell currently holds options to purchase 130,000 Online Shares pursuant to the Online Stock Option Plan.

17. Graham Coulson ("Coulson") is the Director of Web Operations of Online. Coulson holds, directly and indirectly, or exercises control or direction over 500 Online Shares. Coulson also currently holds options to purchase 30,000 Online Shares pursuant to the Online Stock Option Plan.

18. Warren Cable ("Cable") is the Director of Merchandising of Online. Cable holds, directly and indirectly, or exercises control or direction over 500 Online Shares. Cable also currently holds options to purchase 16,000 Online Shares pursuant to the Online Stock Option Plan.

19. David Hainline ("Hainline") is the Executive Vice-President and Chief Operating Officer of Online. Hainline holds, directly and indirectly, or exercises control or direction over no Online Shares. Hainline currently holds options to purchase 245,000 Online Shares pursuant to the Online Stock Option Plan.

20. Online currently has employment agreements (the "Current Employment Agreements") with each of Cable, Caldwell, Coulson, Hainline and Nicol (collectively referred to herein as, the "Executives", unless specifically referenced) on terms and conditions that are typical of employment agreements with similarly situated executives of companies with comparable businesses to Online and the Offeror. The annual base salaries paid under the Current Employment Agreements to Cable, Caldwell, Coulson, Hainline and Nicol are $100,000, $160,000, $100,000, $195,000 and $145,000, respectively. Cable, Caldwell, Coulson, Hainline and Nicol are also eligible to receive performance bonuses for each fiscal year of up to $12,000, $60,000, $25,000, $100,000 and $50,000, respectively. The Current Employment Agreements also provide for participation in the Online Stock Option Plan and other benefit plans, as well as certain other non-material perquisites.

21. In addition, the Current Employment Agreements provide in some cases for certain consequences in the event that the respective Executive is terminated in certain circumstances. The Current Employment Agreements also provide in some cases that upon the termination of the respective Executive's employment, such Executive will not in Canada directly or indirectly provide services to certain competitors and their affiliates or to any Canadian controlled entity in which they have a minority interests or a joint venture agreement for a period of one year following such termination. The acquisition of Online Shares by the Offeror pursuant to the Offer will not give rise to any termination rights by any of the Executives under the Current Employment Agreements with Online.

22. The Offeror has entered into certain retention and severance arrangements (the "Retention Arrangements") with each of the Executives, the principal terms of which are set forth below.

23. The principal terms of the Current Employment Agreements with the Executives other than Hainline will not be affected by the Retention Arrangements, subject to the following modifications:

    (a) if, following the completion of the Offer, such Executive is terminated within twelve months after the date upon which the Offer is completed, including constructive termination where there is a material reduction in annual compensation or the assignment of materially reduced duties or responsibilities to such Executive without mutual agreement, but other than for cause or as a result of such Executive's death or disability or resignation, such Executive shall receive a lump sum cash payment in an amount equal to six-twelves of the Executive's annual base salary at

the rate in effect at such Executive's date of termination, plus all benefits, quantified as 10% of the Executive's annual base salary, paid or payable excluding bonuses (the "Annual Compensation") and, in the case of Nicol, benefits for one year, and the bonus received by the Executive in the year preceding the Executive's termination (the "Target Bonus");

(b) if following the completion of the Offer, the Executive's employment is terminated for cause, or as a result of such Executive's death or disability or resignation, the Executive shall receive the Executive's full base salary to the effective date of such termination at the rate in effect on the date the Executive is notified of such termination or at the rate approved prior to the date of such termination; and

(c) for Executives other than Nicol, if following the completion of the Offer, an Executive's employment is continued, Chapters shall, subject to the Offeror's board and regulatory approval, grant stock options to such Executives on the basis of one stock option to purchase common shares of the Offeror ("Offeror Options") for each five stock options to purchase Online Shares ("Online Options") previously granted to such Executives prior to November 28, 2000 to be priced in accordance with the guidelines of the TSE and the Offeror's existing employee stock option plan.

24. In addition to the foregoing, the Offeror has agreed to pay Nicol the sum of approximately 10% of her Annual Compensation in the event that the Offer is successful and Nicol remains in the employment of the Offeror or Online until at least March 1, 2001.

25. The principal terms of the Current Employment Agreement with Hainline will not be affected by the Retention Arrangement proposed with respect to Hainline, subject to the following modifications:

(a) if following the completion of the Offer, Hainline is terminated within twelve months after the date upon which the Offer is completed, including termination as a result of the position of Hainline being rendered redundant, but other than for cause or as a result of the Hainline's death or disability or resignation, or Hainline is terminated following both the completion of the Offer and a subsequent change of control of the Offeror within twelve months after the date upon which such change of control occurs other than for cause or as a result of death or disability or resignation (other than a triggering event, which would include an adverse change in the duties, powers and rights of Hainline, a diminution of title and change in the person or body to whom Hainline reports, all without his consent), or if as a result of a change of control, Hainline shall resign his employment following a triggering event within twelve months after the date upon which such change of control occurs, and within six months of such triggering event (a "Termination Event"), then Hainline shall receive a lump sum cash payment in an amount equal to:

(i) if Hainline has been employed for less than five full years in the aggregate at the time of the Termination Event, his Annual Compensation and Target Bonus, or

(ii) if Hainline has been employed for five full years but less than six full years in the aggregate, seventeen-twelves of the amount due referred to under clause 25(a)(i) above, increasing by one-twelfth for each completed sixth and subsequent year, to a maximum of twenty-four-twelfths or an amount equal to two times his Annual Compensation and Target Bonus.

(b) if following the completion of the Offer, Hainline's employment is continued, the Offeror proposes to grant, subject to the Offeror's board and regulatory approval, stock options to Hainline on the basis of one Offeror Option for each five Online Options previously granted to Hainline prior to November 28, 2000 to be priced in accordance with the guidelines of the TSE and the Offeror's employee stock option plan. Upon a Termination Event, all Offeror Options held by Hainline shall become immediately exercisable in full until the expiry of their original term (without regard to early termination provisions attaching to the options relating to cessation of office or employment). The Offeror shall also pay all reasonable legal fees and expenses incurred by Hainline as a result of such termination; and

(c) if following the completion of the Offer and, if applicable, a subsequent a change of control, Hainline's employment is terminated for cause, or as a result of the Hainline's death or disability or resignation (other than following a triggering event in the event of a change of control), Hainline shall receive his full base salary to the effective date of such termination at the rate in effect on the date Hainline is notified of such termination or at the rate approved prior to the date of such termination.

26. The Retention Agreements have been negotiated at arm's length and are on terms and conditions that are commercially reasonable. The severance provisions in respect of cash payments, stock options and other benefit entitlements for the Executives are commensurate with the entitlements of similarly situated executives of the Offeror in the case of a termination.

27. The Offeror believes that the Executives have been an integral part of the successful development and operation of Online and have substantial and valuable experience and expertise in the online retail business.

The Offeror views the retention of the Executives as critical to making the Offer.

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

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

THE DECISION of the Decision Makers, under the Legislation, is that the Retention Arrangements are being made for reasons other than to increase the value of the consideration to be paid to the Executives for their Online Shares and that the Retention Arrangements may become effective notwithstanding the Prohibition on Collateral Benefits contained in the Legislation.

February 5, 2001.

"Howard I. Wetston" "J.A. Geller"

2.1.4 Stellarton Energy Corporation - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - corporation deemed to have ceased to be a reporting issuer after all of its issued and outstanding securities were acquired by another issuer.

Applicable Ontario Statutory Provisions

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

IN THE MATTER OF
THE SECURITIES LEGISLATION
OF ALBERTA, ONTARIO, AND QUEBEC

AND

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

AND

IN THE MATTER OF
STELLARTON ENERGY CORPORATION

MRRS DECISION DOCUMENT

1. **WHEREAS** the local securities authority or regulator (the "Decision Makers") in each of the Provinces of Alberta, Ontario, and Quebec (the "Jurisdictions") has received an application from Stellarton Energy Corporation ("Stellarton") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that Stellarton be deemed to have ceased to be a reporting issuer or equivalent under the Legislation.

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

3. **AND WHEREAS** it has been represented by Stellarton to the Decision Makers that:

   3.1 Stellarton is incorporated under the *Business Corporations Act* (Alberta) and has its head office in Calgary, Alberta;

   3.2 Stellarton is a reporting issuer, or equivalent, in each of the Jurisdictions, and is not in default of any requirements under the Legislation;

   3.3 Stellarton's authorized capital consists of an unlimited number of Class A shares (the "Class A Shares"), an unlimited number of Class B non-voting shares (the "Class B Shares") and an unlimited number of Class 1 preferred shares (the "Class 1 Preferred Shares"). 22,403,046

Class A Shares are issued and outstanding. No Class B Shares or Class 1 Preferred Shares are issued or outstanding;

3.4 pursuant to an offer and subsequent compulsory acquisition, Tom Brown Resources Ltd., a wholly owned subsidiary of Tom Brown, Inc., acquired all of the issued and outstanding Class A Shares by January 15, 2001;

3.5 the Class A Shares were delisted from The Toronto Stock Exchange on January 16, 2001 and Stellarton does not have any securities listed or traded on any exchange or market in Canada;

3.6 Stellarton has no securities, including debt securities, issued and outstanding other than the Class A shares; and

3.7 Stellarton does not intend to seek public financing by way of an issue of securities;

4. **AND WHEREAS** under the System, this MRRS Decision 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, pursuant to the Legislation, is that Stellarton Energy Corporation is deemed to have ceased to be a reporting issuer under the Legislation.

February 5, 2001.

Patricia M Johnston
Director, Legal Services & Policy Development

2.1.5 Amalgamated Income Ltd. Partnership & 479660 B.C Ltd. - Settlement Agreement

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

AND

IN THE MATTER OF AMALGAMATED INCOME LIMITED PARTNERSHIP AND 479660 B.C. LTD

SETTLEMENT AGREEMENT

I INTRODUCTION

1. By Notice of Hearing dated April 26, 2000 and Return of Notice of Hearing dated February 8, 2001 (collectively, the "Notice of Hearing"), the Ontario Securities Commission (the "Commission") announced that it proposed to hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the Ontario Securities Act (the "Act"), in the opinion of the Commission, it is in the public interest for the Commission:

(a) to make an order that the respondents Amalgamated Income Limited Partnership ("Amalgamated") and 479660 B.C. Ltd. (referred to as "479660" or the "General Partner") cease trading in securities, permanently or for such time as the Commission may direct;

(b) to make an order that any exemptions contained in Ontario securities law do not apply to the respondents permanently, or for such period as specified by the Commission

(c) to make an order that the respondents submit to a review of their practices and procedures and institute such changes as may be ordered by the Commission;

(d) to make an order that the respondents be reprimanded;

(e) to make an order that the respondents, or any of them, pay the costs of Staff's investigation in relation to the matters subject to this proceeding;

(f) to make an order that the respondents, or any of them, pay the costs of this proceeding incurred by or on behalf of the Commission; and/or

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

II JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission ("Staff") agree to recommend settlement of the proceedings initiated in respect of the respondents, Amalgamated and 479660, by the Notice of Hearing in accordance with the terms and conditions set out below. Amalgamated and 479660 agree to the

settlement on the basis of the facts agreed to as hereinafter provided and each of Amalgamated and 479660 consent to the making of an Order in the form attached as Schedule "A" on the basis of the facts set out below.

3. This settlement agreement, including the attached Schedule "A" (collectively, the "Settlement Agreement"), will be released to the public only if and when the settlement is approved by the Commission.

III STATEMENT OF FACTS

Acknowledgement

4. Staff and the respondents, Amalgamated and 479660, agree with the facts set out in Part III of the Settlement Agreement. Part III includes Schedules "1", "2" and "3" attached to this Settlement Agreement (collectively, the "Schedules"). The respondents agree with the information contained in the Schedules and admit that the respondents contravened Ontario securities law in relation to each of the trades as set out in the Schedules.

Introduction

5. Amalgamated is a limited partnership and a reporting issuer in all the provinces of Canada. Amalgamated is engaged in the business of acquiring, holding and trading units of mutual fund limited partnerships. The units of Amalgamated were listed on the Montreal Exchange (the "ME") from October 2, 1995 until December 6, 1999. On December 6, 1999 the units of Amalgamated ceased to trade on the ME and were listed on the Toronto Stock Exchange (the "TSE"). Amalgamated's units continue to be listed on the TSE.

6. The general partner of Amalgamated is 479660, a company incorporated under the laws of the Province of British Columbia. The head office of 479660 is located in British Columbia. 479660 has carried on business as the general partner of Amalgamated since on or about November 18, 1994. As more particularly described below, 479660 had full power and authority to perform certain duties on behalf of Amalgamated pursuant to the limited partnership agreement (the "Agreement") entered into between 479660 and the parties referred to in the Agreement as the "Limited Partners", dated November 18, 1994 (and amended on March 1, 1995 and February 29, 1996).

Acquisition of Units in Limited Partnerships by Amalgamated

7. In or about early 1995, Amalgamated commenced purchasing units in the limited partnerships (collectively referred to as the "Limited Partnerships"). The Limited Partnerships are set out in Schedule "1" to the Statement of Allegations. The units in each of the Limited Partnerships are voting securities and equity securities within the meaning of subsection 1(1) and subsection 89(1) of the Act. Most of the purchases by Amalgamated of the units in the Limited Partnerships were made through the facilities of the Canadian Dealing Network. During the material times, the Limited Partnerships referred to in Schedule "1" were reporting issuers in Ontario.

Failure by Amalgamated to Comply With Requirements Under Sections 101 and 107 of the Act

8. During the material times, Amalgamated failed to comply with requirements under sections 101 and 107 of the Act in relation to its acquisition of units in the Limited Partnerships by reason of the following:

   (a) Amalgamated failed to issue and file a news release and failed to file a report as required under subsection 101(1) of the Act with respect to acquisitions of units in each Limited Partnership set out in Schedule "1" following the acquisition of 10% or more of the outstanding units of the Limited Partnerships, more particularly described in Schedule "1";

   (b) Amalgamated failed to issue and file a news release and failed to file a report as required under subsection 101(2) in respect of additional acquisitions of 2% of the outstanding units of the Limited Partnerships, more particularly described in Schedule "1";

   (c) Amalgamated failed to comply with the trading moratorium rules provided for in subsection 101(3) of the Act in relation to the acquisition of units of the Limited Partnerships, more particularly described in Schedule "1"; and

   (d) Amalgamated, as an insider of each of the Limited Partnerships set out in Schedule "1", failed to file the reports required by section 107 of the Act with respect to its holdings in each of the Limited Partnerships, more particularly described in Schedule "1".

9. As outlined below in paragraphs 10 to 12, Amalgamated filed on or about July 30, 1999 reports on a consolidated basis under sections 101 and 107 in relation to the acquisition of units of the Limited Partnerships, more particularly described in Schedule "1", well over a year after Amalgamated made representations to Staff that it would take steps to comply with its reporting requirements under the Act.

Representations Made by Amalgamated to Staff of the Ontario Securities Commission

10. In or about June, 1998, in connection with Staff's review of a take-over bid circular dated June 2, 1998 prepared by Amalgamated, Staff requested that Amalgamated address its failure to comply with its obligations to file early warning reports and insider reports under sections 101 and 107 of the Act with respect to acquisitions of units of some of the Limited Partnerships set out in Schedule "1". By correspondence dated June 18, 1998, jointly addressed to the then General Counsel of the Ontario Securities Commission and to Staff of the British Columbia Securities Commission, Amalgamated,

by its counsel, represented that it would comply with its filing obligations as follows:

"[Counsel] have discussed with Amalgamated LP its obligations to file advance warning and follow up reports under section 101 of the Securities Act (British Columbia) and similar provisions of the securities laws of other Provinces as well as its obligation to file insider reports where appropriate. *As soon as the Notice and the Quebec Offer are out of the way and in the mail, Amalgamated LP will focus on these filings and work diligently to bring these filings up to date as required."* [emphasis added]

Failure by Amalgamated to Honour Representations Made to Staff of the Ontario Securities Commission

11. In or about July, 1999, in connection with Staff's review of a preliminary prospectus dated July 30, 1999 filed by Amalgamated, it came to the attention of Staff that Amalgamated had failed to comply with the requirements contained in sections 101 and 107 of the Act with respect to acquisitions by Amalgamated of units in the Limited Partnerships referred to in Schedule "1". In or about July, 1999, Staff requested that Amalgamated comply with its reporting requirements under sections 101 and 107 of the Act. Contrary to the representations made by Amalgamated in June, 1998 to Staff set out above in paragraph 10, Amalgamated had not taken any steps to comply with the requirements under sections 101 and 107 of the Act in relation to its acquisitions of units in the Limited Partnerships described in Schedule "1".

12. Following Staff's request that Amalgamated comply with its reporting requirements, Amalgamated filed reports on or about July 30, 1999 under sections 101 and 107 with respect to its acquisitions of units of certain Limited Partnerships set out in Schedule "1", with the exception of its acquisition of units in Clarington Limited Partnership 1997, which report was filed on a consolidated basis under section 101 on or about August 11, 1999. The respondents admit that sections 101 and 107 of the Act were breached in relation to each of the trades set out in Schedule "1"

Amalgamated's Continued Breach of Reporting Requirements Under Sections 101 and 107 of the Act

13. Amalgamated continued to fail to file reports required by subsections 101(1), 107(1) and 107(2) of the Act with respect to its acquisition of units in various limited partnerships, as set out more particularly in Schedules "2" and "3".

14. Following requests by Staff, and as a term of this settlement, Amalgamated filed on or about May 8, 2000 reports under section 101 of the Act in relation to its acquisitions of units in the limited partnerships described in Schedule "2". Since May, 2000, Staff has continued to monitor Amalgamated's compliance with its reporting requirements under sections 101 and 107 with respect to Amalgamated's acquisition of additional units in limited partnerships. In response to Staff's requests, and as a term of this settlement, Amalgamated filed on or about November 28, 2000 and on or about December 18, 2000 reports under sections 101 and 107 in relation to acquisitions of units in various limited partnerships, more particularly described in Schedule "3". The respondents admit that sections 101 and 107 of the Act were breached in relation to each of the trades set out in Schedules "2" and "3".

Non-Exempt Take-Over Bids

15. During the period from May, 1996 to November, 2000, Amalgamated made twenty-seven separate acquisitions (the "Twenty-Seven Acquisitions") of units in various limited partnerships, more particularly described in Schedules "1" and "3". The Twenty-Seven Acquisitions each constituted a take-over bid within the meaning of Part XX of the Act and were made in contravention of the applicable requirements of Part XX of the Act. Prior to each of the Twenty-Seven Acquisitions set out in Schedule "1" and Schedule "3", Amalgamated had acquired units in these limited partnerships pursuant to a formal take-over bid under Part XX of the Act. Thereafter, Amalgamated acquired additional units in these limited partnerships, which together with the units it had previously acquired, constituted in the aggregate more than 20% of the then outstanding units in these limited partnerships. The respondents admit that the Twenty-Seven Acquisitions were not made pursuant to the formal take-over bid requirements or an exemption from the take-over bid requirements contained in Part XX of the Act, and accordingly, were made in contravention of the applicable requirements of Part XX of the Act.

16. On or about January 11, 2001, in response to Staff's requests, and as a term of this settlement, Amalgamated filed reports pursuant to s. 203.1(1)(b)(i) of the Regulation to the Act in accordance with Form 42 in relation to the Twenty-Seven Acquisitions described in Schedules "1" and "3".

Failure to File Additional Reports and Pay Fees as Required Under the Act

17. Amalgamated failed to file reports in accordance with Form 28 - Annual Filing of a Reporting Issuer as required under subsection 81(2) of the Act and section 5 of R.R.O. 1990, Regulation 1015 (the "Regulation") to the Act. Amalgamated failed to file such reports within 140 days from the end of its financial years ending on the following dates: December 31, 1995; December 31, 1996; December 31, 1997; and December 31, 1998.

18. On Tuesday, May 9, 2000, in response to Staff's request, and as a term of this settlement, Amalgamated filed annual reports with respect to the financial years ending on the following dates: December 31, 1995, December 31, 1996, December 31, 1997 and December 31, 1998.

19. Amalgamated filed with the Commission a report dated November 18, 1999 in accordance with Form 42 in relation to a take-over bid dated November 19, 1999. Amalgamated failed to state accurately in the report the number of securities of each class of securities subject

to this bid. Amalgamated represented in such report that a fee in the amount of $1,741.01 was payable by Amalgamated pursuant to Sch I: 32(1) to the Regulation. Amalgamated was required by Sch I: 32(1) to the Regulation to pay a fee in the amount of $16,576.97.

20. In connection with Amalgamated's take-over bid dated June 2, 1998, Amalgamated filed a notice of extension and variation dated June 24, 1998 which, among other things, increased the maximum aggregate consideration offered by increasing the number of securities sought under the bid. Amalgamated failed to file with the Commission a report in accordance with Form 43 as required pursuant to s.203.1(3) of the Regulation. Amalgamated failed to pay a fee in the amount of $6,663.62 as required by Sch. I: 32(3) of the Regulation.

21. Amalgamated filed with the Commission a report dated March 12, 1996 in accordance with Form 42 in relation to a take-over bid dated March 6, 1996. Amalgamated failed to state accurately in the filed report the value of the consideration offered per security for each class of securities subject to this bid. Amalgamated represented in such report that the fee payable by Amalgamated pursuant to Sch. I: 32(1) to the Regulation was $1,000.00. Amalgamated was required by Sch. I: 32(1) to the Regulation to pay a fee in the amount of $17,861.31.

22. Amalgamated filed with the Commission a report dated April 13, 1995 in accordance with Form 42 in relation to a take-over bid dated April 19, 1995. Amalgamated failed to state accurately the value of the consideration offered per security for each class of securities subject to this bid. Amalgamated represented in such report that the fee payable by Amalgamated pursuant to Sch. I: 32(1) to the Regulation was $1,000.00. Amalgamated was required by Sch. I: 32(1) to the Regulation to pay a fee in an amount in excess of $11,677.97.

23. Amalgamated failed to file a report in accordance with Form 42 as required pursuant to s.203.1(1)(b)(i) of the Regulation to the Act in relation to acquisitions of units in certain Limited Partnerships which are exempt from the take-over bid requirements contained in Part XX of the Act. Amalgamated failed to pay the required fees of $1,000.00 per bid as required pursuant to Sch. I: 32(1) of the Regulation in relation to the trades set out in Schedules "1" and "3".

24. In summary, Amalgamated failed to pay fees in the amount of $58,038.86 as particularized in paragraphs 19 to 23 herein. On Tuesday, May 9, 2000, as a term of the proposed settlement of this proceeding, Amalgamated made payment in the amount of $58,038.86 to the Commission with respect to the outstanding fees described above. On January 11, 2001, as a term of the proposed settlement of this proceeding, Amalgamated made payment in the amount of $2,000 to the Commission with respect to its additional acquisition of units on January 29, 2000 and October 18, 2000 in AGF Limited Partnership 1990, as particularized in Schedule "3".

Duties of the General Partner, 479660, Under the Agreement

25. The Agreement referred to in paragraph 6 above sets out, among other things, the powers, duties and obligations of 479660, including the following:

    (a) the full and exclusive right, power and authority to manage, control, administer and operate the business and affairs and to make decisions regarding the undertaking and business of Amalgamated (Article 7.1(b));

    (b) the full and exclusive right, power and authority to do any act, take any proceeding, make any decision and execute and deliver any document necessary for or incidental to carrying out the business of Amalgamated for and on behalf of and in the name of Amalgamated (Article 7.1(c));

    (c) the full power and authority to file as and where required documents to be filed with the appropriate governmental body or authority in connection with the business, property, assets and undertaking of Amalgamated (Article 2.10(d));

    (d) the full power and authority to file such documents as may be necessary to give effect to the business of Amalgamated, which business consists of ".... acquiring, directly or indirectly, securities or assets of Mutual Fund Limited Partnerships or of other entities which derive their income from distribution fees and/or redemption fees associated with the distribution of mutual fund units of Canadian mutual fund groups ...." (Articles 2.2 and 2.10(e)); and

    (e) the full power and authority to employ or retain professionals which, in the discretion of 479660, may be necessary or advisable in the carrying on of the business of Amalgamated (Article 7.2(g)).

26. 479660, by virtue of its powers, duties and obligations as set out in the Settlement Agreement (and referred to in part in paragraph 25 above), authorized, permitted or acquiesced in the contraventions of the Act by Amalgamated outlined above contrary to the public interest.

Conduct Contrary to the Public Interest

27. The conduct of the respondents was contrary to the public interest by reason of the following:

    (a) During the material times Amalgamated breached the requirements of the Act as follows:

        (i) Amalgamated failed to issue and file a news release and failed to file a report as required under subsection 101(1) of the Act with respect to the acquisition of units

of the Limited Partnerships set out in Schedule "1";

(ii) Amalgamated failed to issue and file a news release and failed to file a report in respect of additional acquisitions of 2% of the outstanding units of certain Limited Partnerships set out in Schedule "1" as required under subsection 101(2) of the Act;

(iii) Amalgamated further failed to comply with the trading moratorium rules provided for in subsection 101(3) of the Act in relation to certain acquisitions of units of Limited Partnerships set out in Schedule "1";

(iv) Amalgamated failed to file reports required by section 107 of the Act with respect to changes in its holdings of various Limited Partnerships as set out in Schedule "1";

(b) Amalgamated failed to honour the representations made by Amalgamated to Staff that Amalgamated would bring its filings up to date as required. Amalgamated did not bring certain filings up to date in relation to Amalgamated's acquisition of units in the Limited Partnerships until well over a year after it made representations to Staff that it would take steps to comply with its reporting requirements and only after Amalgamated was advised by Staff that Amalgamated continued to breach the requirements under sections 101 and 107 of the Act. As outlined in paragraph 12 above, Amalgamated filed reports on or about July 30, 1999 on a consolidated basis under sections 101 and 107 in relation to the acquisitions of units of Limited Partnerships, more particularly described in Schedule "1";

(c) Amalgamated failed to file reports required by sections 101 and 107 of the Act referred to in paragraphs 13 and 14 above, as more particularly described in Schedules "2" and "3". As stated above, Amalgamated filed the required reports from May, 2000 to December 18, 2000, as a term of the proposed settlement and in response to Staff's requests that Amalgamated comply with its reporting requirements.

(d) Amalgamated made Twenty-Seven Acquisitions of units in certain Limited Partnerships each of which constituted a take-over bid within the meaning of Part XX of the Act, and were made in contravention of the applicable requirements of Part XX of the Act. As stated above, Amalgamated filed, on or about January 11, 2001, reports in accordance with Form 42 in relation to the Twenty-Seven Acquisitions as a term of this proposed settlement.

(e) Amalgamated failed to file, reports in accordance with Form 28 - Annual Filing of a Reporting Issuer as required under subsection 81(2) of the Act and section 5 of the Regulations. As outlined in paragraph 18 above, on May 9, 2000, Amalgamated filed annual reports on a consolidated basis with respect to the financial years ending on the following dates: December 31, 1995, December 31, 1996, December 31, 1997 and December 31, 1998;

(f) Amalgamated failed to file accurate reports and make payment of fees in the amount of $60,038.86 as required under the Act and the Regulation , more particularly described in paragraphs 19 to 22 herein. As outlined above, as a term of this proposed settlement, Amalgamated made payment in the amount of $60,038.86 to the Commission with respect to the outstanding fees described above;

(g) 479660, by virtue of its powers, duties and obligations, as set out in the Agreement, (and referred to in part in paragraph 25 of Settlement Agreement), authorized, permitted or acquiesced in the contraventions of the Act by Amalgamated contrary to the public interest.

28. At a hearing of this matter held before the Commission on May 11, 2000, the Commission considered a proposed settlement of this proceeding. The Commission did not approve the proposed settlement, stating that the proposed sanctions were not proportionate to the offences admitted to by the respondents. Part IV of this Settlement Agreement summarizes representations made by the respondents to Staff outlining various steps the respondents have taken to address the breaches of Ontario securities laws admitted to by the respondents since the hearing before the Commission held on May 11, 2000.

IV POSITION OF THE RESPONDENTS

29. The respondents represent to Staff that on May 16, 2000, the Board of Directors of the General Partner dismissed R.K., the President and Chief Operating Officer of the General Partner (who held these positions since January, 1998). The respondents represent to Staff that the responsibilities of R.K. included, but were not limited to, the following:

(a) ensuring that Amalgamated was in compliance with all legal and regulatory requirements including the establishment of proper compliance practices and procedures;

(b) reporting to and advising the Board of Directors of any developments concerning the General Partner and Amalgamated;

(c) preparing proposals for the annual take-over bid including preparation of documentation and any other matters associated with the bid;

(d) preparation of Board minutes, resolutions or other items to ensure that annual reports can be

submitted to the Superintendent of Companies to ensure the good standing of Amalgamated and the General Partner;

(e) employment of staff, consultants, lawyers, or others to ensure that the affairs of Amalgamated and the General Partner were managed in an efficient and effective manner; and

(f) establishment and maintenance of a financial records system and arrangement for and production of quarterly unaudited financial statements and annual audited financial statements.

30. The respondents represent to Staff that prior to January, 1998, R.K. was retained to provide the services outlined in paragraph 29 above to the General Partner for the period from November, 1994 to January, 1998. The Respondents represent to Staff that during this period of time, R.K. provided these services either directly to the General Partner, or while R.K. was employed by a firm carrying on business in British Columbia and while R.K. was registered under B.C. securities law as an investment advisor through this firm.

31. The respondents represent to Staff that following the dismissal of R.K. on May 16, 2000, the Board of Directors of the General Partner retained Mr. Christopher W.J. Boatman to act as President and Chief Operating Officer, and to review and make recommendations on the policies and procedures for the management of Amalgamated and the General Partner. Mr. Boatman owns a consulting business that provides services to firms in the construction industry in British Columbia in relation to project management and construction management. Mr. Boatman was formerly a senior vice-president of B.C. Hydro. Mr. Boatman has served as a director of the General Partner since 1995. The Board instructed Mr. Boatman to conduct a review of Amalgamated's records to ensure that Amalgamated did not have unresolved issues with any other regulatory body.

32. Further, the Board retained Shawn Strandberg, C.A., as Chief Financial Officer of the General Partner. Mr. Strandberg is employed by the accounting firm Norgaard Neale Camden. Mr. Strandberg was retained to prepare the quarterly financial statements of Amalgamated, and to assist Mr. Boatman in the review of the financial record keeping and reporting procedures of Amalgamated.

33. In late May, 2000, the Board of Directors of the General Partner suspended all purchases of additional units of mutual fund limited partnerships until the resolution of this proceeding.

34. On or about October 1, 2000, Amalgamated retained Norgaard Neale Camden to review the partnership units held by Amalgamated in various limited partnerships as at September 30, 2000 as a result of Mr. Boatman's concerns that Amalgamated may not have accurate records of its holdings in various limited partnerships. The purpose of the review is to ensure that Amalgamated has accurate records as to its holdings in various partnerships, and to provide a report (the "Norgaard Report") as to the findings of Norgaard Neale Camden in respect of this review. In the event that Amalgamated has filed reports under sections 101 and 107 of the Act, and s. 203.1(1)(b)(i) of the Regulation to the Act, which contain inaccurate information as to Amalgamated's holdings in various partnerships, the respondents undertake, as a term of this proposed settlement, to file amended reports. The respondents further undertake best efforts to provide any corrected information, as may be required, in the annual report for the year ending December 31, 2000.

35. The respondents further represent to Staff that the General Partner has initiated appropriate procedures to address the following areas of compliance with Ontario securities law.

(a) the Board of Directors has required the President to submit regular written reports to the Board. These reports are to include updates on the following categories of activities and issues:

i. Regulatory
ii. Financial
iii. Administrative
iv. General

(b) The Board meets on a regular quarterly basis to review the financial statements, approve the quarterly distributions and to review the President's report. In addition, the Board will deal with any other issues brought to its attention, including the annual report of the Auditor.

(c) The Board of Directors has recommended appropriate procedures in the following areas:

i. ***Regulatory***
- Capital structure Reporting to the TSE on a monthly basis
- Distribution Dividend quarterly Reporting to the TSE

ii. ***Financial*** - appropriate procedures for:
- determining quarterly income
- determining and approving quarterly distributions
- issuing Treasury Orders to issue new units
- recording and reconciling outstanding units of Amalgamated
- financial record keeping

iii. ***General*** - appropriate procedures for processing and completion of take-over bids:
- records of units tendered
- transfer of tendered units to Amalgamated
- issue of Amalgamated units

- resolution of outstanding distributions.

36. The respondents represent to Staff that the General Partner's net earnings for the period from 1995 to 2000, and income received for the same period, are set out in the table below:

YEAR	INCOME EARNED	INCOME PAID
1995	$ 2,194	$ -
1996	18,928	-
1997	81,382	38,279
1998	185,007	176,541
1999	923	98,097
	* $288,434	* $312,917
2000	(based on interim financials (To be determined statements, no earnings recorded to in or about May, date for General Partner, as this is not 2001) determined until approximately May, 2001 and is based on the performance of Amalgamated as at December 31, 2000)	

*In relation to the figures set out above, the General Partner withdrew the amount of $24,483 in excess of income earned for the period 1995 to 1999. However, the General Partner made payment in the amount of $21,000 to Amalgamated in 1998. Therefore, as at December 31, 1999, the General Partner had received the amount of $3,483 in excess of its earnings for the period 1995 to 1999.

37. Amalgamated represents to Staff that as a flow through entity Amalgamated receives income from the mutual fund limited partnership units that it holds, and redistributes that income to its own unit holders less expenses on a quarterly basis. As at June 30, 2000, as stated in the interim financial statements of Amalgamated, Amalgamated was in a net overdraft position of $1,032,240. As at September 30, 2000, as stated in the interim financial statements of Amalgamated, Amalgamated held cash in the amount of $148,828.

V TERMS OF SETTLEMENT

38. Amalgamated and 479660 agree to the following terms of settlement:

(a) Amalgamated and 479660 will be reprimanded by the Commission.

(b) As outlined in Part III, in response to requests by Staff and as a term of this settlement, Amalgamated has filed reports required by sections 101 and 107 of the Act, and s. 203.1(1)(b)(i) of the Regulation to the Act, on the various dates referred to in Part III, in relation to the violations set out in Part III of this Settlement Agreement. Amalgamated represents to Staff that it has filed all reports required by sections 101 and 107 of the Act, and s. 203.1(1)(b)(i) of the Regulation to the Act and undertakes to comply with its reporting requirements under Ontario securities law.

(c) Amalgamated filed reports on or about Tuesday, May 9, 2000 in accordance with Form 28-Annual Filing of a reporting issuer as required under subsection 81(2) of the Act and section 5 of R.R.O 1990, Regulation 1015 (the "Regulation") to the Act for the financial years ending on the following dates: December 31, 1995, December 31, 1996, December 31, 1997, and December 31, 1998. Amalgamated filed the required reports on or about May 9, 2000 in relation to the violations of Ontario securities law set out in Part III of this Settlement Agreement.

(d) Amalgamated made payment in the amount of $60,038.86 to the Commission by certified cheque, bank draft or money order with respect to outstanding fees more particularly described in Part III of this Settlement Agreement;

(e) Amalgamated and 479660 undertake to provide to Staff a copy of the Norgaard Report referred to in paragraph 34 of Part IV of this Settlement Agreement within one business day of receipt of the Norgaard Report. The respondents undertake to use their best efforts to deliver the report to Staff within thirty days of the date of the approval of this Settlement Agreement. In the event that Norgaard Neale Camden are unable to prepare the report within thirty days of the date of approval of this settlement, the respondents will provide an interim report prepared by Norgaard Neale Camden within thirty days of the date of approval of this settlement, and thereafter, provide to Staff the Norgaard Report as soon as practicable. The respondents undertake to file any amended reports under sections 101 and 107 of the Act and s. 203.1(1)(b)(i) of the Regulation to the Act within ten business days of receipt of the Norgaard Report in the event that the Norgaard Report discloses inaccuracies in Amalgamated's records of its holdings in various limited partnerships, and in the event that the reports filed under the Act contain inaccurate information in relation to Amalgamated's holdings of units in various partnerships. The respondents undertake to provide any corrected information, as soon as may be practicable, in the annual report for the year ending December 31, 2000;

(f) Amalgamated and 479660 will submit to a review by Blake, Cassels & Graydon LLP of the compliance practices and procedures of each of Amalgamated and 479660, at the sole expense of Amalgamated and 479660, and each of Amalgamated and 479660 will implement such changes as are recommended by Blake, Cassels & Graydon LLP, within reasonable time

frames set out by Blake, Cassels & Graydon LLP after consultation with Amalgamated, 479660 and Staff. Amalgamated and 479660 will report in writing to Staff and Blake, Cassels & Graydon LLP as to the implementation of the recommendations made by Blake, Cassels & Graydon LLP within the aforementioned time frames set out by Blake, Cassels & Graydon LLP;

(g) Upon the approval of this settlement, Amalgamated and 479660 will make a payment in the amount of $20,000 to the Commission by certified cheque, money order or bank draft in respect of a portion of the Commission's costs with respect to this matter; and

(h) The respondents undertake to cooperate with the Commission and its Staff in connection with any additional investigation of the matters referred to in this proceeding. Such cooperation includes, but is not limited to, arrangements made by the General Partner to make available a member of the Board of Directors of the General Partner and/or any person employed by or providing management services to the General Partner, on reasonable notice and without service of a summons or subpoena, to cooperate with the Commission and its Staff, to produce any documents related to the matters referred to in this settlement agreement within his or her possession, custody or control which are requested by the Commission or its Staff, and to appear and give truthful and accurate information and testimony in any investigation or proceeding under the Act in connection with the matters referred to herein at which the Commission or its Staff may make reasonable requests for such information or testimony.

VI STAFF COMMITMENT

39. If this Settlement Agreement is approved by the Commission, Staff will not initiate any complaint to the Commission or request the Commission to hold a hearing or issue any order in respect of any conduct or alleged conduct of Amalgamated and 479660 in relation to the facts set out in Part III of this Settlement Agreement.

VII PROCEDURE FOR APPROVAL OF SETTLEMENT

40. The approval of the settlement as set out in the Settlement Agreement shall be sought at a public hearing before the Commission scheduled for such date as is agreed to by Staff and the respondents, Amalgamated and 479660 in accordance with the procedures described herein and such further procedures as may be agreed upon between Staff, Amalgamated and 479660.

41. If this Settlement Agreement is approved by the Commission, it will constitute the entirety of the evidence to be submitted respecting Amalgamated and 479660 in this matter and Amalgamated and 479660 each agree to waive any right to a full hearing and appeal of this matter under the Act.

42. If this Settlement Agreement is approved by the Commission, the parties to this Settlement Agreement will not make any statement that is inconsistent with this Settlement Agreement.

43. If, for any reason whatsoever, this settlement is not approved by the Commission, or the Order set forth in Schedule "A" is not made by the Commission:

(a) each of Staff and the respondents, Amalgamated and 479660 will be entitled to proceed to a hearing of the allegations in the Notice of Hearing and related Statement of Allegations unaffected by the Settlement Agreement or the settlement negotiations;

(b) the terms of the Settlement Agreement will not be raised in any other proceeding or disclosed to any person except with the written consent of Staff and the respondents, Amalgamated and 479660 or as may be otherwise required by law; and

c) the respondents, Amalgamated and 479660 further agree that each will not raise in any proceeding the Settlement Agreement or the negotiation or process of approval thereof as a basis for any attack on the Commission's jurisdiction, alleged bias, appearance of bias, alleged unfairness or any other challenge that may otherwise be available.

44. If, prior to the approval of this Settlement Agreement by the Commission, there are new facts or issues of substantial concern, in the view of Staff, regarding the facts set out in Part III of this Settlement Agreement, Staff will be at liberty to withdraw from this Settlement Agreement. Notice of such intention will be provided to Amalgamated and 479660 in writing. In the event of such notice being given, the provisions of paragraph 43 in this part will apply as if this Settlement Agreement had not been approved in accordance with the procedures set out herein.

VIII DISCLOSURE OF SETTLEMENT AGREEMENT

45. Staff or the respondents may refer to any part or all of this Settlement Agreement in the course of the hearing convened to consider this agreement. Otherwise, this Settlement Agreement and its terms will be treated as confidential by all parties to the Settlement Agreement until approved by the Commission, and forever if, for any reason whatsoever, this settlement is not approved by the Commission.

46. Any obligation as to confidentiality shall terminate upon the approval of this Settlement Agreement by the Commission.

IX EXECUTION OF SETTLEMENT AGREEMENT

47. This Settlement Agreement may be signed in one or more counterparts which together shall constitute a binding agreement and a facsimile copy of any signature shall be as effective as an original signature.

"February, 2001".

SIGNED IN THE PRESENCE OF
Amalgamated Income Limited Partnership by the General Partner, 479660 B.C. Ltd.
Per:

Authorized Signing Officer

479660 B.C. Ltd.
Per:

Authorized Signing Officer

Staff of the Ontario Securities Commission
Per:

Michael Watson
Director, Enforcement Branch

SCHEDULE "1"

The information presented below regarding dates, units acquired, and percentages of outstanding units held by Amalgamated Income Limited Partnership ("Amalgamated") in the various limited partnerships set out below was either provided to Staff of the Ontario Securities Commission ("Staff") by Amalgamated at the request of Staff or otherwise provided to the Ontario Securities Commission by Amalgamated pursuant to its filings under sections 101 and 107 of the Act as outlined more particularly in Part III of the Settlement Agreement.

Templeton Limited Partnership 1992

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
98 02 25	3,150	12.8	101(1); 107(1)
98 06 10	1,000	13.8	101(3); 107(2)
98 11 10	100	13.9	101(3); 107(2)
98 11 12	350	14.3	101(3); 107(2)

Templeton Limited Partnership 1993

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
99 04 07	400	10.1	101(1); 107(1)
99 06 22	100	10.1	101(3); 107(2)

Talvest Company Limited Partnership 1992

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
98 11 02	500	10.2	101(1); 107(1)
98 12 16	100	10.3	101(3); 107(2)
99 01 11	150	10.4	101(3); 107(2)
99 03 08	330	10.6	101(3); 107(2)
99 05 19	50	10.6	101(3); 107(2)
99 06 20	100	10.7	101(3); 107(2)

Talvest Company Limited Partnership 1994

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
97 09 25	40,675	10.2	101(1); 107(1)
98 09 15	11,575	13.0	101(2); 101(3); 107(2)
98 12 29	500	13.2	101(3); 107(2)
99 03 15	250	13.2	101(3); 107(2)
99 06 30	250	13.3	101(3); 107(2)

Fidelity Partnership 1990

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
98 04 24	125	10.1	101(1); 107(1)
98 06 10	1,050	12.2	101(2); 101(3); 107(2)
98 08 26	650	13.5	101(3); 107(2)
98 09 23	70	13.6	101(3); 107(2)
98 10 05	325	14.3	101(2); 101(3); 107(2)
98 12 09	50	14.4	101(3); 107(2)
99 01 12	100	14.6	101(3); 107(2)
99 02 16	600	15.8	101(3); 107(2)
99 03 02	50	15.9	101(3); 107(2)
99 05 14	(400)	15.1	107(2)

Fidelity Partnership 1991

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
96 05 31	5,000	12.8	101(1); 107(1)
96 08 19	200	13.0	101(3); 107(2)
97 04 07	100	13.1	101(3); 107(2)
97 06 18	400	13.5	101(3); 107(2)
97 07 07	100	13.6	101(3); 107(2)
97 09 23	350	13.9	101(3); 107(2)
97 11 18	75	14.0	101(3); 107(2)
97 12 15	50	14.1	101(3); 107(2)
98 02 25	1,210	15.3	101(2); 101(3); 107(2)
98 04 24	250	15.5	101(3); 107(2)
98 05 15	200	15.7	101(3); 107(2)
98 08 26	100	15.8	101(3); 107(2)
98 08 31	250	16.1	101(3); 107(2)
98 09 01	25	16.1	101(3); 107(2)
98 10 06	500	16.6	101(3); 107(2)
98 11 30	100	16.7	101(3); 107(2)
99 01 26	200	16.9	101(3); 107(2)
99 02 22	300	17.2	101(3); 107(2)
99 04 22	50	17.2	101(3); 107(2)
99 06 03	50	17.3	101(2); 101(3); 107(2)

Fidelity Partnership IV (1992)

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
97 09 15	4,105	10.0	101(1); 107(1)
97 11 28	100	10.1	101(3); 107(2)
98 02 03	100	10.2	101(3); 107(2)
98 06 25	250	10.5	101(3); 107(2)
98 08 26	950	11.4	101(3); 107(2)
98 11 03	50	11.5	101(3); 107(2)
99 02 09	100	11.6	101(3); 107(2)
99 04 29	200	11.8	101(3); 107(2)
99 07 26	200	12.0	101(2); 101(3); 107(2)

Fidelity Partnership 1992

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
96 05 15	11,155	10.8	101(1); 107(1)
96 06 27	50	10.8	101(3); 107(2)
96 07 23	40	10.8	101(3); 107(2)
96 08 14	300	10.9	101(3); 107(2)
96 09 27	300	11.0	101(3); 107(2)
96 10 25	575	11.3	101(3); 107(2)
96 11 21	50	11.3	101(3); 107(2)
97 04 22	200	11.4	101(3); 107(2)
97 05 02	375	11.5	101(3); 107(2)
97 05 29	100	11.6	101(3); 107(2)
97 06 02	175	11.6	101(3); 107(2)
97 08 16	50	11.7	101(3); 107(2)
97 08 13	10	11.7	101(3); 107(2)
97 10 13	100	11.7	101(3); 107(2)
97 11 25	825	12.0	101(3); 107(2)
98 02 25	3,130	13.3	101(2); 101(3); 107(2)
98 06 11	250	13.4	101(3); 107(2)
98 08 26	1,050	13.8	101(3); 107(2)
98 09 01	1,400	14.4	101(3); 107(2)
98 10 03	50	14.4	101(3); 107(2)
99 01 22	100	14.4	101(3); 107(2)
99 02 09	200	14.5	101(3); 107(2)
99 05 20	150	14.6	101(3); 107(2)
99 06 17	250	14.7	101(3); 107(2)
99 06 30	100	14.7	101(3); 107(2)

20/20 Group 1990 Limited Partnership

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
95 09 26	8,780*	10.3	101(1); 107(1)
96 05 31	8,565*	20.4	101(2); 107(2)
96 05 31	100	20.5	95-100; 107(2)
96 08 13	30	20.6	95-100; 107(2)
96 12 02	25	20.6	95-100; 107(2)
97 04 07	50	20.6	95-100; 107(2)
97 06 18	100	20.8	95-100; 107(2)
97 07 07	100	20.9	95-100; 107(2)
98 04 15	100	21.0	95-100; 107(2)
98 09 15	2,315	23.7	95-100; 101(2); 107(2)
98 12 10	25	23.8	95-100; 107(2)
99 01 27	200	24.0	95-100; 107(2)
99 02 01	275	24.3	95-100; 107(2)
99 09 15	610	25.0	95-100; 107(2)

* Acquisition made as a result of formal take-over bid made by Amalgamated under Part XX of the Act

20/20 Group 1992 Limited Partnership

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
97 05 20	2,000	10.2	101(1); 107(1)
97 06 18	100	10.3	101(3); 107(2)
97 07 15	3,000	11.5	101(3); 107(2)
97 09 09	400	11.7	101(3); 107(2)
97 11 21	200	11.8	101(3); 107(2)
98 04 16	180	11.8	101(3); 107(2)
98 06 02	1,000	12.2	101(2); 101(3); 107(2)
98 09 15	3,478	13.7	101(3); 107(2)
98 09 22	2,900	14.9	101(2); 101(3); 107(2)
98 12 10	100	14.9	101(3); 107(2)
99 01 15	100	15.0	101(3); 107(2)
99 04 26	62	15.0	101(3); 107(2)
99 04 30	100	15.1	101(3); 107(2)
99 06 15	50	15.1	101(3); 107(2)

AGF Limited Partnership 1990

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
96 05 31	15,500*	23.0	101(1); 107(1)
96 06 06	50	23.1	95-100; 107(2)
96 09 20	50	23.1	95-100; 107(2)
97 03 14	400	23.6	95-100; 107(2)
98 09 15	2,375*	26.4	101(2); 107(2)
99 02 17	900	27.4	95-100; 107(2)
99 04 01	2,000	29.8	95-100; 101(2); 107(2)

* Acquisition made as a result of formal take-over bid made by Amalgamated under Part XX of the Act

AGF Limited Partnership 1991

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
96 05 31	7,050*	15.9	101(1); 107(1)
96 06 06	50	15.9	101(3); 107(2)
96 11 05	100	16.0	101(3); 107(2)
97 01 27	150	16.2	101(3); 107(2)
98 02 25	400	16.7	101(3); 107(2)
98 06 02	50	16.7	101(3); 107(2)
98 09 15	3,615*	21.0	101(2); 107(2)
99 01 08	40	21.0	95-100; 107(2)
99 02 11	40	21.1	95-100; 107(2)
99 04 22	140	21.3	95-100; 107(2)
99 05 21	105	21.4	95-100; 107(2)
99 06 14	100	21.5	95-100; 107(2)

BT Landmark Limited Partnership 1992

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
95 09 26	13,290*	12.4	101(1); 107(1)
95 11 23	250	12.6	101(3); 107(2)
96 05 31	4,459*	16.8	101(2); 101(3); 107(2)
96 11 06	50	16.8	101(3); 107(2)
97 05 13	100	16.9	101(3); 107(2)
97 06 26	500	17.4	101(3); 107(2)
97 07 24	350	17.7	101(3); 107(2)
97 08 13	100	17.8	101(3); 107(2)
97 09 17	500	18.3	101(3); 107(2)
97 10 15	100	18.4	101(3); 107(2)
98 02 18	50	18.4	101(3); 107(2)
98 04 17	100	18.5	101(3); 107(2)
98 09 01	800	19.3	101(2); 101(3); 107(2)
98 09 23	200	19.5	101(3); 107(2)
98 10 01	50	19.5	101(3); 107(2)
98 11 03	350	19.8	101(3); 107(2)
99 01 13	50	19.9	101(3); 107(2)
99 02 26	100	20.0	95-100; 107(2)
99 04 16	100	20.1	95-100; 107(2)
99 06 17	50	20.1	95-100; 107(2)

* Acquisition made as a result of formal take-over bid made by Amalgamated under Part XX of the Act

BT Landmark Limited Partnership 1994

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
97 09 25	70,625*	17.7	101(1); 107(1)
98 09 15	15,750*	21.6	101(2); 107(2)

Clarington Limited Partnership 1997

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
99 07 09	22,500	13.7	101(1); 107(1)

* Acquisition made as a result of formal take-over bid made by Amalgamated under Part XX of the Act

SCHEDULE "2"

20/20 Group 1990 Limited Partnership

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
98 09 15	610	25.0%	101; 107

BPI VII Limited Partnership

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
99 12 17	21,755	13.4%	101; 107

Canam 1990 Class A Limited Partnership

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 08	1,000	11.7%	101;107

Fidelity Limited Partnership IV (1992)

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 01	280	12.4%	101; 107

Talvest and Company Limited Partnership 1994

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 02	1,850	14.7%	101; 107

20/20 Group 1992 Limited Partnership

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 08	(3,370)	14.0%	107

AGF Limited Partnership 1990

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 08	(1,402)	28.1%	107

AGF Limited Partnership 1991

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 08	(2,080)	19.1%	101; 107

Fidelity Limited Partnership 1991

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 08	(22)	17.9%	107

Fidelity Limited Partnership 1992

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 04 28	820	15.3%	107

Talvest and Company Limited Partnership 1992

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 08	(25)	11.6%	107

Templeton Limited Partnership 1993

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 08	(575)	9.9%	107

SCHEDULE "3"

Templeton Limited Partnership 1993

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 14	500	10.2	107(2)
00 05 15	500	10.4	107(2)

Templeton Limited Partnership 1995

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
99 12 15	16,110	10.0	101(1)
00 03 01	100	10.0	107(2)
00 04 21	250	10.1	107(2)

Talvest and Company Limited Partnership 1994

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 04 03	250	14.7	107(2)
00 04 04	500	14.8	107(2)
00 04 21	250	14.9	107(2)
00 05 02	400	15.0	107(2)
00 05 09	500	15.1	107(2)

Fidelity Partnership 1990

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
99 12 10	(2,100)	10.9	107(2)
99 12 15	(5,000)	0.9	107(2)

Fidelity Partnership IV (1992)

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 14	300	12.7	107(2)

Fidelity Partnership 1992

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 12	100	15.3	107(2)

20/20 Group 1992 Limited Partnership

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 05 09	50	14.0	107(2)

AGF Limited Partnership 1990

Date	Units Acquired (Disposed Of)	Percentage of Outstanding Units Held After Trade	Sections of the Ontario Securities Act Breached in Relation to Trade
00 01 29	100	28.3	107(2); 95-100
00 10 18 [1]	1,370	29.9	107(2); 95-100

[1] The Respondents represent to Commission Staff that Amalgamated did not acquire units on October 18, 2000. Amalgamated was advised in the statement of its account for October, 2000 that an acquisition of 1,370 units had been made by Amalgamated on a date or dates prior to October 18, 2000. For the purpose of this Settlement Agreement, Amalgamated agrees that the 1,370 units be treated as an acquisition by Amalgamated as at October 18, 2000.

2.1.6 Sun Life Financial Services of Canada Inc. - MRRS Decision

Headnote

Mutual Reliance Review System for Exemptive Relief - Relief for officers and directors of reporting issuer and its subsidiaries from the insider reporting requirements with respect to the acquisition of securities under the automatic share purchase plan, subject to certain conditions including annual reporting.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am. ss 1(1), 107, 121(2)(a)(ii).

Instruments Cited

Proposed National Instrument 55-101 Exemption From Certain Insider Reporting Requirements (1999), 22 O.S.C.B. 5161.

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

AND

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

AND

IN THE MATTER OF
SUN LIFE FINANCIAL SERVICES OF CANADA INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, Newfoundland and Nova Scotia (the "Jurisdictions") has received an application on behalf of Sun Life Financial Services of Canada Inc. ("Sun Life Financial") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that the requirement contained in the Legislation for an insider of a reporting issuer, or equivalent thereof, to file insider reports (the "Insider Reporting Requirements") shall not apply to insiders of Sun Life Financial and its subsidiaries (collectively, "Sun Life") who are participants ("Participating Insiders") in Sun Life's U.S. employee stock purchase plan (the "Plan"), subject to certain conditions;

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 Sun Life Financial has represented to the Decision Makers that:

1. Sun Life Financial is incorporated under the *Insurance Companies Act* (Canada) and has its head office at Sun Life Centre, 150 King Street West, Toronto, Ontario, Canada, M5H 1J9.

2. Sun Life Financial is a reporting issuer, or the equivalent thereof, in the Jurisdictions and is not in default of any requirements of the Legislation.

3. There are 421,784,491 common shares of Sun Life Financial issued and outstanding as of December 15, 2000.

4. The common shares of Sun Life Financial are listed on The Toronto Stock Exchange, the New York Stock Exchange, the London Stock Exchange and the Philippine Stock Exchange.

5. Employees of Sun Life participating in the Plan ("Participants") may acquire common shares of Sun Life Financial by electing to have a percentage of their salary automatically deducted ("Automatic Contributions") on a bi-weekly basis and deposited with the party appointed under the Plan to administer the acquisition of securities under the Plan (the "Trustee") to be used to purchase common shares of Sun Life Financial.

6. A Participant may begin or discontinue Automatic Contributions at any time provided the request to begin or discontinue contributions is received at least 10 business days in advance of the effective day of the Participant joining or leaving the Plan, as the case may be. In addition, changes to the amount contributed to the Plan by a Participant by way of Automatic Contributions may be made at any time provided a change request is received at least 10 business days prior to the effective date of the change.

7. There are currently approximately 94 Participants in the Plan. This number will change periodically as employees join and leave the Plan.

8. The Plan qualifies as an "automatic securities purchase plan" as defined in proposed National Instrument 55-101 Exemption from Certain Insider Reporting Requirements ("NI 55-101").

9. The number of common shares of Sun Life Financial to be acquired under the Plan is expected to be *de minimus* in relation to the number of common shares of Sun Life Financial issued and outstanding.

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

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

IT IS HEREBY DECIDED by the Decision Makers pursuant to the Legislation that the Insider Reporting Requirements shall not apply to Participating Insiders with

respect to the acquisition of common shares of Sun Life Financial pursuant to Automatic Contributions under the Plan, provided that:

A. each such Participating Insider shall report, in the form prescribed for insider trading reports under the Legislation, all acquisitions of securities of Sun Life Financial pursuant to Automatic Contributions under the Plan that have not previously been reported by or on behalf of the Participating Insider.

   (i) for any securities acquired pursuant to Automatic Contributions under the Plan which have been disposed of or transferred, within the time required by the Legislation for reporting the disposition or transfer; and

   (ii) for any securities acquired pursuant to Automatic Contributions under the Plan during a calendar year (the "Reporting Period") which have not been disposed of or transferred, within 90 days of the end of the Reporting Period;

B. in the case of the Legislation in Jurisdictions other than Quebec, the Participating Insider does not beneficially own, directly or indirectly, voting securities of Sun Life Financial, or exercise control or direction over voting securities of Sun Life Financial, or a combination of both, that carry more than 10 per cent of the voting rights attaching to all outstanding voting securities of Sun Life Financial;

C. in the case of the Legislation in Quebec, the Participating Insider does not exercise control over more than 10 per cent of a class of shares of Sun Life Financial to which are attached voting rights or an unlimited right to a share of the profits of Sun Life Financial and in its assets in case of winding-up; and

D. this Decision shall expire in each Jurisdiction upon the date that NI 55-101 comes into effect in that Jurisdiction.

February 13, 2001.

"Margo Paul"

2.2 Orders

2.2.1 Merrill Lynch Mortgage Loans Inc. - s. 147

Headnote

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

Statutes Cited

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

Rules Cited

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

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

AND

IN THE MATTER OF
MERRILL LYNCH MORTGAGE LOANS INC.

ORDER
(Section 147)

WHEREAS Merrill Lynch Mortgage Loans Inc. (the "Applicant") filed a preliminary prospectus dated January 15, 2001 (the "Preliminary Prospectus") in accordance with National Instrument 44-101 -- *Short Form Prospectus Distributions* (the "Short Form Rule") relating to the offering of pass-through certificates in the aggregate amount of $187,680,000 and received a receipt therefor dated January 16, 2001(the "Offering");

AND WHEREAS the Applicant may file a (final) prospectus on or before January 25, 2001 (the "Prospectus") in accordance with the Short Form Rule and is desirous of receiving a receipt forthwith thereafter;

AND WHEREAS the Short Form Rule may not provide for relief from the requirement contained in subsection 65(1) of the Act that a period of ten days elapse between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance of a receipt for a (final) prospectus (the "Waiting Period Requirement");

AND WHEREAS the Applicant has applied to the Ontario Securities Commission (the "Commission") for an order pursuant to section 147 of the Act that the Waiting Period Requirement shall not apply in connection with the Offering;

AND WHEREAS the Commission has considered the application and the recommendation of staff of the Commission and is satisfied that to do so would not be prejudicial to the public interest.

IT IS ORDERED pursuant to section 147 of the Act that:

(a) the Waiting Period Requirement shall not apply in connection with the Offering; and

(b) no fee shall be payable in connection with the making of this application.

January 19, 2001.

"J.A. Geller" "R. Stephen Paddon"

2.2.2 Bema Gold Corporation - s.147

Headnote

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

Statutes Cited

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

Rules Cited

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

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

AND

IN THE MATTER OF BEMA GOLD CORPORATION

ORDER (Section 147)

WHEREAS Bema Gold Corporation (the "**Applicant**") filed a preliminary prospectus dated January 15, 2001 in accordance with National Instrument 44-101 -- *Short Form Prospectus Distributions* (the "**Short Form Rule**") relating to the distribution of common shares of the Applicant (the "**Offering**") and received a receipt therefor dated January 16, 2001;

AND WHEREAS the Applicant intends to file a (final) prospectus in accordance with the Short Form Rule and is desirous of receiving a receipt therefor before January 25, 2001;

AND WHEREAS the Short Form Rule may not provide for relief from the requirement contained in subsection 65(1) of the Act that a period of ten days elapse between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance of a receipt for a (final) prospectus (the "**Waiting Period Requirement**");

AND WHEREAS the Applicant has applied to the Ontario Securities Commission (the "**Commission**") for an order pursuant to section 147 of the Act that the Offering be exempt from the Waiting Period Requirement;

AND WHEREAS the Commission has considered the application and the recommendation of staff to the Commission and is satisfied that to do so would not be prejudicial to the public interest;

IT IS ORDERED pursuant to section 147 of the Act that:

(a) the Waiting Period Requirement shall not apply in connection with the Offering; and

(b) no fee shall be payable in connection with the making of this application.

January 19, 2001.

"J. A. Geller" "R. S. Paddon"

2.2.3 Enerplus Resources Fund - s. 147 & s. 80 (b)(iii)

Headnote

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

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

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

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

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

Statutes Cited

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

Regulation Cited

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

Rules Cited

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

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

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

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

AND

IN THE MATTER OF
ENERPLUS RESOURCES FUND

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

WHEREAS Enerplus Resources Fund (the "**Applicant**") filed a preliminary prospectus dated February 1, 2001 (the "**Preliminary Prospectus**") in accordance with the Short Form Rule relating to the qualification of 1,800,000 Trust Units (the "Offering") and received a receipt therefor dated February 1, 2001;

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

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

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

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

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

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

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

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

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

(a) the Applicant files those financial statements earlier than 140 days from the end of its last financial year because it is required to do so, in connection with the Offering, by the Short Form Rule; and

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

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

February 7, 2001.

"Margo Paul"

2.2.4 WI-LAN Inc. - s. 147

Headnote

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

Statutes Cited

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

Rules Cited

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

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

AND

IN THE MATTER OF WI-LAN INC.

ORDER (Section 147)

WHEREAS Wi-LAN Inc. (the "Applicant") filed a preliminary prospectus dated January 11, 2001 (the "Preliminary Prospectus") in accordance with National Instrument 44-101 -- *Short Form Prospectus Distributions* (the "Short Form Rule") relating to the offering of 1,700,000 units comprised of common shares and warrants of the Applicant and received a receipt therefor dated January 11, 2001(the "Offering");

AND WHEREAS the Applicant may file a (final) prospectus on or before January 19, 2001 (the "Prospectus") in accordance with the Short Form Rule and is desirous of receiving a receipt forthwith thereafter;

AND WHEREAS the Short Form Rule may not provide for relief from the requirement contained in subsection 65(1) of the Act that a period of ten days elapse between the issuance by the Director of a receipt for a preliminary prospectus relating to the offering of a security and the issuance of a receipt for a (final) prospectus;

AND WHEREAS the Applicant has applied to the Ontario Securities Commission (the "Commission") for an order pursuant to section 147 of the Act that it be exempt from the Waiting Period Requirement;

AND WHEREAS the Commission has considered the application and the recommendation of staff of the Commission and is satisfied that to do so would not be prejudicial to the public interest.

IT IS ORDERED pursuant to section 147 of the Act that:

(a) the Waiting Period Requirement shall not apply in connection with the Offering; and

(b) no fee shall be payable in connection with the making of this application.

January 16, 2001.

"J.A. Geller" "Howard I. Wetston"

2.2.5 Cominar Real Estate Investment Trust - s. 147 & s. 80 (b)(iii)

Headnote

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

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

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

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

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

Statutes Cited

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

Regulation Cited

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

Rules Cited

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

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

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

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

AND

IN THE MATTER OF
COMINAR REAL ESTATE INVESTMENT TRUST

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

WHEREAS Cominar Real Estate Investment Trust (the "**Applicant**") filed a preliminary prospectus dated January 26, 2001 (the "**Preliminary Prospectus**") in accordance with the Short Form Rule relating to the qualification of units of the Applicant (the "**Offering**") and received a receipt therefor dated January 29, 2001;

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

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

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

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

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

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

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

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

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

(a) the Applicant files those financial statements earlier than 140 days from the end of its last financial year because it is required to do so, in connection with the Offering, by the Short Form Rule; and

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

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

February 1, 2001.

"Iva Vranic"

2.2.6 YBM Magnex International et al.

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

AND

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)

ORDER

WHEREAS on January 2, 2001 Griffiths McBurney & Partners ("Griffiths McBurney") submitted a Notice of Motion to the Ontario Securities Commission (the "Commission") requesting the following relief:

1) an order permanently staying the proceeding commenced by Notice of Hearing on November 1, 1999, as against Griffiths McBurney; or

2) in the alternative, an order permitting Griffiths McBurney to conduct pre-hearing oral examinations and to obtain documentary discovery of the following persons in Toronto at a date to be specified:

   (i) Dorothy Sanford;
   (ii) Kathryn Soden;
   (iii) Catherine Singer;
   (iv) Brenda Eprile;
   (v) Gregory Ljubic;
   (vi) Paul Cherry;
   (vii) Ralph Shay;
   (viii) Robert Francis;

AND WHEREAS on January 26, 2001 a hearing was held to consider the Motion;

AND WHEREAS the Commission will issue reasons for its decision in due course;

IT IS ORDERED THAT the Motion is dismissed.

January 31, 2001.

"Howard I. Wetston" "Robert W. Davis"

"Derek Brown"

2.2.7 Almagamated Income Limited Partnership & 479660 B.C. Ltd. - s. 127 & 127.1

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

AND

IN THE MATTER OF
AMALGAMATED INCOME LIMITED PARTNERSHIP
AND 479660 B.C. LTD.

ORDER
(Sections 127 and 127.1)

WHEREAS on April 26, 2000, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act* (the "Act") in respect of Amalgamated Income Limited Partnership ("Amalgamated") and 479660 B.C. Ltd. ("479660") and Notice of Return of Hearing on February 8, 2001;

AND WHEREAS Amalgamated and 479660 entered into a settlement agreement dated February 7, 2001 (the "Settlement Agreement") in which it agreed to a proposed settlement of the proceeding, subject to the approval of the Commission;

AND UPON reviewing the Settlement Agreement and the Statement of Allegations of Staff of the Commission, and upon hearing submissions from counsel for Amalgamated and 479660 and from Staff of the Commission;

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

IT IS ORDERED THAT:

(1) the Settlement Agreement dated February 7, 2001, attached to this Order, is hereby approved;

(2) pursuant to clause 6 of subsection 127(1) of the Act, Amalgamated is hereby reprimanded;

(3) pursuant to clause 6 of subsection 127(1) of the Act, 479660 is hereby reprimanded;

(4) pursuant to clause 4 of subsection 127(1) of the Act, Amalgamated and 479660 shall submit to a review of their compliance practices and procedures, such review to be carried out by Blake, Cassels & Graydon LLP appointed by the Commission upon the joint submission of Amalgamated, 479660 and Staff, at the sole expense of Amalgamated and 479660, and shall implement such changes as are recommended by Blake, Cassels & Graydon LLP, within reasonable time frames set out by Blake, Cassels & Graydon LLP after consultation with Amalgamated, 479660 and Staff. Amalgamated and 479660 will report in writing to Staff and

Blake, Cassels & Graydon LLP as to the implementation of the recommendations made by Blake, Cassels & Graydon LLP within the aforementioned time frames set out by Blake, Cassels & Graydon LLP; and

(5) pursuant to clause 127.1(2) of the Act, the respondents are ordered to make payment in the amount of $20,000 to the Commission in respect of a portion of the Commission's costs with respect to this matter.

February 12, 2001.

"Howard I. Wetston" "J. A. Geller"

"Theresa McLeod"

2.2.8 360networks inc. - s. 147 & 80(b)(iii)

Headnote

Section 15.1 of Rule 41-501 - relief from certain requirements of Rule 41-501 where preliminary prospectus and prospectus filed in accordance with National Instruments 44-101 and 44-102.

Subsection 5.1(1) of National Instrument 41-101 – relief from requirements of 41-101 where preliminary prospectus and prospectus filed in accordance with National Instruments 44-101 and 44-102.

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

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

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

Statutes Cited

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

Regulation Cited

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

Rules Cited

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

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

National Instrument 44-101 Short Form Prospectus Distributions (2000) 23 OSCB (Supp.) 419.

National Instrument 44-102 Shelf Distributions (2000) 23 OSCB (Supp.) 565.

IN THE MATTER OF
THE SECURITIES ACT
R.S.O. 1990, C.S.5, AS AMENDED (the "Act"),
ONTARIO REGULATION 1015, R.R.O. 1990,
AS AMENDED (the "Regulation")
NI 44-101 SHORT FORM PROSPECTUS DISTRIBUTIONS
(the "Short Form Rule"),
NI 41-101 PROSPECTUS DISCLOSURE REQUIREMENTS
(the "Disclosure Rule"),
NI 44-102 SHELF DISTRIBUTIONS
(the "Shelf Rule")
and COMMISSION RULE 41-501
GENERAL PROSPECTUS REQUIREMENTS (the "General Prospectus Rule")

AND

IN THE MATTER OF
360NETWORKS INC.

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

WHEREAS 360networks inc. (the "**Applicant**") filed a preliminary short form base prospectus dated January 31, 2001 (the "**Preliminary Prospectus**") in accordance with the Shelf Rule and the Short Form Rule relating to the qualification of up to $3,000,000,000 aggregate principal amount of debt securities, preferred shares, subordinate voting shares, warrants, stock purchase contracts and stock purchase units (the "**Offering**") and received a receipt therefor dated February 1, 2001;

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

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

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

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

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

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

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

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

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

(a) the Applicant files those financial statements earlier than 140 days from the end of its last financial year because it is required to do so, in connection with the Offering, by the Short Form Rule; and

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

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

February 8, 2001.

"Margo Paul"

2.2.9 Pelangio Mines Inc. - s. 147

Headnote

Section 147 - Exemption from provisions of sections 13.2 and 13.5 of OSC Policy 5.2 where price per share at which debt is to be converted into shares is below $0.20 per share and the amount of the debt exceeds $50,000.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as amended, ss. 6 and 147

Rules Cited

In the Matter of Certain Trades in Securities of Junior Natural Resource Issuers, (1997) 20 O.S.C.B. 1218, as amended

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

AND

IN THE MATTER OF
PELANGIO MINES INC.

ORDER
(Section 147)

UPON the application (the "Application") of Pelangio Mines Inc. (the "Issuer") to the Ontario Securities Commission (the "Commission") for an order pursuant to section 147 of the Act exempting the Issuer from the provisions of sections 13.2 and 13.5 of Ontario Securities Commission Policy Statement No. 5.2 ("OSC Policy 5.2") now deemed to be a rule pursuant to the rule entitled *In the Matter of Certain Trades in Securities of Junior Resource Issuers* (1997) 20 OSCB 1218, as amended, (the "Junior Resource Issuers Rule"), which restricts the price per share at which any debt may be converted to shares;

AND UPON the Issuer having represented to the Commission that:

1. The Issuer was incorporated under the laws of the Province of Alberta on April 14, 1997.

2. The Issuer is a reporting issuer under the Act and in the Provinces of British Columbia, Alberta and Nova Scotia and is not in default of any of the requirements of the Act or the regulations made thereunder.

3. The common shares in the capital of the Issuer (the "Pelangio Shares") are listed and posted for trading on the Canadian Venture Exchange.

4. The price of the Pelangio Shares, using a 10 day weighted average closing price as of December 4, applied without a discount, is $0.07.

5. In connection with a debt settlement agreement entered into between the Issuer and an arm's length creditor (the "Creditor") pursuant to which the Issuer would issue shares in settlement of debt (the "Debt Settlement"), the Issuer proposes to issue 600,000 Pelangio Shares to the Creditor at a price of $0.10 per share in satisfaction of accounts payable in the amount of $60,000.

6. Section 13.2 of the Junior Resource Issuers Rule would require that the Pelangio Shares be issued at $0.20 per share.

7. Section 13.5 of the Junior Resource Issuers Rule would require that Pelangio obtain the approval of disinterested shareholders where the amount of the debt which has been settled by the issuance of shares in any 12-month period exceeds $50,000.

8. The Creditor has expressed its willingness to receive the 600,000 Pelangio Shares at $0.10 per share in satisfaction of such accounts payable.

9. The Debt Settlement will otherwise comply with the provisions of Article 13 of the Junior Resource Issuers Rule.

AND UPON the Creditor having represented that it is not in possession of knowledge of a material fact or material change with respect to the Issuer that has not been generally disclosed.

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

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

IT IS ORDERED, pursuant to section 147 of the Act, that the Issuer is exempt from the provisions of sections 13.2 and 13.5 of the Junior Resource Issuers Rule in respect of the issuance of Pelangio Shares to the Creditor in relation to the Debt Settlement.

February 13, 2001.

Margo Paul
Manager, Corporate Finance

2.3 Rulings

2.3.1 Stroud Resources Ltd. - s. 74(1)

Headnote

Subsection 74(1) - issuance of shares in satisfaction of accrued and unpaid interest on convertible debentures previously issued pursuant to a rights offering and in satisfaction of the unpaid accounts of two arm's length consultants shall not subject to sections 25 and 53 of the Act.

Statutes Cited

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

Rules Cited

OSC Rule 45-501 *Exempt Distributions* (1999) 22 OSCB 127, ss. 6.5.

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

AND

IN THE MATTER OF
STROUD RESOURCES LTD.

RULING
(Subsection 74(1))

UPON the application of Stroud Resources Ltd. ("Stroud") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the Act that the distribution by Stroud of up to 1,418,720 common shares (the "Debt Settlement Shares") in the capital of Stroud in satisfaction of: i) the accrued and unpaid interest on previously issued debt securities and ii) the outstanding accounts of two arm's length consultants (the "Consultants") 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 the staff of the Commission;

AND UPON Stroud having represented to the Commission as follows.

1. Stroud was incorporated on March 18, 1983 pursuant to the *Business Corporations Act* (Ontario) and is a natural resource company engaged primarily in the acquisition, exploration and, if warranted, development of mineral properties for gold, silver and other precious metals in Canada and Mexico. Stroud currently holds 100% interests in two mineral exploration properties located in Ontario and has an option to earn a 100% indirect interest in the Santo Domingo II gold-silver prospect in Mexico. Stroud also owns working interests in two natural gas wells situated in Alberta.

2. Stroud is a reporting issuer under the Act and is not in default of any of the requirements of the Act or regulations made under the Act.

3. The authorized share capital of Stroud consists of an unlimited number of common shares, of which 32,841,960 common shares were issued and outstanding as of January 31, 2001.

4. The common shares are listed and posted for trading on The Toronto Stock Exchange (the "TSE"), however, on January 3, 2001 the TSE suspended trading in the common shares of Stroud for failure to meet the continued listing requirements of the TSE.

5. Pursuant to a trust indenture between Stroud and Equity Transfer Services Inc. as trustee dated as of June 30, 1998, Stroud issued $208,300 aggregate principal amount of 10% convertible subordinated debentures due June 30, 2003 (the "Convertible Debentures") to arm's length purchasers resident in the Province of Ontario upon the exercise of rights granted to shareholders of Stroud.

6. All of the Convertible Debentures remain outstanding and are beneficially owned by the original purchasers.

7. Pursuant to the terms of the Convertible Debentures, the principal amount of the Convertible Debentures is convertible at any time at the option of the holders on the basis of one common share for every $0.15 of principal amount so converted and interest on the Convertible Debentures is payable semi-annually at the rate of 10% per annum on June 30 and December 31 in each year in cash. As at December 31, 2000 accrued and unpaid interest owing to the holders of the Convertible Debentures was $49,010.

8. As at September 30, 2000 (unaudited), Stroud had a working capital deficiency of $394,784. In an attempt to improve its financial position and conserve cash resources, Stroud wishes to issue 4,166,000 of its common shares to the holders of the Convertible Debentures in satisfaction of the principal amount of the Convertible Debentures outstanding and 980,200 Debt Settlement Shares in satisfaction of accrued and unpaid interest thereon, at an effective price of $0.05 per share. It is proposed that to accomplish this the trust indenture governing the Convertible Debentures would be amended to provide for the conversion of the principal amount of all outstanding Convertible Debentures effective as of December 31, 2000 and the satisfaction of all accrued and unpaid interest on the Convertible Debentures as at December 31, 2000 on the basis of one common share of the Corporation for each $0.05 of principal amount or interest converted or satisfied, as the case may be. The contemplated amendments to the trust indenture require the approval of the holders of two-thirds of the principal amount of outstanding Convertible Debentures.

9. Stroud also wishes to issue 438,520 Debt Settlement Shares at an effective price of $0.05 per share to the Consultants. The Consultants provided *bona fide* geological and accounting services to Stroud and have

outstanding accounts owing for such services totaling $21,926.

10. The Consultants are not being induced to accept Debt Settlement Shares in payment of their indebtedness by the expectation or the opportunity to render or to continue rendering services to Stroud.

11. The services were rendered by the Consultants with the expectation that the cost of such services would be satisfied in cash and payment in common shares was not contemplated at the time the services were provided.

12. The Debt Settlement Shares represent in the aggregate 4.3% of the number of issued and outstanding common shares of Stroud as at January 31, 2001.

13. The TSE has accepted notice for filing of the issuance of the Debt Settlement Shares subject to the filing of usual documentation and payment of the applicable listing fee.

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 by Stroud of the Debt Settlement Shares to the holders of Convertible Debentures and the Consultants in satisfaction of indebtedness owing to such parties shall not be subject to sections 25 and 53 of the Act, provided that the first trade in Debt Settlement Shares issued pursuant to this ruling shall be a distribution unless such trade is made in accordance with the provisions of section 6.5 of Rule 45-501 *Exempt Distributions*, as if the securities had been acquired pursuant to an exemption referred to in that section.

February 6, 2001.

"Howard I. Wetston" "Stephen N. Adams"

2.3.2 865692 Ontario Limited & the Thomson Company Inc.- s. 59(2)

Headnote

Subsection 59(2) of Schedule 1 to the Regulation under the Act - reduction in fee otherwise due as a result of a take-over bid in connection with a corporate reorganization involving no change in beneficial ownership.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., s. 93(1)(c).

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am. Schedule 1 s.32(1), 59(2).

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
865692 ONTARIO LIMITED
AND THE THOMSON COMPANY INC.

RULING
(Section 59(2) of Schedule 1)

UPON the application (the "Application") of 865692 Ontario Limited ("865692") and The Thomson Company Inc. ("TTCI") to the Ontario Securities Commission (the "Commission") for a ruling, pursuant to section 59(2) of Schedule 1 (the "Schedule") to the Regulation under the Act, exempting each of 865692 and TTCI from payment in part of the fee payable pursuant to section 32(1) of the Schedule;

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

AND UPON 865692 and TTCI having represented to the Director as follows:

1. 865692 is a corporation incorporated under the laws of Ontario and is not a reporting issuer under the Act.

2. TTCI is a corporation incorporated under the laws of Ontario and is not a reporting issuer under the Act.

3. On December 18, 2000, 865692 acquired 143,450 common shares of The Thomson Corporation ("TTC") (the "Shares") from 1322781 Ontario Limited ("1322781") with the consideration therefor being

satisfied by preference shares of 865692. At the time of the transfer, 1322781 was a wholly-owned subsidiary of TTCI and 865692 was a wholly-owned subsidiary of The Woodbridge Company Inc., another wholly-owned subsidiary of TTCI. 865692, in turn, transferred the Shares to TTCI on December 18, 2000, for cash consideration.

4. At the time of the acquisition of the Shares by 865692 and, in turn, by TTCI, 1322781, 865692 and TTCI were controlled by Kenneth R. Thomson and, as a result, 1322781, 865692 and TTCI were affiliated corporations. Because each of 865692 and TTCI were deemed to own beneficially all of the TTC shares beneficially owned by companies controlled by Kenneth R. Thomson at the time of each acquisition, the acquisition of the Shares by 865692 and, in turn, by TTCI resulted in 865692 and TTCI, respectively in each case, owning in excess of 20% of the outstanding common shares of TTC. Accordingly, the acquisition of the Shares by 865692 and the subsequent acquisition of the Shares by TTCI constituted a take-over bid under the Act.

5. The Shares were acquired pursuant to the take-over bid exemption in clause 93(1)(c) of the Act in each case.

6. The transaction was an internal corporate reorganization within the same control group and did not result in a change in beneficial ownership of the Shares.

7. In the absence of the relief provided by this ruling and pursuant to the formula in clause 32(1)(b) of the Schedule, each of 865692 and TTCI would be required to pay a fee of $1,267.95 as a result of the transaction described above.

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

IT IS RULED, pursuant to subsection 59(2) of the Schedule, that 865692 and TTCI each be exempt from the requirement to pay the fee otherwise payable pursuant to clause 32(1)(b) of the Schedule, provided that the minimum fee of $800.00 is paid in each case.

February 6, 2001.

Ralph Shay
Director, Take-over/Issuer Bids, Mergers & Acquisitions

2.3.3 1454038 Ontario Limited & the Thomson Company Inc.- s. 59(2)

Headnote

Subsection 59(2) of Schedule 1 to the Regulation under the Act - reduction in fee otherwise due as a result of a take-over bid in connection with a corporate reorganization involving no change in beneficial ownership.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., s. 93(1)(c).

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am. Schedule 1 s.32(1), 59(2).

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
1454038 ONTARIO LIMITED
AND THE THOMSON COMPANY INC.

RULING
(Section 59(2) of Schedule 1)

UPON the application (the "Application") of 1454038 Ontario Limited ("1454038") and The Thomson Company Inc. ("TTCI") to the Ontario Securities Commission (the "Commission") for a ruling, pursuant to section 59(2) of Schedule 1 (the "Schedule") to the Regulation under the Act, exempting each of 1454038 and TTCI from payment in part of the fee payable pursuant to section 32(1) of the Schedule;

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

AND UPON 1454038 and TTCI having represented to the Director as follows:

1. 1454038 is a corporation incorporated under the laws of Ontario and is not a reporting issuer under the Act.

2. TTCI is a corporation incorporated under the laws of Ontario and is not a reporting issuer under the Act.

3. On December 20, 2000, 1454038 acquired 159,261 common shares of The Thomson Corporation ("TTC") (the "Shares") from The Woodbridge Company Inc. ("TWCL") with the consideration therefor being satisfied

by preference shares of 1454038. At the time of the transfer, both TWCL and 1454038 were wholly-owned subsidiaries of TTCI. 1454038, in turn, transferred the Shares to TTCI on December 20, 2000 for cash consideration.

4. At the time of the acquisition of the Shares by 1454038 and, in turn, by TTCI, TWCL, 1454038 and TTCI were controlled by Kenneth R. Thomson and, as a result, TWCL, 1454038 and TTCI were affiliated corporations. Because each of 1454038 and TTCI were deemed to own beneficially all of the TTC shares beneficially owned by companies controlled by Kenneth R. Thomson at the time of each acquisition, the acquisition of the Shares by 1454038 and, in turn, by TTCI resulted in 1454038 and TTCI, respectively in each case, owning in excess of 20% of the outstanding common shares of TTC. Accordingly, the acquisition of the Shares by 1454038 and the subsequent acquisition of the Shares by TTCI constituted a take-over bid under the Act.

5. The Shares were acquired pursuant to the take-over bid exemption in clause 93(1)(c) of the Act in each case.

6. The transaction was an internal corporate reorganization within the same control group and did not result in a change in beneficial ownership of the Shares.

7. In the absence of the relief provided by this ruling and pursuant to the formula in clause 32(1)(b) of the Schedule, each of 1454038 and TTCI would be required to pay a fee of $1,426.08 as a result of the transaction described above.

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

IT IS RULED, pursuant to subsection 59(2) of the Schedule, that 1454038 and TTCI each be exempt from the requirement to pay the fee otherwise payable pursuant to clause 32(1)(b) of the Schedule, provided that the minimum fee of $800.00 is paid in each case.

February 6, 2001.

Ralph Shay
Director, Take-over/Issuer Bids, Mergers & Acquisitions

2.3.4 1396164 Ontario Limited - s. 59(2)

Headnote

Subsection 59(2) of Schedule 1 to the Regulation to the Act - reduction in fee otherwise due as a result of a take-over bid in connection with a corporate reorganization involving no change in beneficial ownership.

Statutes Cited

Securities Act, R.S.O. 1990, c.S.5, as am., s. 93(1)(c).

Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am. Schedule 1 s.32(1), 59(2).

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
1396164 ONTARIO LIMITED

RULING
(Section 59(2) of Schedule 1)

UPON the application (the "Application") of 1396164 Ontario Limited (the "Applicant") to the Ontario Securities Commission (the "Commission") for a ruling, pursuant to section 59 of Schedule 1 (the "Schedule") to the Regulation under the Act, exempting the Applicant from payment in part of the fee payable pursuant to section 32(1) of the Schedule;

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

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

1. The Applicant is a corporation incorporated under the laws of Ontario and is not a reporting issuer under the **1396164 ONTARIO LIMITED** Act.

2. On December 20, 2000, the Applicant acquired 497,940 common shares (the "Shares") of The Thomson Corporation ("TTC") from The Thomson Company Inc. ("TTCI") with the consideration therefor being satisfied by common shares of the Applicant. At the time of the transfer, the Applicant was a wholly-owned subsidiary of TTCI.

3. The Applicant and TTCI are both controlled by Kenneth R. Thomson and, as a result, the Applicant and TTCI are affiliated corporations. As the Applicant is deemed to own beneficially all of the TTC shares beneficially owned by companies controlled by Kenneth R. Thomson, the acquisition of the Shares by the Applicant resulted in the Applicant owning in excess of 20% of the outstanding common shares of TTC. Accordingly, the acquisition of the Shares by the Applicant constituted a take-over bid under the Act.

4. The Shares were acquired pursuant to the take-over bid exemption in clause 93(1)(c) of the Act.

5. The transaction was an internal corporate reorganization within the same control group and did not result in a change in beneficial ownership of the Shares.

6. In the absence of the relief provided by this ruling and pursuant to the formula in clause 32(1)(b) of the Schedule, the Applicant would be required to pay a fee of $4,458.74 as a result of the transaction described above.

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

IT IS RULED, pursuant to subsection 59(2) of the Schedule, that the Applicant be exempt from the requirement to pay the fee otherwise payable pursuant to clause 32(1)(b) of the Schedule, provided that the minimum fee of $800.00 is paid.

February 6, 2001.

Ralph Shay
Director, Take-over/Issuer Bids, Mergers & Acquisitions

2.3.5 Vivendi Universal S. A. - s.74(1)

Headnote

Subsection 74(1) - the distribution by a U.S. non-reporting issuer to its shareholders pursuant to an exchange offer is not subject to section 25 and 53 of the Act provided that the first trade in shares distributed is subject to Rule 72-501 *Prospectus Exemption for First Trade Over a Market Outside Ontario.*

Statutes Cited

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

Rule Cited

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

Rule 45-501 Exempt Distributions.

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

AND

IN THE MATTER OF
VIVENDI UNIVERSAL S.A.

RULING
(Subsection 74(1))

UPON THE application (the "Application") of Vivendi Universal S.A. ("Vivendi Universal") to the Ontario Securities Commission (the "Commission") for a ruling pursuant to subsection 74(1) of the Act that the distribution by Vivendi Universal of American Depository Shares of Vivendi Universal ("Vivendi Universal ADSs") in connection with Vivendi Universal's offer (the "Offer") to holders of Adjustable Conversion-rate Equity Securities Units (the "Units") issued by The Seagram Company Ltd. ("Seagram") shall not be subject to sections 25 and 53 of the Act;

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

AND UPON Vivendi Universal having represented to the Commission that:

1. Vivendi S.A., Seagram and certain other companies entered into a Merger Agreement made as of June 19, 2000, which required the parties to effect a Plan of Arrangement under which Vivendi Universal, a successor corporation to Vivendi S.A., would indirectly acquire all of the issued and outstanding shares of Seagram by way of Plan of Arrangement.

2. Vivendi Universal is a company incorporated under the laws of the Republic of France.

3. The Ordinary Shares of Vivendi Universal trade on the Premier Marché of the Paris Bourse. The Vivendi

Universal ADSs trade on the New York Stock Exchange.

4. Vivendi Universal is subject to the reporting requirements applicable to foreign private issuers under the *United States Securities Exchange Act of 1934* and is not exempt therefrom.

5. The principal predecessor company of Seagram was formed in Canada in 1928. Seagram is governed by the *Canada Business Corporations Act*. Seagram is a reporting issuer or its equivalent in each of the provinces and territories of Canada in which that concept exists.

6. The Plan of Arrangement was completed on December 8, 2000. As a result of the completion of the Plan of Arrangement, Vivendi Universal, through two subsidiaries, acquired all of the issued and outstanding common shares of Seagram other than those held by dissenting shareholders, which shareholders are only entitled to receive fair value or to withdraw their dissent and receive Vivendi Universal ADSs.

7. As at the date of closing of the Plan of Arrangement, the Seagram Units were outstanding.

8. At the time the Units were issued, each Unit consisted of a purchase contract to purchase common shares of Seagram and a subordinated note of Joseph E. Seagram & Sons, Inc. a subsidiary of Seagram, that is guaranteed on a subordinated basis as to payment of principal and interest by Seagram. In 1999, 20,025,000 Units were issued at an initial public offering price of US$50.125 per Unit.

9. The Units were not offered by way of prospectus in Canada. A small number of Units were, however, sold to Ontario persons under the private placement exemptions in the Act.

10. There are no registered holders of the Units in Canada and Vivendi Universal is aware of only four beneficial holders of Units in Canada, all of whom are in Ontario.

11. The Units were listed on the New York Stock Exchange, but were delisted effective December 28, 2000.

12. Upon completion of the Plan of Arrangement and pursuant to the terms of the purchase contract agreement, Vivendi Universal executed and delivered to the purchase contract agent a supplemental agreement that evidenced Vivendi Universal's agreement that the purchase contracts are now purchase contracts for Vivendi Universal ADSs.

13. Pursuant to the purchase contract agreement, each purchase contract underlying a Unit now requires the holder of that Unit to purchase on the stock purchase date of June 21, 2002, for cash in an amount equal to US$50.125, a number of Vivendi Universal ADSs equal to the settlement rate unless the holder elects early settlement.

14. Vivendi Universal has made the Offer for all of the issued and outstanding Units. The Offer is not being extended in those jurisdictions where the Offer would be unlawful.

15. The consideration under the Offer is Vivendi Universal ADSs and cash.

16. Vivendi Universal is not a reporting issuer in Ontario and has no intention of becoming a reporting issuer.

17. As the Units allow a holder to acquire Vivendi Universal ADSs, the Offer constitutes an issuer bid by Vivendi Universal for its own securities.

18. In connection with the Offer, each holder of the Units will receive, among other documentation, a Prospectus and Consent Solicitation (the "Prospectus") filed by Vivendi Universal with the United States Securities and Exchange Commission (the "SEC") pursuant to a Registration Statement on Form F-4. The Prospectus provides disclosure with respect to the business and operations of Vivendi Universal.

19. The issuer bid is exempt from sections 95 to 98 and section 100 of the Act by virtue of paragraph 93(3)(h) 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 the distribution of Vivendi Universal ADSs pursuant to the Offer shall not be subject to sections 25 and 53 of the Act, provided that the first trade in Vivendi Universal ADSs acquired pursuant to this ruling shall be a distribution unless such trade is executed on an exchange or market outside Canada.

February 9, 2001.

"Howard I. Wetston" "R. Stephen Paddon"

2.3.6 Elitra Pharmaceuticals et al. - s. 74(1)

Headnote

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

Statutes Cited

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

Rules Cited

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

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

AND

IN THE MATTER OF
ELITRA PHARMACEUTICALS INC.,
ELITRA CANADA COMPANY AND MYCOTA BIOSCIENCES INC.

RULING
(Subsection 74(1))

UPON the application of Elitra Pharmaceuticals Inc., (**"Parent"**), on its own behalf and on behalf of Elitra Canada Company (**"Parent Acquisition Company"**) and Mycota BioSciences Inc. (**"Company"**) to the Ontario Securities Commission (the **"Commission"**) for a ruling, pursuant to subsection 74(1) of the Act, that certain trades in securities to be made pursuant to the terms and conditions of exchangeable shares issued in an acquisition (the **"Transaction"**) of Company completed on November 28, 2000 by Parent pursuant to an agreement (the **"Acquisition Agreement"**) entered into as of October 11, 2000, between Parent, Parent Acquisition Company, Company and each of the shareholders of Company) (the **"Company Shareholders"**), shall not be subject to section 25 or 53 of the Act;

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

AND UPON Parent, Parent Acquisition Company, and Company having represented to the Commission as follows:

1. Company is a corporation existing under the laws of Quebec.

2. The principal place of business of Company is situated at 225 President Kennedy Avenue West, Suite 2550, Montreal, Quebec H2X 3Y8.

3. Company is a "private company" as defined in the Act and is not a reporting issuer in the Province of Ontario or in any other province or territory in Canada.

4. Immediately prior to the completion of the Transaction, Company had 10 shareholders of which nine were residents of the Province of Quebec (holding 96.62% of the Company Shares (as hereinafter defined)) and one who was a resident of the Province of Ontario (holding 3.38% of the Company Shares).

5. Immediately prior to the completion of the Transaction, the only outstanding shares of Company consisted of 1,785,866 Class A Shares (**"Class A Shares"**) and 5,891,622 Class B Shares (**"Class B Shares"**) (which are convertible, on a share-for-share basis, into Class A Shares) (collectively the **"Company Shares"**). In addition, there were options outstanding to acquire up to 607,227 Class A Shares (the **"Options"**), which were held by 14 residents of Quebec and four residents of the United States.

6. Parent is a company incorporated under the Laws of Delaware. The principal place of business of Parent is situated at 3510 Dunhill Street, San Diego, California.

7. At the closing of the Transaction, the authorized capital stock of Parent included 70,000,000 shares of common stock (**"Parent Common Shares"**) with a par value of U.S. $0.001 per share, 43,527,515 shares of preferred stock, of which 5,950,866 shares were designated as series F preferred stock (**"Parent Series F Shares"**) with a par value of U.S. $0.001 per share, and one share was designated as special voting stock (**"Parent Special Voting Preferred Shares"**). As of October 11, 2000, 5,286,226 Parent Common Shares were issued and outstanding and no Parent Series F Shares nor Parent Special Voting Preferred Shares were issued and outstanding. The Parent Series F Shares, the Parent Common Shares and the Parent Special Voting Preferred Shares are collectively referred to as the **"Parent Shares"**.

8. Parent is not subject to the reporting requirements of the United States Securities and Exchange Act of 1934, as amended. Parent is not, and currently has no intention of becoming, a reporting issuer in Ontario or any other province of Canada.

9. Parent Acquisition Company is an unlimited liability company incorporated under the Nova Scotia *Companies Act* and is a wholly-owned subsidiary of Parent.

10. Pursuant to the Transaction, (i) Company recapitalized its share capital (the **"Recapitalization"**) so that each Company Share was converted into the right to receive a certain fraction of an exchangeable share of Company, initially exchangeable for Parent Series F Shares (the **"Exchangeable Shares"**) and (ii)

immediately after the Recapitalization, Parent Acquisition Company subscribed for one preferred share of Company. Thereafter, Parent Acquisition Company converted its preferred share into one Company Common Share, thereby becoming the sole holder of voting shares of Company.

11. Pursuant to the terms of the Transaction, 595,086 of the Exchangeable Shares (the **"Pledged Shares"**) issued to the former holders of Class A Shares and Class B Shares were hypothecated and pledged and held by Montreal Trust Company of Canada (the **"Quebec Custodian"**) as security for inaccuracies or breaches of certain representations, warranties and covenants made in connection with the Transaction (**"Claims"**).

12. At the time of the Transaction, each outstanding Option was assumed by Parent and became a right to purchase from Parent a number of Parent Common Shares.

A. Parent Acquisition Company is a private company and not a reporting issuer in the Province of Cntario or in any other province or territory in Canada.

B. Parent Acquisition Company has been created solely as a vehicle to effect the Transaction.

C. On November 28, 2000, the Transaction was completed.

D. The rights, privileges, restrictions and conditions attaching to the Exchangeable Shares (the "**Exchangeable Share Provisions**") provide holders thereof with a security of Company having economic attributes which are substantially equivalent, in all material respects, to those of a Parent Series F Share. Exchangeable Shares were received by holders of Company Shares on a Canadian tax-deferred, roll-over basis. Each Exchangeable Share of Company is exchangeable into one Parent Series F Share (or, upon completion of an initial public offering of Parent Common Shares (**"Parent's IPO"**), one Parent Common Share) which will, by its terms, be convertible upon the occurrence of certain conditions as set forth in the Parent's Amended and Restated Certificate of Incorporation, including the completion of Parent's IPO, into one Parent Common Share, in each case at the option of the holder thereof at any time until the earliest to occur of certain events, including, (i) the fourth anniversary of the closing date provided that Parent has completed Parent's IPO and (ii) the date on which there are less than 20% of the original number of Exchangeable Shares outstanding. Dividends will be payable on the Exchangeable Shares contemporaneously and in the equivalent amount per share as dividends on the Parent Common Shares.

E. Subject to the overriding call right of Parent Acquisition Company referred to below, on the liquidation, dissolution or winding-up of Company, a holder of Exchangeable Shares will be entitled to receive from Company for each Exchangeable Share held an amount equal to the then current market price of a Parent Common Share, to be satisfied by delivery of one Parent Series F Share (subject to adjustment), together with, on the designated payment date therefor and to the extent not already paid by Company on a dividend payment date, all declared and unpaid dividends on each such Exchangeable Share (such aggregate amount, the **"Liquidation Amount"**). Upon a proposed liquidation, dissolution or winding-up of Company, Parent Acquisition Company will have an overriding call right (the **"Liquidation Call Right"**) to purchase all of the outstanding Exchangeable Shares from the holders thereof (other than Parent or its affiliates) for a price per share equal to the Liquidation Amount.

F. The Exchangeable Shares are non-voting (except as otherwise required by law) and are retractable at the option of the holder at any time. Under certain circumstances, the holders of Exchangeable Shares are entitled to nominate a specified number of directors to the board of directors of Company. Subject to the overriding call right of Parent Acquisition Company referred to below, upon retraction the holder will be entitled to receive from Company for each Exchangeable Share retracted an amount equal to the then current market price of a Parent Common Share, to be satisfied by delivery of one Parent Series F Share (subject to adjustment), together with, on the designated payment date therefor and to the extent not already paid by Company on a dividend payment date, all declared and unpaid dividends on each such retracted Exchangeable Share (such aggregate amount, the **"Retraction Price"**). Upon being notified by Company of a proposed retraction of Exchangeable Shares, Parent Acquisition Company will have an overriding call right (the **"Retraction Call Right"**) to purchase from the holders all of the Exchangeable Shares that are the subject of the retraction notice for a price per share equal to the Retraction Price.

G. Subject to the overriding call right of Parent Acquisition Company referred to below in this paragraph, Company shall redeem all the Exchangeable Shares then outstanding on the date which is four years from the Closing Date (the **"Automatic Redemption Date"**) provided that Parent has completed the Parent's IPO. The board of directors of Company may accelerate the Automatic Redemption Date in certain circumstances, as described in the Exchangeable Share Provisions, including if there are fewer than 20% of the original number of Exchangeable Shares outstanding (other than Exchangeable Shares held by Company and its affiliates, and as such number of shares may be adjusted as deemed appropriate by the board of directors to give effect to any subdivision or consolidation of or stock dividend on the Exchangeable Shares, any issue or distribution of rights to acquire Exchangeable Shares or securities exchangeable for or convertible into Exchangeable Shares, any issue or distribution of other securities or rights or evidences of indebtedness or assets, or any other capital reorganization or other transaction affecting the Exchangeable Shares). Upon such redemption, a holder will be entitled to receive from Company for each Exchangeable Share redeemed, an amount equal to

the then current market price of a Parent Share on the last business day prior to the Automatic Redemption Date, to be satisfied by the delivery of one Parent Series F Share (subject to adjustment), together with, to the extent not already paid by Company on a dividend payment date, all declared and unpaid dividends on each such redeemed Exchangeable Share (such aggregate amount, the **"Redemption Price"**). Upon being notified by Company of a proposed redemption of Exchangeable Shares, Parent Acquisition Company will have an overriding call right (the **"Redemption Call Right"**) to purchase from the holders all of the outstanding Exchangeable Shares (other than Parent or its affiliates) for a price per share equal to the Redemption Price.

H. Upon the liquidation, dissolution or winding-up of Parent, the Exchangeable Shares will be automatically exchanged for Parent Series F Shares pursuant to a voting and exchange agreement (the **"Voting and Exchange Agreement"**) between Parent, Parent Acquisition Company, Company and each of the Company Shareholders, in order that holders of Exchangeable Shares may participate in the dissolution of Parent on the same basis as holders of Parent Series F Shares. Upon the insolvency of Company, holders of Exchangeable Shares may put their shares to Parent in exchange for Parent Series F Shares, pursuant to the Exchange Right described in greater detail below.

I. The Exchangeable Shares are non-transferable. In the event that, on or prior to the Automatic Redemption Date, any holder of Exchangeable Shares notifies Company that such holder desires to transfer or otherwise attempts to transfer any such shares to any other person or entity other than to a permitted transferee (any such notification or attempt, a **"Transfer Attempt"**), then such holder shall, by such action, be deemed to have made a Retraction Request and the sole right of the transferee in respect of such shares shall be to receive the Parent Series F Shares and dividends to which such person is entitled as a result of the Retraction Request.

J. Under the Voting and Exchange Agreement, Parent granted to the holders of the Exchangeable Shares a put right (the **"Exchange Right"**), exercisable upon certain events including the insolvency of Company, to require Parent to purchase from a holder of Exchangeable Shares all or any part of its Exchangeable Shares. The purchase price for each Exchangeable Share purchased by Parent will be an amount equal to the then current market price of a Parent Common Share, to be satisfied by the delivery to the holder, of one Parent Series F Share (subject to adjustment), together with an additional amount equivalent to the full amount of all declared and unpaid dividends on such Exchangeable Share.

K. Under the Voting and Exchange Agreement, upon the liquidation, dissolution or winding-up of Parent, Parent will be required to purchase each outstanding Exchangeable Share, and each holder will be required to sell all of its Exchangeable Shares (such purchase and sale obligations are hereafter referred to as the **"Automatic Exchange Right"**), for a purchase price per share equal to the then current market price of a Parent Common Share, to be satisfied by the delivery to the holder of one Parent Series F Share (subject to adjustment), together with an additional amount equivalent to the full amount of all declared and unpaid dividends on each such Exchangeable Share.

L. Under the Voting and Exchange Agreement, Parent issued to Company one Parent Special Voting Preferred Share which is held by Company, as trustee for and on behalf of the Shareholders, and will permit the holders of the Exchangeable Shares to vote at meetings of the shareholders of Parent as if they held the underlying Parent Series F Shares.

M. Under the terms of the various documents and share provisions, Parent Acquisition Company shall be entitled to assign its rights and obligations (for all purposes or for the purposes of specified circumstances as contemplated therein) as being the corporation which is to exercise the rights and be subject to the privileges of Parent Acquisition Company as contemplated herein.

N. Contemporaneously with the closing of the Transaction, Parent, Company and Parent Acquisition Company entered into a support agreement (the **"Support Agreement"**) in connection with the dividend rights, and the redemption and retraction rights and dissolution entitlements that are attributes of the Exchangeable Shares and the related redemption, retraction and liquidation call rights described above.

O. The attributes of the Exchangeable Shares contained in the Exchangeable Share Provisions, the Support Agreement, the Voting and Exchange Agreement involve or may involve a number of trades of securities and trades related to the issuance of Parent Shares or the issuance of Parent Series F Shares in exchange for Exchangeable Shares (collectively, the **"Trades"**). There may be no registration and prospectus exemptions available under the Act for certain of the Trades.

P. Assuming the exchange of all Exchangeable Shares for Parent Series F Shares and the exchange of all Parent Series F Shares into Parent Common Shares, immediately after the completion of the Transaction, all persons or companies who are resident in Ontario did not in aggregate hold of record or own beneficially more than 10% of the issued and outstanding Parent Shares or represent more than 10% of the number of holders of Parent Shares.

Q. Each of the Company Shareholders is a party to the Acquisition Agreement. Subsequent to the completion of the Transaction, all disclosure material furnished to holders of Parent Common Shares or Parent Series F Shares in the United States will be concurrently furnished to the holders of Exchangeable Shares, Parent Common Shares or Parent Series F Shares resident in the Province of Ontario. In addition, until the completion of the Parent's IPO, holders of

Exchangeable Shares, Parent Common Shares or Parent Series F Shares shall be a party to an investor rights agreement whereby Parent is obligated thereunder to provide to such holders certain financial information of Parent including quarterly unaudited financial statements, annual audited financial statements and annual budgets of Parent.

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, to the extent there are no exemptions available from the registration and prospectus requirements of the Act in respect of any of the Trades, such Trades are not subject to sections 25 or 53 of the Act, provided that:

(i) the first trade in Parent Series F Shares other than the exchange thereof for Parent Common Shares shall be a distribution; and

(ii) the first trade in any Parent Common Shares issued upon the exchange of Parent Series F Shares, upon the exchange of Exchangeable Shares or upon the exercise of Options, shall be a distribution unless such trade is executed through the facilities of a stock exchange outside of Ontario or through The Nasdaq Stock Market (**"NASDAQ"**) and such trade is made in accordance with the rules of the stock exchange upon which the trade is made or the rules of NASDAQ in accordance with all laws applicable to that stock exchange or applicable to NASDAQ.

January 30, 2001.

"Howard I. Wetston" "R. Stephen Paddon"

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 Reasons

3.1.1 YBM Magnex International et al.

ONTARIO SECURITIES COMMISSION
IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990, c.S.5, as amended

AND

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)

REASONS FOR DECISION OF THE
ONTARIO SECURITIES COMMISSION

MOTION DATE:	January 26, 2001		
BEFORE:	Howard I. Wetston, Q.C.	-	Vice-Chair
	Derek Brown	-	Commissioner
	Robert W. Davis, FCA	-	Commissioner
COUNSEL:	Michael Code	-	For the Staff of the Ontario Securities Commission
	Kathryn Daniels	-	For the Staff of the Ontario Securities Commission
	John Keefe	-	For the Applicant

I. NATURE OF THE MOTION

These are the reasons for an order issued by the Ontario Securities Commission (the "Commission") on January 31, 2001 dismissing a motion filed by the Applicant, Griffiths McBurney & Partners ("GMP").

On January 2, 2001, GMP filed a Notice of Motion with the Commission requesting an order permanently staying the proceeding commenced by Notice of Hearing on November 1, 1999 as against GMP or, in the alternative, an order permitting GMP to conduct pre-hearing oral examinations and to obtain documentary discovery of eight named witnesses.

The motion raises the following issues for consideration:

(i) Does a Section 11 investigation which uses Section 13 powers have to be completed prior to

a Section 127 Notice of Hearing being issued; and

(ii) Does an ongoing investigation, which continues after the issuance of a notice of hearing and makes use of compulsory powers of process, need to be conducted on an *inter partes* basis with notice to and equal participation by the Applicants.

II. FACTS

1. On December 5, 1997, the Commission issued an order under Section 11 of the *Securities Act* R.S.O. 1990, C. S.5, as amended (the "*Act*"), authorizing staff of the Commission ("Staff") to investigate certain matters concerning the Applicant GMP.

2. Pursuant to the Section 11 order (the "Order"), Staff examined a number of witnesses and made several requests for the production of documents.

3. By Notice of Hearing dated November 1, 1999, the Commission gave notice to the Applicant GMP, that pursuant to Section 127 of the *Securities Act* a hearing would commence on, or soon after, November 29, 1999 to consider, *inter alia*, whether in the opinion of the Commission it is in the public interest to make an order pursuant to Subsection 127(1) Clauses 1 and 4 of the *Securities Act* respecting GMP.

4. Without notice to the Applicant, Staff obtained a new Section 11 order (the "New Order") dated February 18, 2000 in respect of the matter. The New Order did two things: firstly, it broadened the terms of the old Order; and, secondly, it granted two additional Staff members the authority to carry out the Section 11 inquiry.

5. Pursuant to the New Order, Staff conducted several more examinations of which the Applicant did not receive notice. One of the witnesses examined was an ex-employee of the Applicant, Mr. Michael Middleton.

6. Mr. Middleton was examined by Staff pursuant to the New Order on April 19, 2000 and was represented by his own counsel, Mr. Todd White.

7. Counsel for GMP learned of the ongoing investigation of Mr. Middleton and others under the New Order through the process of ongoing disclosure. On June 23, 2000, counsel wrote Staff objecting to the examination of Mr. Middleton without prior notice to counsel for GMP and characterised Staff's conduct as constituting an abuse of process.

III. ANALYSIS

There is no dispute that a Commission hearing commenced by way of Notice of Hearing is governed by the *Statutory Powers Procedures Act*, R.S.O. 1990, Chap. S.22, as amended (the "*SPPA*"), and the rules of natural justice and procedural fairness.

The Applicant contends that the governing provisions applicable to Commission proceedings as contained in the *Act* and the *SPPA* should be interpreted so as to conform to the principles of natural justice. The Applicant's view is that, upon such a construction and absent clear and explicit language to the contrary, the *SPPA* incorporates the principles of natural justice into, and prevails over, the investigative powers available to the Commission under Part VI of the *Act*. Under such an interpretation, both GMP and Staff would have an equal opportunity to be present and examine witnesses during the continuation of the investigation. As a result, the Applicant claims that upon the issuance of a Notice of Hearing the Commission's one-sided right to conduct Section 13 examinations of witnesses without notice to the Applicants is inconsistent with the *SPPA* and the rules of natural justice.

We are guided in our approach to the interpretation of the *SPPA* and the *Act* by the decision in *Re Rizzo & Rizzo Shoes Ltd.*, [1998] 154 D.L.R. (4th) 193 at 204 (S.C.C.), where Mr. Justice Iacobucci stated that:

> "Elmer Driedger in Construction of Statutes (2nd ed. 1983) best encapsulates the approach upon which I prefer to rely. He recognizes that statutory interpretation cannot be founded on the wording of the legislation alone. At p. 87 he states:
>
> > Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatic and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament."

Part VI of the *Securities Act* deals with "Investigations and Examinations". Part XXII of the *Act* is entitled "Enforcement". The Legislature has not provided that an investigation must end once a Part XXII proceeding commences. It could have done so but did not as is evident from an examination of Subsection 17(6) which expressly addresses the interplay between a Part VI investigation and a Part XXII proceeding.

Moreover, a plain reading of the relevant provisions of the *Act* also reveals the absence of temporal limits on Section 11 investigations. Section 11 authorizes the Commission to appoint one or more persons to conduct an investigation provided the Commission considers it expedient in the administration of the law. The absence of temporal limits in Section 11 is in complete contrast to the limits placed on search warrants exercised by the Commission in Section 13 of the *Act*. Whereas Subsection 13(4) authorizes the Commission to apply for an authorization to search, Subsection 13(7) limits the power of such an order to not later than 15 days after the order is granted. If the Legislature intended temporal limits to apply to Section 11 it would have explicitly provided for them as it did in Section 13.

Furthermore, Section 3 of the *SPPA* provides that:

(1) "Subject to subsection (2), this Act applies to a *proceeding by a tribunal in the exercise of a statutory power of decision* conferred by or under an Act of the Legislature, where the tribunal is required by or under such Act or otherwise by law to hold or *to afford to the*

parties to the proceeding an opportunity for a hearing before making a decision.

(2) This Act does not apply to a proceeding,

(g) of one or more persons required to make an *investigation* and to make a report, with or without recommendations, where the report is for the information or advice of the person to whom it is made and does not in any way legally bind or limit that person in any decision he or she may have power to make; or

These provisions clearly indicate that the procedural safeguards contained in the *SPPA* relate to the conduct of hearings and not to the conduct of investigations. Moreover, this conclusion is also supported by reference to Section 127(4) of the *Act*.

> "No order shall be made under this section without a hearing, subject to section 4 of the *Statutory Powers Procedures Act*."

It is evident from the above reasons that we agree entirely with the decision of this Commission in *A&B*, unreported April 14, 2000 where it was stated that:

> "We see nothing in Part VI which would prevent Staff from continuing, or indeed commencing, proceedings under an order made under subsection 11(1) of the Act following the issuance of a notice of hearing in a matter. It seems to us that there is nothing inappropriate in, and to us Part VI contemplates, an investigation under subsection 11(1) continuing until the completion of the hearing of the matter.
> In our view, the SPPA and the Commission's Rules of Practice deal with the hearing phase of the overall proceedings, and not with the investigative phase, and we see no reason, either in Part VI or in fairness, that the two cannot proceed at the same time."

We disagree with the Applicant's contention that the Commission erred in its decision in *A&B*. The Section 13 summons was not issued to Mr. Middleton as a corporate officer produced for discovery but rather as a corporate witness being compelled to testify as to his personal knowledge about the facts in issue.

In conclusion, we are of the opinion that the Applicant's interpretation of the *Securities Act*, read in light of the *SPPA*, is incompatible with the object of the legislative enactment.

Basically, the second issue advanced by the Applicant suggests that the principles of natural justice, in conjunction with the *SPPA*, require that the Section 13 investigation be conducted on an *inter partes* basis with equal participation by the Applicant.

Staff must act fairly in the conduct of an investigation, but this does not mean that the investigation under Part VI should provide for equality of participation in the fact finding process; *B.C.S.C.* v. Branch et al. (1995), 123 D.L.R. (4th) 462 at 493 (S.C.C.).

We agree with staff counsel that "procedural rights and investigative powers are not symmetrical as between public authorities and private defendants."

The jurisprudence of the Supreme Court of Canada makes it clear that the requirements of natural justice and the common law duty of procedural fairness are flexible concepts that depend on the circumstances of the case, the nature of the investigation being made, the subject matter being dealt with and the statutory provisions under which the Commission is acting; *A.G. of Canada* v. *Inuit Tapiristat of Canada*, [1980] 2 S.C.R. 735; *Old St. Bonafice Residents Ass.* v. *Winnipeg City*, [1990] 3 S.C.R. 1170; *Knight* v. *Indian Head School Div.*, [1990] 1 S.C.R. 653.

It is clear that natural justice must be considered in its statutory context. We have already considered that context in these reasons. The extent of participation in the investigative process by the Applicant must be weighed against the prejudice to the scheme of the legislation. In this regard we also appreciate the gravity of the allegations and the potential consequences to GMP.

Fairness is a matter of primary importance, however, Part VI investigative powers must be exercised *ex parte* in order to be effective. There can be no doubt that the rules of natural justice or procedural fairness entitle GMP to a fair hearing under Section 127 of the *Act*. The duty to provide adequate and timely disclosure is one of the elements of the Commission's duty to act fairly or in accord with the principles of natural justice. In this sense, the Applicants know the case they must meet, they have the right to answer that case and the right to put in their own case. Staff have submitted that, with the exception of two witnesses, full disclosure of the Section 11 examinations has been made. The exceptions are at this time "beyond their control" but will be disclosed when permitted to do so.

In conclusion, we cannot accept the Applicant's submissions that the investigative procedures under Part VI are unfair given the statutory framework and the nature of the respective roles as between Staff and private parties in the context of investigations under the *Securities Act*.

The Applicant requests a stay of these proceedings on the basis of an abuse of process. The Applicant has not met the burden of demonstrating such an abuse. Alternatively, the Applicant asks for the oral pre-hearing examination of witnesses. For the reasons given above, the Commission also sees no basis for this request.

Accordingly, the motion was dismissed.

February 6, 2001.

"Howard I. Wetston, Q.C." "Derek Brown"

3.1.2 Chapters Inc. & Trilogy Retail Enterprises L.P.

ONTARIO SECURITIES COMMISSION
IN THE MATTER OF THE SECURITIES ACT,
R.S.O. 1990, c.S.5, as amended

AND

IN THE MATTER OF
CHAPTERS INC. AND TRILOGY RETAIL ENTERPRISES L.P.

REASONS FOR DECISION OF THE
ONTARIO SECURITIES COMMISSION

HEARING DATE:	January 10, 2001		
PANEL:	Howard I. Wetston, Q.C.	-	Vice-Chair
	Derek Brown	-	Commissioner
	R. Stephen Paddon, Q.C.	-	Commissioner
COUNSEL:	Janet Holmes Johanna Superina Hugh Corbett Terry Moore	-	For the Staff of the Ontario Securities Commission
	Mark A. Gelowitz Allan D. Coleman	-	For the Applicant
	John B. Laskin James C. Tory Peter Jewett	-	For the Respondent

I. NATURE OF THE MOTION

These reasons are in support of the Order issued by the Ontario Securities Commission (the "Commission or OSC") on January 11, 2001 dismissing the Application for relief under section 104 of the Ontario *Securities Act* R.S.O. 1990, c. S.5, as amended (the "*Act*") of the Applicant, Chapters Inc. ("Chapters"). Chapters, the subject of an unsolicited take-over bid (the "Offer") initiated by Trilogy Enterprises L.P. ("Trilogy") requested that the Commission issue an order requiring Trilogy to amend its take-over bid circular (the "Circular") to include the historical and current year *pro forma* financial statements (collectively, the "Indigo Financials") of Indigo Books & Music Inc. ("Indigo").

The question presented for our consideration was whether or not the Indigo Financials would reasonably be expected to affect the decision of the shareholders of Chapters to accept or reject the Offer and should therefore have been included in the Circular.

II. FACTS

1. Chapters is a reporting issuer governed by the laws of Ontario. The authorized share capital of Chapters consists of an unlimited number of common shares ("Common Shares"), of which 11,374,704 were issued and outstanding as at December 18, 2000. The Common Shares are listed for trading on The Toronto Stock Exchange.

2. Trilogy is a limited partnership formed for the purposes of making the unsolicited partial take-over bid. The general partner of Trilogy is a corporation controlled by Mr. Gerald W. Schwartz. Mr. Schwartz and his spouse, Ms. Heather M. Reisman, are the only two named principals of Trilogy. Ms. Reisman is also the Chief Executive Officer of Indigo, one of the principal competitors of Chapters.

3. On November 28, 2000, Trilogy announced an unsolicited bid to acquire 4,888,000 Common Shares for cash consideration of $13.00 per share. This represents approximately 43% of the outstanding Common Shares. On November 28, 2000, a total of 1,082,200 Common Shares, representing approximately 9.5% of the outstanding Common Shares, were held by Trilogy. If the bid were to be successful, Trilogy would own approximately 53% of the Common Shares. Upon the successful completion of the Offer, Trilogy has indicated that it intends to propose a merger plan between Chapters and Indigo.

4. On December 21, 2000, the Board of Directors of Chapters mailed a directors' circular unanimously

recommending to shareholders that they reject the Offer.

5. On December 29, 2000, Chapters submitted an application to the Commission requesting various relief pursuant to section 104 of the *Act*

6. On January 8, 2001 Chapters amended its request for relief to the disclosure of:

   a) Indigo's historical financial statements;

   b) Indigo's current year *pro forma* financial statements;

   c) *pro forma* financial statements relating to the merger of Chapters and Indigo, including qualification of any merger synergies;

   d) details of the merger process, including identification of the directors and management of Chapters and Indigo; and

   details of the proposed business strategy for the merged entity.

7. On January 9, 2001, Trilogy submitted a rider as an addendum to the Circular. Among other things, the rider outlines some of the synergies Trilogy expects will be realized upon the merger of Chapters and Indigo.

8. As of the date of the hearing, no terms and conditions relating to a proposed merger of Chapters and Indigo had been agreed upon.

9. On January 10, 2001, a hearing was held to consider the Application.

10. At the commencement of the hearing Chapters further narrowed its request for relief to the disclosure of Indigo's:

    a) historical financial statements; and

    b) current year *pro-forma* financial statements.

III. ANALYSIS

Whereas, in its original application Chapters requested information in connection with the post-bid trading value of the resulting minority shares and details surrounding the proposed merger, at the commencement of the hearing, Chapters narrowed its request to details relating to the post-bid trading value of the resulting minority shares. Chapters did not pursue its request for information pertaining to the proposed merger.

Chapters argued that the nature of the Offer mandates the disclosure of the Indigo Financials. To succeed, Chapters had to persuade us that:

1. as a result of ***the nature of the bid*** minority shareholders will be left with illiquid and minority discounted shares; and

2. disclosure of the Indigo Financials would provide the minority shareholders with ***material*** information regarding liquidity and post-bid trading price.

1. ***The Nature of the Bid***

Chapters submitted that partial bids are inherently coercive and relied upon the following passage from *Re Ivanhoe III Inc.* (1999), 22 O.S.C.B. 1327 [hereinafter *Ivanhoe*], as support for this proposition:

"The Offer is a "partial bid". A partial bid structure is inherently coercive because it forces shareholders to make a decision as to whether to accept an offer (and in respect of how many shares), reject such offer, sell into the market or maintain their position without knowing whether and to what extent other shareholders will accept such offer and without knowing the price at which the shares will settle after such offer. A shareholder may feel compelled to deposit to a take-over bid which the shareholder considers inadequate, out of a concern that in failing to do so, the shareholder may be left with illiquid or minority discounted shares. Information about tender and post-bid trading price is obviously material to a shareholder's investment decision since the extent to which any one shareholder can have its shares purchased at the Offer price, as opposed to sold in the market at the post-bid settled price, depends on the extent to which other shareholders tender their Common Shares to the Offer."

While a partial bid structure may be coercive, we cannot agree with the submission of Chapters that the Commission in *Ivanhoe* has decided that all partial bids are inherently coercive. The language relied upon by Chapters in its application and throughout the hearing was taken from a quotation extracted from the Cambridge Directors' Circular as cited by the Commission in its reasons. While the Commission stated in *Ivanhoe* that, "In **general** we agree with this statement" [emphasis added], one cannot conclude from this that the inherently coercive nature of partial bids is a matter of settled law or Commission policy. As such, Chapters cannot simply rely on *Ivanhoe* as establishing the principle that partial bids are *ipso facto* coercive.

Chapters submitted that, as articulated in *Ivanhoe*, the presence of a partial bid creates a dilemma for shareholders. The Applicant argued that shareholders may feel coerced into tendering their shares to what they consider to be an inadequate bid out of a concern that if they do not deposit their shares they will be left with less liquid and consequently less valuable shares. This coercion is caused by the fact that not all of the shares will be taken up under the Offer. As a result, shareholders are unable to ascertain the true value of the Offer because they cannot determine the impact of a successful bid on the liquidity and the value of the minority position and thus cannot make an informed decision with respect to whether or not to tender.

To succeed on this basis, Chapters would have had to demonstrate that illiquidity would result from a successful bid and that the disclosure of the Indigo Financials would assist an investor to properly assess the impact of illiquidity on the post-

bid trading price of Chapters' shares. In our view, the evidence adduced by Chapters was not persuasive. Chapters' expert witness conceded that he had *deliberately* not made a definitive connection between the disclosure of the Indigo Financials and the post-bid trading price because he simply did not know what the outcome of the offer would be in this regard. Chapters' expert was unable to confirm whether illiquidity was probable. If the harm is that shareholders are not equipped to make an informed decision with respect to whether or not to tender, and if as Chapters argued, information with respect to whether or not to tender is largely based upon the impact of a successful bid on liquidity and its effect on the value of the resulting minority shares, it is incumbent upon the Applicant to demonstrate that a successful bid will likely result in illiquidity. Accordingly, the Applicant, with respect to this argument, has failed to demonstrate the harm and thus has also failed to establish the basis for a remedy.

Moreover, even if Chapters had successfully established that in the event of a successful bid, the minority position would be less liquid and hence less valuable, Chapters would still have been required to demonstrate that the disclosure of the Indigo Financials was material to the minority shareholders' decision of whether or not to tender their shares.

2. The Materiality Standard

Chapters submitted Item 19(b) of Form 32, *Regulation to the Securities Act*, R.R.O. 1990, Regulation 1015, as the basis for determining whether or not the Indigo Financials are required to be disclosed in the Circular. Item 19(b) provides that a take-over bid circular shall include:

> "any other matter not disclosed in the foregoing that has not been generally disclosed and is known to the offeror but **which would reasonably be expected to affect the decision of the securityholders** of the offeree issuer to accept or reject the offer" [emphasis added].

Chapters' argument appeared to be that Item 19(b) should lead the Commission to adopt a "reasonable expectations" test. As we understand this argument, it is that, if it is reasonable for the Commission to conclude that there was any other matter, the disclosure of which could in some way be reasonably expected to affect a shareholder's decision whether or not to tender to Trilogy's partial bid, then disclosure of that matter should be ordered.

In our opinion Item 19(b) must be read within the context of Item 19 and Form 32. Firstly, the information being sought, the Indigo Financials, is not common in the context of disclosure in an all-cash take-over bid. While this information is specifically mandated for disclosure in Item 15 of Form 32 in the context of share exchange offers, Trilogy's offer is all-cash. It is reasonable to presume that if this type of information is specifically identified in a limited context within the Form, that disclosure of such information was not contemplated as imperative in an all-cash bid context. This does not mean that disclosure of such information in this context or other contexts might never be desirable nor does it preclude the Commission from ordering disclosure in some limited circumstances.

Secondly, Item 19(b), as with all Items of Form 32, should be read in the context of Item 24, the certificate provision. Item 24 clearly imports a materiality standard into Item 19(b). As a practical matter, an offeror must determine that it has not, *inter alia*, either misstated or omitted a material fact with respect to the offeror's disclosure obligations. Moreover, the phrase "reasonably be expected to affect the decision" in Item 19(b) should be interpreted in light of the comments in *Re MacDonald Oil Exploration Ltd.* (1999), 22 O.S.C.B. 6452 at 6455, where it was stated that: "[there] is a difference between perfect disclosure....., acceptable disclosure and material non-disclosure or material misleading disclosure" to deduce that only "material" information is affirmatively obligated to be disclosed.

Thirdly, while the language of Item 19(b) does not explicitly refer to materiality, the heading refers to "Other Material Facts". As such, materiality is explicitly contemplated within the Item and 19(b) should be read as establishing the standard to be used when determining whether information would reasonably be expected to affect the decision of a security holder and therefore be required to be disclosed in the circular.

This approach is supported by the Commission's decision in *Re MacDonald Oil, supra*, where at p.6455 it was stated that:

> "The approach to be taken to allegations of inadequate disclosure in take-over bid situations was considered by the OSC in *In the Matter of Standard Broadcasting Corporation Limited et al* (1985), 8 OSCB 3672. The OSC said, commencing at p. 3676:
>
> > As to the allegations of inadequate disclosure that were made and did surface at several points during the course of the hearing, none were, in our respectful opinion, material in the sense that the disclosure asked for would have been **necessary to allow an investor to make an informed investment decision.** We stress this last point, as it is often the case that allegations of nondisclosure or inadequate disclosure, are made during the course of a take-over bid. There is a difference between perfect disclosure (which no two opposing counsel likely would ever agree upon), acceptable disclosure and material non-disclosure or material misleading disclosure. In a case between these parties, that was argued in the Supreme Court of Ontario, Madam Justice McKinlay noted that the appropriate standard of materiality is that set out in the judgement of the United States Supreme Court in TSC Industries Inc. et al. v. Northway Inc., 426 U.S. 438, 96 S. Ct. 2126 (1976), which standard was approved by Montgomery J. in Royal Trustco Ltd. et al. v. Campeau Corp. et al (1980), 31 O.R. (2d) 75 at 101 and by the Ontario Court of Appeal in Sparling et al v. Royal Trustco Ltd. et al (1984), 45 O.R. (2d) 484 at 490. That standard is:
> >
> > "... an omitted fact is material if there is substantial likelihood that a reasonable shareholder would consider it important in

> deciding how to vote." [or in deciding whether to tender his shares in the case of a take-over bid]
>
> No[t] (*sic*) one of the allegations of nondisclosure or inadequate disclosure met that standard of materiality. Although the TSC Industries standard of materiality often has been quoted and is well understood, it is frequently lost sight of when an allegation of nondisclosure is made before the Commission. The fact that counsel for an applicant would have worded a matter differently, or would have made fuller disclosure, or would have placed emphasis on a different aspect of a matter, does not amount to non-disclosure unless there is a showing of materiality [emphasis added].
>
> We agree with these comments and consider that we must look at the alleged disclosure defects in light of the language of the relevant Forms and the "materiality" standard described in Standard Broadcasting."

The standard of materiality put forth in *TSC Industries Inc. et al.* v. *Northway Inc.*, 426 U.S. 438, 96 S. Ct. 2126 (1976), and adopted in *Re MacDonald Oil*, *supra*, is informative. To grant the relief requested, the Commission must be persuaded that, on the basis of the evidence presented, the omitted facts are material because a Chapters shareholder would consider the Indigo Financials important when deciding whether to tender shares to the bid. This determination must not be made in isolation, but rather in the context of all the disclosure made available by Trilogy to Chapters' shareholders. As stated by the U.S. Supreme Court in *TSC Industries*, supra:

> "... there must be a substantial likelihood that the disclosure of the omitted fact would have been viewed by the reasonable investor as having significantly altered the "total mix" of information made available."

Chapters ultimately had to demonstrate how the disclosure of the Indigo Financials, in light of the total amount of disclosure already made, would remedy the uncertainty of the post-bid valuation of the Chapters share price and allow for informed investment decisions.

Chapters premised its argument on two factors: the potential back-end merger plans and the alleged coercive nature of the take-over bid. The main argument advanced in support of disclosure is that absent this information shareholders will not be able to assess either the desirability of Indigo as a merger partner or the implications of becoming a minority shareholder in the merged entity. Chapters stated in its oral submission that:

> "if Indigo is in desperate financial condition and Chapters' shareholders find out about it before they have to decide whether to tender, they are going to be warned that a merger may well not be in their interest. They might be better off waiting for Indigo to die a natural death."
>
> In response to this statement, given that no terms and conditions had been reached, Trilogy questioned the utility of the financial statements:
>
> "...the attractiveness of a merger partner simply can't be determined based on financial information about the prospective partner. The important point in assessing the attractiveness of a merger partner, are the terms of the proposed merger.
>
> A Corporation in quite bad financial health could well be a very attractive merger partner. It all depends on what values get assigned to the respective partners in the merger, whether it's an attractive deal or whether it's not an attractive deal. You can't do that assessment without knowing what the proposed terms of the merger are going to be..."

In this regard we agree with Trilogy's submissions. It should be noted that even in the event that terms and conditions are eventually agreed upon, the interests of Chapters' minority shareholders will be afforded the protection of OSC Rule 61-501, which would require a proposed merger to be approved by independent directors and a majority of minority shareholders.

With respect to the nature of the bid, Chapters failed to persuade us that as a result of a successful bid the minority interest would be less liquid and less valuable. Moreover, the Applicant failed to establish a nexus between the Indigo Financials and the post-bid trading value of the minority interest and that the disclosure of this information "would reasonably be expected to affect the decision of the securityholders of the offeree issuer to accept or reject the offer." In light of these determinations, Chapters did not meet the test of materiality contemplated in Item 19(b).

VI. DISPOSITION

Accordingly, the Application was dismissed.

February 9, 2001.

Howard I. Wetston Derek Brown

R. Stephen Paddon

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Chapter 4

Cease Trading Orders

4.1.1 Temporary and Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Extending Order	Date of Rescinding Order
Applied Inventions Management	08 Feb 01	20 Feb 01	-	-
Golden Gram Capital Inc.	01 Feb 01	-	13 Feb 01	-
Groupe Covitec Inc.	01 Feb 01	-	-	09 Feb 01
FirstLane Inc.	13 Feb 01	23 Feb 01	-	-
Cabot Creek Mineral Corporation	13 Feb 01	23 Feb 01	-	-

4.1.2 Cease Trading Orders

Company Name	Date of Lapse/Expire
Beaver Lake Resources Corporation	07 Feb 01

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Chapter 5

Rules and Policies

5.1 Rules and Policies

5.1.1 NI 81-102, 81-102CP Mutual Funds, NI 81-101& 81-101CP Mutual Fund Prospectus Disclosure

NOTICE OF RULES AND POLICIES MADE UNDER THE SECURITIES ACT

AMENDMENTS TO
NATIONAL INSTRUMENT 81-102
AND COMPANION POLICY 81-102CP
MUTUAL FUNDS

AND TO
NATIONAL INSTRUMENT 81-101
AND COMPANION POLICY 81-101CP
MUTUAL FUND PROSPECTUS DISCLOSURE

AND TO
FORM 81-101F1
CONTENTS OF SIMPLIFIED PROSPECTUS

AND TO
FORM 81-101F2
CONTENTS OF ANNUAL INFORMATION FORM

Notice of Rules and Policy

The Commission has, under section 143 of the *Securities Act* (Ontario) (the "Act"), made rules (collectively, the "Rule Amendments") that amend the following instruments (the "Existing Rules"):

1. National Instrument 81-101 Mutual Fund Prospectus Disclosure (NI 81-101),
2. Form 81-101F1 Contents of Simplified Prospectus (Form 81-101FI),
3. Form 81-101F2 Contents of Annual Information Form (Form 81-101F2), and
4. National Instrument 81-102 Mutual Funds (NI 81-102).

The Commission also has, under section 143.8 of the Act, adopted policies (collectively, the "Policy Amendments") that amend the following policies of the Commission (the "Existing Policies"):

1. Companion Policy 81-101CP to National Instrument 81-101 Mutual Fund Prospectus Disclosure (CP81-101); and
2. Companion Policy 81-102CP to National Instrument 81-102 Mutual Funds (CP81-102).

The Rule Amendments and the material required by the Act to be delivered to the Minister of Finance were delivered on February 16, 2001.

If the Minister does not approve the Rule Amendments, reject the Rule Amendments or return them to the Commission for further consideration by May 2, 2001, or if the Minister approves the Rule Amendments, the Rule Amendments will come into force on May 2, 2001. The date that the Rule Amendments come into force is referred to in this Notice as the effective date of the Rule Amendments. The Policy Amendments will come into force on the effective date of the Rule Amendments.

In this Notice, the Rule Amendments and the Policy Amendments will be referred to collectively, as the Amendments.

The Amendments are initiatives of the Canadian Securities Administrators ("CSA"). The Rule Amendments have been, or are expected to be, adopted as rules in each of British Columbia, Alberta, Manitoba, Ontario and Nova Scotia, a Commission regulation in Saskatchewan, and policies in all other jurisdictions represented by the CSA. The Policy Amendments have been, or are expected to be, implemented as policies in all of the jurisdictions represented by the CSA.

Background
The CSA published drafts of the Amendments for comment in two separate Notices of Proposed Amendments, published in Ontario on:

- January 28, 2000[1] (the "January Draft Amendments"); and
- June 16, 2000[2] (the "June Draft Amendments").

The January Draft Amendments dealt primarily with the CSA's proposal to permit mutual funds to enter into securities lending, repurchase and reverse repurchase transactions. The June Draft Amendments proposed changes to permit index mutual funds to better meet their investment objectives, but also proposed changes to the calculation of the management expense ratio of mutual funds, amongst other housekeeping changes.

The Notices of Proposed Amendments published with the January Draft Amendments and the June Draft Amendments

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1 (2000) 23 OSCB (Supp.) 133.

2 (2000) 23 OSCB 4195.

provide background for the Amendments and describe the changes proposed to be made to the Existing Rules and the Existing Policies and the reasons for such changes.

The comment periods for the January Draft Amendments and the June Draft Amendments ended on April 30, 2000 and September 14, 2000, respectively. The CSA received a number of submissions on each of the January Draft Amendments and the June Draft Amendments. The CSA have considered the comments provided in these submissions and their decisions regarding these comments are reflected in the Amendments. Changes have been made from the January Draft Amendments and the June Draft Amendments in response to comments received.

The CSA are of the view that none of the changes made from the January Draft Amendments and the June Draft Amendments are material within the meaning of securities legislation. Accordingly the Amendments are not subject to a further comment period.

Since the CSA are not making any material changes from the January Draft Amendments or the June Draft Amendments, these two rule and policy amendments have been combined into the Amendments. The Amendments should be read with the Existing Rules and the Existing Policies, as amended.

Appendix A to this Notice lists the commentators on each of the January Draft Amendments and the June Draft Amendments. Appendix B provides a summary of the comments received on the January Draft Amendments and the response of the CSA to those comments. Appendix C provides this information for the June Draft Amendments.

This Notice summarizes the changes to the January Draft Amendments and the June Draft Amendments made in response to comments received and as a result of further consideration of the applicable proposed rules and policies by the CSA.

Substance and Purpose of the Amendments

The purpose of the Amendments is to:

- allow mutual funds to enter into securities lending, repurchase and reverse repurchase transactions on a basis that the CSA believe is appropriate to both ensure investor protection and permit mutual funds to realize the potential benefits of these transactions for their securityholders;
- permit index mutual funds to better achieve their investment objectives by allowing them to track their target indices without concentration limits, provided certain disclosure requirements are adhered to; and
- make various housekeeping amendments to the Existing Rules and the Existing Policies to address issues that were brought to the attention of the CSA when they were finalizing the Existing Rules and the Existing Policies in late 1999 and since those rules and policies came into force on February 1, 2000.

The Notices of Proposed Amendments published with the January Draft Amendments and the June Draft Amendments contain a complete description of the substance and purpose of the Amendments.

Transitional Matters

The Investment Funds Institute of Canada has asked the CSA, on behalf of its members, whether the CSA would object if mutual funds gave the notices required by the Amendments to permit those mutual funds to engage in securities lending transactions, repurchase agreements and reverse repurchase agreements, after the date the CSA have made the Amendments, but before they become effective. Similar questions have been asked on behalf of index mutual funds wishing to take advantage of the concentration restriction exemptions provided in the Amendments once the Amendments come into force.

The CSA note that the Amendments do not prescribe that the required notices be given only once the Amendments become effective. If this were the result, the CSA note that mutual funds would be obliged to wait 60 days before engaging in these transactions following the coming into force of the Amendments.

Provided the content of the notices conform with the requirements set out in the Amendments and investors are informed that a mutual fund will engage in these transactions only if and when the Amendments come into force, the CSA will consider the notices properly given if given before the coming into force of the Amendments. Since the coming into force of the Amendments is dependent, in Ontario and British Columbia, on government approval, the CSA recommend that the notices clarify this point.

The CSA also will not object to mutual funds wishing to amend their prospectuses to provide the required disclosure, provided clear disclosure is given of the status of (i) the funds' ability to engage in these transactions and (ii) the coming into force of the Amendments.

Summary of Changes to the Amendments from the January Draft Amendments and June Draft Amendments

This section describes changes made in the Amendments from the January Draft Amendments and the June Draft Amendments except that changes of a minor nature, or those made only for purposes of clarification or drafting reasons, are generally not discussed. For a detailed summary of the contents of the January Draft Amendments and the June Draft Amendments, reference should be made to the Notices published with those proposed amendments.

Rule Amendment to NI 81-102

Section 1.1 - Definitions

"permitted index"

The June Draft Amendments proposed a new definition of "permitted index" in connection with the proposed rules relating to index mutual funds. The CSA have amended this definition from the June Draft Amendments by deleting the requirement that a permitted index be one that is "widely quoted". Instead,

the definition now provides that a permitted index must be one that is either (a) both administered by an organization that is not affiliated with any of the mutual fund, its manager, its portfolio adviser or its principal distributor and available to persons or companies other than the mutual fund, or (b) one that is widely recognized and used. This change was made in response to concerns surrounding the potential ambiguity of the words "widely quoted". The CSA are of the view that an index which is widely recognized and used, but which may not be widely quoted by the media, should not be prevented from qualifying as a "permitted index".

"qualified security"

The January Draft Amendments proposed a new definition of "qualified security" in connection with the securities lending, repurchase and reverse repurchase transaction rule amendments. The CSA have amended this definition from the January Draft Amendments. The CSA agree with commentators that commercial paper and debt of Canadian financial institutions where the issuer or guarantor of such securities has an approved credit rating can constitute acceptable collateral for securities lending. Firstly, this change will permit mutual funds to accept collateral that is currently permitted as eligible collateral in the guidelines for securities lending for pension plans and life insurance companies (the "OSFI Guidelines") developed by the Office of the Superintendent of Financial Institutions ("OSFI")[3]. The CSA are of the view that the collateral for these transactions remain limited to securities which are sufficiently liquid and secure while being consistent with current practices for institutional lenders in Canada. Secondly, the change will also allow mutual funds more flexibility in how the cash collateral, or sale proceeds from a repurchase transaction, can be reinvested, since such reinvestment can only be in qualified securities. Thirdly, the change will allow more flexibility in the securities which may be purchased by a mutual fund under a reverse repurchase transaction.

Section 2.1 - Concentration Restriction

The June Draft Amendments proposed new subsections (5), (6) and (7) of section 2.1 to provide an exemption from the concentration restrictions for index mutual funds, as defined by the June Draft Amendments.

Subsection (6) has been amended from the June Draft Amendments. To clarify that an index mutual fund can only rely on the relief provided by subsection (5) if it includes the disclosure required by subsection (5) of Item 6, as well as the disclosure required by subsection (5) of Item 9, both of Part B to Form 81-101F1. Subsection (6) of section 2.1 as drafted in the June Draft Amendments did not specifically refer to subsection (5) of Item 6. This was an oversight since the June Draft Amendments clearly proposed that this disclosure be included in the simplified prospectus of an index mutual fund.

Section 2.12 - Securities Loans

The January Draft Amendments proposed a new section 2.12 which contained the conditions to be satisfied by a mutual fund in order for it to enter into a securities lending transaction as lender.

Three changes have been made to section 2.12 from the January Draft Amendments.

Firstly, paragraph 6 of subsection 2.12(1) has been amended to permit specified irrevocable letters of credit as acceptable collateral for a securities lending transaction. Letters of credit must be issued by a Canadian financial institution with an approved credit rating as defined in NI 81-102. Letters of credit issued by the counterparty, or an affiliate of the counterparty, of the mutual fund in the transaction will not be acceptable collateral. The CSA understand that letters of credit are eligible collateral under the OSFI Guidelines and for mutual funds in the United States for securities lending transactions. The CSA's views on the prudent use of letters of credit as collateral have been added in subsection 3.7(4) of the Policy Amendments relating to CP81-102.

Secondly, paragraph 12 of subsection 2.12(1) has been amended to clarify the aggregate lending/repurchase transaction limit. The CSA have simplified this limit to be 50 percent of the total assets of a mutual fund (*without* including the collateral) in response to some apparent confusion on the calculation methodology contained in the January Draft Amendments. The January Draft Amendments followed the model for U.S. mutual funds whereby mutual funds are permitted to lend up to 33 - 1/3 percent of total assets including the collateral received from the borrower. The new limit of 50 percent without counting the collateral received is substantively similar to the 33 - 1/3 percent restriction in the U.S. model, but the CSA consider that the revised limit is easier to understand.

Thirdly, clause 2.12(2)(a) has been amended to permit a mutual fund to reinvest any cash collateral received in qualified securities with a term to maturity no longer than 90 days. The January Draft Amendments essentially limited reinvestment of cash collateral to overnight investments. After reviewing the comments received on this issue, the CSA are of the view that this restriction was not commercially practicable. The Amendments allow lending agents to invest any cash collateral on a portfolio basis within the term to maturity restriction. The CSA believe that this change will allow for investment diversification while continuing to restrict investments to secure, liquid and short-term instruments.

Similarly, clause 2.12(2)(b) has been amended to allow a mutual fund to invest cash collateral received from securities lending transactions, in reverse repurchase transactions as permitted by section 2.14. Under clause 2.12(2)(b) of the January Draft Amendments, a mutual fund was limited to reinvesting its cash collateral in overnight reverse repurchase transactions. This result was not intended by the CSA.

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3 OSFI Guidelines Pensions B-4 Securities Lending - Pension Plans (February 1992) and OSFI Guidelines Life Insurance Companies B-4 Securities Lending (February 1997).

Section 2.13 - Repurchase Transactions

The January Draft Amendments proposed a new section 2.13 which contained the conditions to be satisfied by a mutual fund in order for it to enter into a repurchase transaction as lender.

Three changes have been made to section 2.13 from the January Draft Amendments.

Firstly, paragraph 10 of subsection 2.13(1) has been amended to permit repurchase transactions with a maximum term of 30 days. After reviewing the comments, the CSA are of the view that the maximum term of five business days proposed in the January Draft Amendments was overly restrictive and the amendment is more reflective of commercial realities for these transactions. This change will allow mutual funds to reduce the administrative costs of entering into new repurchase transactions on a weekly basis.

Secondly, paragraph 11 of subsection 2.13(1) has been amended to clarify the aggregate lending/repurchase limit in a manner identical to that described above in respect of section 2.12.

Thirdly, clause 2.13(2)(a) has been amended to permit a mutual fund to reinvest cash sale proceeds in qualified securities with a maximum term to maturity of 30 days. This change mirrors the change to paragraph 10 of subsection 2.13(1) which permits a mutual fund to enter into a repurchase transaction with a term of up to 30 days. A mutual fund will have the added flexibility to invest the cash sales proceeds from a repurchase transaction in 30 day debt instruments which may be more liquid, provide better returns to the fund and provide for additional diversification.

Similarly, clause 2.13(2)(b) has been amended to remove the requirement that reverse repurchase transactions entered into with sales proceeds must have "a term to maturity no longer than the term of the repurchase transaction". As with the change to clause 2.12(2)(b), a lending agent is permitted to manage the reinvested cash, subject to the restrictions that any reverse repurchase transaction must be permitted by section 2.14.

Section 2.14 - Reverse Repurchase Transactions

The January Draft Amendments proposed a new section 2.14 which contained the conditions to be satisfied by a mutual fund in order for it to enter into a reverse repurchase transaction.

Section 2.14 has been changed in two ways from the January Draft Amendments.

Paragraph 3 of subsection 2.14(1) has been amended to delete the restriction on the term to maturity of the qualified securities purchased by the mutual fund under a reverse repurchase transaction. The CSA are of the view that the current restrictions, including: (i) the maximum term of the reverse repurchase transaction; (ii) the over-collateralization requirement; (iii) the daily marking to market of collateral and (iv) the definition of qualified securities adequately address the risks that this restriction was intended to deal with.

Paragraph 9 of subsection 2.14(1) has been amended to increase the maximum term of a permitted reverse repurchase transaction to 30 days (from five business days). As discussed above in the context of repurchase agreements, the CSA are of the view that the maximum term of five business days in the January Draft Amendments was overly restrictive.

Section 2.15 - Agent for Securities Lending, Repurchase and Reverse Repurchase Transactions

The January Draft Amendments proposed a new section 2.15 which contained the requirements relating to the use of an agent by a mutual fund to administer its securities lending, repurchase and reverse repurchase transactions.

Subsection 2.15(4) of the January Draft Amendments has been deleted, as have requirements that the manager of a mutual fund have reasonable grounds for believing that the mutual fund's custodian or sub-custodian is competent to act as an agent. The CSA have deleted these provisions since in their view the requirements did not add substantively to the existing legal framework for mutual fund managers in appointing agents for mutual funds. A discussion of the CSA's views regarding the appointment of lending agents has been added to subsection 3.7(12) of the Policy Amendments to CP81-102.

Section 2.16 - Controls and Records

The January Draft Amendments proposed a new section 2.16 which imposed reporting and review requirements on both the agent and the manager of a mutual fund.

Clause 2.16(2)(c) is new. The CSA have added this provision to highlight the need for agreed upon collateral diversification standards when running a securities lending program. Collateral diversification standards help to minimize a mutual fund's exposure to any one issuer's securities in the event of a borrower default where the mutual fund is required to realize on the collateral received from that borrower.

Section 2.17 - Commencement of Securities Lending, Repurchase and Reverse Repurchase Transactions by a Mutual Fund

Subsection 2.17(2) is new. This subsection clarifies that mutual funds that have entered into reverse repurchase transactions prior to the effective date of the Amendments pursuant to decisions of the securities regulatory authorities are not required to provide notice to securityholders of their intention to continue to enter into such transactions after the effective date of the Amendments. The CSA consider that these mutual funds have given their securityholders adequate notice of their reverse repurchase transactions practices.

Part 5 - Fundamental Changes - Sections 5.5, 5.6 and 5.9

The CSA proposed to amend section 5.5 in the June Draft Amendments through the addition of subsection (3) to permit the same procedures for securities regulatory approvals under Part 5 of NI 81-102 as are permitted for exemptions under section 19. In finalizing the Rule Amendments, the CSA noted that other sections in Part 5 needed to reflect this decision and accordingly the words "or regulator" have been added to sections 5.5, 5.6 and 5.9 where appropriate.

Section 6.8 - Custodial Provisions relating to Derivatives and Securities Lending, Repurchase and Reverse Repurchase Agreements

The CSA have changed the name of this section to better reflect its contents.

The CSA proposed an amendment to subsection 6.8(3) in the January Draft Amendments. In response to the comments received and further consideration of this provision by the CSA, the CSA have not made this proposed amendment final and subsection 6.8(3) remains unamended. The CSA are satisfied that the safeguards currently built into Part 6 are adequate to protect the interests of security holders of mutual funds using over-the-counter derivatives to accomplish their investment objectives.

Subsection 6.8(5) is new. The CSA have added this subsection in response to comments, to allow a mutual fund to deliver its portfolio assets to a counterparty pursuant to a securities lending, repurchase or reverse repurchase transaction. Subsection 6.8(5) will permit this delivery to occur so long as the collateral, cash proceeds or purchased securities delivered by the counterparty are held under the custodianship of the custodian (or sub-custodian) as provided for by Part 6.

Section 15.6 - Performance Data - General Requirements

The June Draft Amendments proposed a clarification to section 15.6 relating to "young mutual funds" and the date that the applicable one year period ends. The CSA have further amended subparagraph 15.6(a)(i) to clarify that no sales communication pertaining to a mutual fund shall contain performance data unless the mutual fund has "distributed" (the June Draft Amendments used the word "offered") securities under a simplified prospectus in a jurisdiction for 12 consecutive months. The CSA consider this word to be a more readily understandable term that is consistent with applicable securities legislation.

Section 15.14 - Sales Communications - Multi-Class Mutual Funds

This section is new and re-orders rules proposed in the January Draft Amendments to reflect the increase in mutual funds offering multiple classes of securities that are referable to the same portfolio of assets. Proposed subsections 15.6(2) and (3) have been moved to form a separate new section 15.14 dealing with sales communications for multi-class funds. No substantive changes have been made to section 15.14 from the amendments proposed in the January Draft Amendments, although two clarifying changes have been made.

The CSA have clarified that these rules apply to mutual funds that distribute different classes or series of securities that are referable to the same portfolio of assets. In addition, the CSA have clarified that the requirement to provide performance data in a particular sales communication for each class or series relates only to each class or series that is referred to in the sales communication and not to all classes or series of the mutual fund that are in existence.

The CSA note that they are continuing to consider the issues raised by multi-class mutual funds as they relate to the presentation of performance data and may propose additional rules in future proposed amendments to NI 81-102.

Section 16.1 - Calculation of Management Expense Ratio

In the June Draft Amendments, the CSA proposed a concept of a rolling 12 month management expense ratio to be calculated by mutual funds wishing to make public their management expense ratios, other than in financial statements and prospectuses. The CSA received conflicting comments in respect of this proposal; commentators were approximately equally divided either in favour or not in favour of this amendment. The CSA proposed this amendment largely in response to industry submissions following the coming into force of NI 81-102. Since no industry consensus appears to be present concerning the utility and practicality of this proposal, the CSA have decided not to proceed with the draft amendments for new subsections 16.1 (2) and (3). Accordingly mutual funds are governed by the existing rules contained in NI 81-102 regarding the calculation and presentation of management expense ratios, except that section 16.3, as proposed in the January Draft Amendments, has been made final as have the amendments described below proposed in the June Draft Amendments.

Subsection 14.1(5) of the Policy Amendments relating to CP81-102 is new and reflects the CSA's concern that mutual funds comply with section 16.1 in calculating and disseminating their management expense ratios.

The CSA have made final the proposed amendments contained in the June Draft Amendments to section 16.1 regarding the non-inclusion of income taxes in calculating management expense ratios and the requirements to provide note disclosure when a mutual fund provides its management expense ratio to the public media service providers.

Section 16.2 - Fund of Funds Calculation

Since the CSA have not proceeded with their proposal for a rolling 12 month management expense ratio, the changes proposed in the June Draft Amendments to section 16.2 which provides a formula for the calculation of total expenses for a fund of funds, have similarly been dropped from the Amendments.

The CSA have finalized subsections 16.2(2) and (3) which were proposed in the January Draft Amendments. These subsections have not been amended from the January Draft Amendments.

The CSA have added a new subsection (4) to section 16.2 to address a technical problem raised by a commentator in respect of the calculation of the management expense ratio for a top fund where management fees are rebated by an underlying fund to that top fund that invests in such underlying fund. The CSA have clarified that management fee rebates may be deducted from total expenses of the underlying fund if the rebate is made for the purpose of avoiding duplication of fees between the two mutual funds.

Policy Amendment to CP81-102

Section 2.13 - "purchase"

The CSA proposed a new paragraph 5 for subsection 2.13(2) in the January Draft Amendments to clarify the application of the definition of "purchase" in the context of securities lending transactions. The CSA have finalized paragraph 5 by adding subparagraph (b), which reflects the CSA's response to comments received on the practical application of paragraph 5 as proposed in the January Draft Amendments. Paragraph 5 now accommodates the practical necessity for a mutual fund to have a reasonable period of time to sell any collateral that it becomes legally entitled to dispose of due to default of the counterparty, before that asset is considered a "purchase" for the purposes of section 2.1 of NI 81-102.

Section 3.7 - Securities Lending, Repurchase and Reverse Repurchase Transactions

The CSA proposed a new section 3.6 in the January Draft Amendments to give the CSA's views on certain matters relating to securities lending, repurchase and reverse repurchase transactions. Section 3.6 in the January Draft Amendments has been renumbered to section 3.7.

Several clarifying amendments have been made in the Policy Amendments relating to CP81-102 in response to comments received by the CSA.

Firstly, the words "having regard to the level of risk for the mutual fund in the transaction" have been added to the end of the second sentence of subsection 3.7(2). The CSA are of the view that a mutual fund and its lending agent should evaluate, among other prudent matters, the risks of a securities lending, repurchase and reverse repurchase transaction to the mutual fund in determining the appropriate level of over-collateralization as required by sections 2.12, 2.13 and 2.14 of the Rule Amendments.

Secondly, the CSA have added subsection 3.7(4). This subsection provides the CSA's views on the prudent use of letters of credit as collateral for securities lending transactions. Letters of credit should be irrevocable and the mutual fund should have the ability to draw down the full value of the loan upon default of the borrower. This subsection is a companion policy to new paragraph 6(d) of subsection 2.12(1) described above in connection with the Rule Amendments to NI 81-102.

Thirdly, the CSA have added subsection 3.7(6). This subsection clarifies the application of the terms "delivery" and "holding" of securities or collateral in the context of securities held by a lending agent for a mutual fund. The CSA recognize securities lending agents' industry practice of pooling collateral that is received from one borrower for several securities lending/repurchase transactions clients. Such pooling of collateral will not, of itself, violate the Rule Amendments.

Fourth, the CSA have added subsections 3.7(7) and (8). Both subsections are related and recognize industry practice that collateral requirements are calculated at the end of business on one day and any additional collateral delivered by borrowers on the next business day. Subsection 3.7(8) clarifies that a securities lending agent is permitted to use its valuation principles and practices when carrying out the requisite daily marking to market calculations.

Fifth, the CSA have added subsection 3.7(11). This subsection recognizes that the standard of care applicable to a securities lending agent applies to all the functions performed under a securities lending program for a mutual fund client, including the responsibility to reinvest cash collateral and proceeds of sale from repurchase transactions.

Sixth, the CSA have added subsection 3.7(12). This subsection clarifies that a securities lending agent must be properly appointed as a custodian or a sub-custodian in accordance with section 6.1 of NI 81-102. As custodian or sub-custodian, the securities lending agent must satisfy all the applicable requirements of Part 6 in carrying out its responsibilities.

Seventh, the CSA have amended clauses 3.7(13)(e) and (f) [in the January Draft Amendments, clauses 3.7 (7)(e) and (f)]. The amendments to clause (e) are to clarify the CSA's views that managers and mutual funds should provide securities lending agents with parameters regarding minimum requirements for diversification of collateral, as well as the amount of the collateralization. The amendments to clause (f) now recommend that managers and mutual funds provide direction and applicable parameters to lending agents on the lending agent's reinvestment of cash collateral to ensure that proper levels of liquidity of such reinvested collateral are maintained at all times.

Section 13.2 - Other Provisions

The CSA proposed subsection 13.2(5) in the June Draft Amendments and have finalized it without amendment.

The CSA have made three additions to section 13.2 of CP81-102 to articulate the CSA's views on the applicability of rules regarding sales communications to the new multi-class structures established by mutual funds since the coming into force of NI 81-102. As described above, the CSA's proposed rules in the January Draft Amendments are now contained in section 15.14 of the Rule Amendments. The three changes made by the CSA in the Policy Amendments relate to section 15.14 of the Rule Amendments to NI 81-102.

Subsection 13.2(6) is new. This subsection clarifies that the creation of a new class or series of security of a mutual fund that is referable to the same portfolio of assets does not constitute the creation of a new mutual fund and therefore does not subject the mutual fund to the restrictions of paragraph 15.6(a) of NI 81-102 which provides that no performance data is to be provided for a mutual fund if it has distributed its securities for less than 12 consecutive months.

Subsection 13.2(7) is new. This subsection clarifies that although section 15.14 of NI 81-102 does not deal directly with asset allocation services, the CSA recognize that it is possible that asset allocation services could offer multiple classes, and recommends that any sales communications for those services comply with the principles of section 15.14 to ensure that those sales communications are not misleading.

Subsection 13.2(8) is new. This subsection sets out the CSA's views that the use of hypothetical or *pro forma* performance data for new classes of securities of a multi-class mutual fund would generally be misleading.

Section 14.1 - Calculation of Management Expense Ratio

Subsection 14.1(5) is new. Given the CSA's decision not to proceed with the implementation of a rule that would require mutual funds to disclose their 12 month "rolling" management expense ratios in media other than prospectus documents and annual financial statements, subsection 14.1(5) reminds industry participants that all management expense ratios provided to service providers for public dissemination can only be the latest available management expense ratios as calculated in accordance with Part 16 of NI 81-102.

Rule Amendments to NI 81-101

Section 1.1 Definitions

"commodity pool"

Since the CSA have made the Amendments before finalizing National Instrument 81-104 Commodity Pools, the CSA have not finalized the amendments to the definition of commodity pool at this time, as they proposed in the June Draft Amendments.

Rule Amendments to Form 81-101F1

General Instructions

The CSA proposed instruction (21) in the June Draft Amendments in response to the renewed focus of Canadian mutual funds on offering multiple classes of securities referable to the same portfolio of assets. Instruction (21) has been finalized, with the clarification that it was intended to apply to those multi-class mutual funds whose classes are referable to the same portfolio. The CSA have added instruction (22) to the General Instructions to remind industry participants that classes or series of a mutual fund, where each class or series of a class of securities of the mutual fund is referable to a separate portfolio of assets, are considered to be separate mutual funds as provided in section 1.3 of NI 81-102.

Item 9 of Part B - Risks

The CSA proposed amendments to Item 9 of Part B in connection with the index fund amendments proposed in the June Draft Amendments. The CSA have finalized these amendments in the Rule Amendments with three changes made in response to comments received on the June Draft Amendments.

Firstly, subsection (6) of Item 9 now reflects that section 2.1 of NI 81-102 exempts mutual funds from the concentration restrictions in section 2.1 when they invest in government securities (as defined) or in securities issued by clearing corporations. A mutual fund investing in these securities is not required to provide the disclosure required by subsection (6) of Item 9 in respect of those investments.

Secondly, subsection (6) has been amended to clarify more precisely than did the June Draft Amendments, the nature of the disclosure that must be given by mutual funds investing more than 10 percent of their net assets in securities of any one issuer. Where subsection (6) requires disclosure, the mutual fund must disclose the name of the applicable issuer and the maximum percentage of the net assets of the mutual fund that the securities of that issuer represented during the applicable 12 month period.

Thirdly, the CSA have included new Instruction (6) to Item 9 of Part B. This Instruction clarifies that, in providing the disclosure required by subsection (6) of Item 9, a mutual fund is not required to provide particulars or provide a summary of each and every occurrence where more than 10 percent of its net assets were invested in the securities of an issuer in the past 12 months.

Rule Amendments to Form 81-101F2

General Instructions

The CSA amended or added instructions (14) and (15) to the General Instructions, as applicable, for the same reasons as are described above in connection with the General Instructions for Form 81-101F1.

Text of the Amendments

The text of the Amendments follow.

February 16, 2001.

APPENDIX A

LIST OF COMMENTATORS ON THE JANUARY DRAFT AMENDMENTS AND THE JUNE DRAFT AMENDMENTS

On January 28, 2000, the CSA released for public comment the January Draft Amendments. During the comment period, which ended on April 30, 2000, the CSA received twenty-three letters from the following parties:

1. AIC Group of Funds
2. The Association of Global Custodians (an informal coalition of nine United States banks that act, directly or through affiliates, as global custodians or sub-custodians)
3. Barclays Global Investors Canada Limited
4. CIBC Mellon Global Securities Services Company
5. Desjardins Trust/Fiducie Desjardins
6. Elliott & Page Limited
7. Fidelity Investment Canada Limited
8. Global Strategy Financial Inc.
9. John E. Hall
10. Investment Dealers Association of Canada
11. The Investment Funds Institute of Canada
12. Investors Group Inc.
13. Kirkpatrick & Lockhart LLP, on behalf of Morgan Stanley & Co. Incorporated
14. McMillan Binch
15. Osler, Hoskin & Harcourt LLP
16. PaineWebber Global Portfolio Lending, a division of PaineWebber Incorporated
17. Royal Bank of Canada
18. Royal Bank Investment Management Inc.
19. Royal Trust Corporation of Canada
20. Scotia Securities Inc.
21. State Street Bank and Trust Company
22. Stikeman Elliott, on behalf of TAL Global Asset Management Inc.
23. TD Asset Management Inc.

On June 16, 2000, the CSA released for public comment the June Draft Amendments. During the comment period, which ended on September 14, 2000, the CSA received five letters from the following parties:

1. C.I. Mutual Funds Inc.
2. Fraser Milner Casgrain
3. The Investment Funds Institute of Canada
4. Royal Mutual Funds Inc. and Royal Bank Investment Management Inc.
5. TD Quantitative Capital, a division of TD Asset Management Inc.

The CSA have considered all comments provided by the above commentators and have made the changes described in this Notice largely in response to those comments. The specific comments provided, together with the CSA's responses to those comments, are summarized in the following two appendices to this Notice. The CSA thank all commentators for their thoughtful review of the proposed rules and policies and for providing their written comments.

Copies of all comment letters may be viewed at Micromedia Limited, 20 Victoria Street, Toronto, Ontario (416) 312-5211 or 1- (800) 387-2689; at the British Columbia Securities Commission, P.O. Box 10142, Pacific Centre, 701 West Georgia Street, Vancouver, British Columbia (604) 899-6500; at the Alberta Securities Commission, 10025 Jasper Avenue, Edmonton, Alberta (780) 427-5201; and at the Commission des valeurs mobilières du Québec, Stock Exchange Tower, 800 Victoria Square, 22nd floor, Montréal, Québec (514) 940-2150.

APPENDIX B

SUMMARY OF COMMENTS RECEIVED ON THE JANUARY DRAFT AMENDMENTS ("THE SECURITIES LENDING AMENDMENTS") AND RESPONSES OF THE CANADIAN SECURITIES ADMINISTRATORS

GENERAL COMMENTS

Commentators were generally supportive of the January Draft Amendments, particularly as they related to securities lending, repurchase and reverse repurchase transactions. The majority of comments dealt with the proposed securities lending/repurchase regime for mutual funds, although several comments were received in respect of the proposed amendment to subsection 6.8(3) of NI 81-102.

Both the Investment Dealers Association of Canada and The Investment Funds Institute of Canada, on behalf of their members, provided support for the securities lending amendments. The IDA summarized their views:

> "We commend the CSA for the overhaul of regulatory framework relating to mutual funds and we believe that by moving forward with the proposal to remove the restrictions currently in force will be beneficial to the liquidity of the capital markets and will increase returns to mutual fund unitholders. ... the changes will provide mutual funds with short term investment options that are more in line with pension funds and insurance companies. Allowing mutual funds use of the securities lending and repo markets will result in increased revenues for mutual funds, and thus mutual fund unitholders, and increase trading activity (liquidity) to the benefit of all participants in the Canadian capital markets."

IFIC described the proposed regime as "a very positive step for the industry". Another industry commentator noted that "in general, the Proposal's regulatory requirements and limitations are both prudent and consistent with sound industry practice", although this industry commentator was quite opposed to the requirements for a mandatory use of a securities lending agent.

Both the IDA and IFIC suggested that the industry and the CSA should agree to review the regime following at least a year's experience in working with the new rules to determine if changes should be made. The IDA, in particular, offered the expertise of its Securities Lending Committee for this purpose. The CSA agree that this review of the regime once some practical experience has been gained would be useful and encourage both the IDA and IFIC, and individual fund companies, lending agents and custodians to provide the CSA with their submissions once the Rule Amendments have been in force for at least twelve completed months.

The CSA asked several specific questions in the Notice accompanying the release of the January Draft Amendments and received the answers noted below to those questions:

1. Should the CSA allow irrevocable letters of credit or other specified financial instruments to be accepted as collateral for securities lending/repurchase transactions by mutual funds?

Answer and CSA Response:

Commentators responding to this question unanimously endorsed the addition of irrevocable letters of credit, on specified conditions, as well as commercial paper, bankers acceptances and "widely traded debt". Most commentators noted that these financial instruments were widely accepted in the institutional lending industry and posed no increased risk to mutual funds. As discussed more throughly below, the CSA have changed the January Draft Amendments to permit mutual funds to accept irrevocable letters of credit, bankers acceptances and commercial paper, on the conditions set out in the Rule Amendments.

2. Does the condition that securities lending and repurchase transactions must be "securities lending arrangements" under the *Income Tax Act* (Canada) pose unnecessary restrictions on mutual funds wishing to engage in these transactions?

Answer and CSA Response:

Commentators answering this question suggested that this was an important and necessary condition to ensure that securities lending/repurchase transactions for mutual funds were carried out in a standard and certain fashion. The CSA have not removed this condition.

3. Do the proposed rules articulate appropriate term restrictions for securities lending/repurchase transactions? Are they too restrictive?

Answer and CSA Response:

Most commentators noted that the securities lending provisions were drafted correctly, but that the term requirements for repurchase and reverse repurchase transactions should be extended, since the terms proposed did not reflect industry practice, although commentators varied on the suggested length of the appropriate term. The CSA have not changed the securities lending provisions, but have amended the term restrictions for repurchase and reverse repurchase transactions from five business days to 30 days. Most commentators indicated that the risks to a mutual fund would not be substantially increased through this change.

4. Are the proposed rules on reinvestment of cash collateral too restrictive – should some level of mismatch be permitted?

Answer and CSA Response:

Most commentators noted that mutual funds should be permitted to reinvest cash collateral in longer term instruments and that the level of mismatch inherent in such longer terms was both in accordance with prudent industry practice and did not expose mutual funds to greater risks. The CSA have accepted these comments and have amended the applicable provisions to provide that cash collateral can be reinvested in

qualified securities having a term to maturity no greater than 90 days and that sale proceeds can be reinvested in qualified securities having a term to maturity no greater than 30 days.

5. Should the aggregate volume limit for mutual funds lending securities or sold pursuant to repurchase transactions be separate limits? If so, why. In addition, should the lending/repurchase regime impose limits on transactions with any one counterparty?

Answer and CSA Response:

Some commentators expressed concern about the clarity of the volume limit as drafted and some commentators suggested that either no limit was necessary or that separate limits should be permitted. No commentator was of the view that limits on transactions with counterparties were necessary given the other applicable controls and rules and current industry practices. Limits on transaction with individual counterparties should be left to the discretion of individual mutual funds and their managers. The CSA have amended the drafting of the volume limit, but have retained it as a aggregate limit for both types of transactions. No counterparty limit has been imposed.

6. Does the 102 percent over-collateralization requirement, when coupled with the requirement to supplement that collateral where warranted, reflect industry practices?

Answer and CSA Response:

Commentators were strongly in favour of the requirements as drafted in the January Draft Amendments. Most commentators indicated their support for the flexible "best practices" approach articulated in the proposed January Draft Amendments. The CSA have not amended this provision.

7. Will any of the restrictions proposed for securities lending/repurchase transactions unduly reduce the potential for revenues for mutual funds?

Answer and CSA Response:

Although most commentators did not specifically address this question, most commentators noted that the limitations on collateral, the terms of repurchase and reverse repurchase transactions and the restrictions on the reinvestment of cash collateral and sales proceeds were unduly restrictive, particularly in relation to industry practices and the risks associated with these transactions. As noted, the CSA have amended the January Draft Amendments in response to these comments.

SPECIFIC COMMENTS

1. Definition of "cash cover"

One commentator requested that the definition of "cash cover" be expanded to include debt instruments with a remaining term to maturity of five years or less. This change would allow a bond fund to lengthen the duration of its bond holdings by using futures contracts without having to sell some of its bond holdings to meet cash cover requirements in NI 81-102. Similarly, this change would allow a bond fund to manage country risk in a similar manner. This same commentator also made suggestions for changes to the definition of "synthetic cash".

CSA Response:

The CSA do not agree that the "cash cover" or "synthetic cash" definitions and requirements should be expanded at this time to accommodate these specific requests. The CSA note that this comment was not in response to the January Draft Amendments, but was made by the commentator desiring additional flexibility for its mutual funds. The CSA note further that mutual funds wishing additional flexibility have the option of applying for exemptive relief, provided they can provide the CSA with appropriate reasons for the exemption and submissions on why the mutual fund would not be subject to additional risks having regard to the purpose of the cash cover requirements set out in NI 81-102.

2. Definition of "purchase"

The January Draft Amendments provided that when a mutual fund becomes legally entitled to dispose of the collateral, such an occurrence is a "purchase" for the purposes of the investment restriction tests in NI 81-102. One commentator recommended that mutual funds be given a reasonable period of time to dispose of the collateral prior to the collateral becoming an asset of the mutual fund for the purposes of the investment restrictions.

CSA Response:

The CSA acknowledge this comment and have clarified the application of the definition of "purchase" in the Policy Amendments to CP81-102. Paragraph 5(b) of subsection 2.13(2) of the Policy Amendments to CP81-102 reflects the CSA's views in response to this comment.

3. Definition of "qualified securities"

Many commentators recommended that the list of eligible collateral be expanded to include any or all of the following assets: widely-traded corporate debt, commercial paper, bankers' acceptances, letters of credit and guarantees, high quality common and preferred shares, deposit notes and agency debt. The commentators argued that without a broader list of eligible collateral, mutual funds would be at a competitive disadvantage with other Canadian institutional lenders, such as life insurance companies, financial institutions and pension plans, as provided for in the OSFI Guidelines. Another concern was raised that the current list of eligible collateral would place increased strains on the limited quantities of government securities currently in the market.

CSA Response:

The CSA have expanded the list of eligible collateral to include commercial paper, bankers' acceptances and irrevocable letters of credits, all on the conditions and specifications contained in the Rule Amendments to NI 81-102. The list of eligible collateral is now more consistent with the list of eligible collateral provided for in the OSFI Guidelines. Also these additions are consistent with the collateral that can be accepted by U.S. mutual funds for securities lending transactions.

The definition of "qualified security" and paragraph 6(d) of subsection 2.12(1) of the Rule Amendments to NI 81-102 have been amended to reflect the CSA's response to these comments. Subsection 3.7(4) of the Policy Amendments to CP81-102 provides the CSA's views on the use of irrevocable letters of credit as collateral.

4. Over-collateralization requirement

Commentators were supportive of the over-collateralization requirements in the January Draft Amendments, although two commentators suggested that 105 percent over-collateralization was appropriate, primarily to be consistent with the OSFI Guidelines. A higher margin of safety would increase the feasibility of a broader array of collateral. Two other commentators suggested that a 102 percent *initial* over-collateralization requirement with a maintenance margin of 100 percent would provide a sufficient buffer against price and market volatility.

***CSA Response*:**

The CSA have not made any changes to the applicable requirements, other than to emphasize in the Policy Amendments (subsection 3.7(2) of the Policy Amendments to CP81-102) that mutual funds should look at the level of risk for the transaction in determining appropriate levels of collateral. The CSA believe that the current over-collateralization requirements are consistent with the OSFI Guidelines. The Amendments require a mutual fund to take at least 102 percent of the value of the securities sold or lent in a particular transaction. The Policy Amendments clarify that a mutual fund must take additional collateral when best market practices so dictate. Similarly, the OSFI Guidelines require lenders to take the amount of collateral which reflect the best practices in the local market.

5. Daily marking to market

One commentator raised concerns over which valuation principles should be used to make the required daily mark to market calculation of collateral and securities sold or lent: those of the mutual fund or those of the lending agent. Another commentator suggested the requirements in the January Draft Amendments were not consistent with industry practice to carry out the mark to market calculation at the end of a business day and require that additional collateral be delivered during the following day.

***CSA Response*:**

The CSA acknowledge both comments and have provided their views in the Policy Amendments to CP81-102. The Policy Amendments state that a mutual fund may use the valuation principles of their lending agent. Also, the Policy Amendments confirm that delivery of additional collateral by the end of the next business day, in accordance with current market practices, does not violate the Instrument.

Subsection 3.7(7) and (8) of the Policy Amendments to CP81-102 contain the applicable CSA views given in response to these comments.

6. Term of repurchase and reverse repurchase transactions

Many commentators recommended that the maximum term of a permitted repurchase or reverse repurchase transaction be lengthened. The recommended time periods varied. Some commentators felt that 30 days would be sufficient, while others proposed allowing for transactions of up to a year. The limit in the January Draft Amendments of five business days would create unnecessary administrative costs and would leave mutual funds with few options. As a result of this restriction, mutual funds would be limited to investing the proceeds of repurchase transactions in overnight investments. Overnight investments have lower yields and do not allow for appropriate diversification of investments. By extending the permitted term to 30 days or more, both of these concerns would be addressed.

CSA Response:

The CSA have extended the maximum term for permitted repurchase and reverse repurchase transactions to 30 days. The CSA believe that this change will allow mutual funds to reduce the administrative costs of renewing repurchase transactions after each five business day period when a mutual fund has no immediate intention to recall the securities. Also, mutual funds will be able to invest the cash proceeds as they believe is prudent in qualified securities with a term to maturity of up to 30 days. This added flexibility will permit a mutual fund to earn more yield and allow for increased diversification of its investments.

Paragraph 10 of subsection 2.13(1) and paragraph 9 of subsection 2.14(1) of the Rule Amendments to NI 81-102 reflect the CSA's decision.

7. Reinvestment of cash collateral or sale proceeds

Most commentators viewed the restrictions on reinvestment of cash collateral or sale proceeds as too restrictive. Commentators suggested that the January Draft Amendments would create a significant disincentive against accepting cash collateral or entering into repurchase transactions. Commentators recommended that cash reinvestment be examined from an investment portfolio basis, as opposed to a loan-by-loan basis. An example was given of U.S. mutual funds which effect their cash collateral reinvestment through collective investment vehicles, such as money market funds. Lending agents are capable of co-ordinating the reinvestment of cash collateral of their clients to ensure that proper levels of liquidity are maintained at all times.

CSA Response:

The CSA have provided for a portfolio approach to cash reinvestment. Specific parameters are set out in the Rule Amendments for repurchase transactions that cash proceeds must be invested in qualified securities with a remaining term to maturity of 30 days or less. For securities lending transactions, cash collateral may be invested in qualified securities with a remaining term to maturity of 90 days or less. The additional 60 days for cash collateral received from securities lending transactions recognizes that these transactions are open loans with no fixed terms. The lending agent in consultation with the mutual fund manages the cash

collateral within the specified investment restrictions so as to maintain an adequate level of liquidity at all times.

Subsection 2.12(2) of the Rule Amendments to NI 81-102 sets out the changed rules for securities lending transactions, subsection 2.13(2) sets out the changed rules for repurchase transactions.

8. Aggregate lending and repurchase transaction limit

Commentators were generally supportive of the proposed volume limit of 33 1/3 percent of total assets of the mutual fund, including the collateral received, although some confusion was expressed on how the limit would be applied. The consistency to the regulatory restrictions applicable to U.S. mutual funds for securities lending was seen as appropriate. A few commentators suggested the overall limit should be raised to 50 percent of the total assets of the mutual fund. One commentator proposed that the percentage should be broken out by asset class (for example, 33 percent of total assets for equities and 75 percent for bonds). A few commentators suggested that the current limit was overly restrictive and that exposure of 75 to 100 percent of total assets could be justified.

***CSA Response*:**

The CSA have amended, and simplified, the applicable volume limit. The Rule Amendments now impose an aggregate limit of 50 percent of the total assets of the mutual fund, excluding the collateral or sales proceeds received under the transaction. The CSA note that this revised test is not a substantive change from the limit proposed under the January Draft Amendments and are of the view, echoed by some commentators, that the volume limit is appropriate at this time, particularly having regard to the limitations on U.S. mutual funds.

Paragraph 12 of subsection 2.12(1) of the Rule Amendments to NI 81-102 sets out the changed rules for securities lending transactions and paragraph 11 of subsection 2.13(1) sets out the changed rules for repurchase transactions.

9. Term to maturity restriction on securities purchased under a reverse repurchase transaction

Several commentators questioned the rationale for limiting the term to maturity of securities that a mutual fund may purchase under a reverse repurchase transaction. The limitation on the term of securities purchased under a reverse repurchase transaction is not reflective of how the reverse repurchase market works and will limit the ability of mutual funds to enter into these transactions. The risk which this restriction is attempting to address, is more suitably dealt with by the over-collateralization requirements, daily marking-to-market and the term of the reverse repurchase transaction.

***CSA Response*:**

The CSA agree with the comments and have not carried forward the restriction previously contained in paragraph 3 of subsection 2.14(1) of the January Draft Amendments to NI 81-102. Any risks to a mutual fund inherent with reverse repurchase transactions are better dealt with the over-collateralization requirement, the daily marking to market requirements and the term limit on the reverse repurchase transaction.

10. Mandatory use of an agent for securities lending and repurchase transactions

Some commentators agreed that the mandatory use of a lending agent was appropriate given the infrastructure and systems required to operate a securities lending program. Custodial lenders devote substantial resources to operational systems, legal and tax advice and program efficiency. Other commentators suggested that the operational risks associated with repurchase transactions did not warrant the mandatory use of a lending agent. One commentator noted that the effect of this provision would be to "create a virtual monopoly in the Canadian fund industry for custodian lending agents".

One commentator suggested that some mutual fund managers have experience in direct lending and the use of an agent will result in additional costs without any incremental benefit. A mutual fund manager's fiduciary responsibilities should be sufficient to prevent a manager from engaging in an activity on behalf of its mutual funds for which it is not sufficiently expert. Another commentator suggested that the need for appropriate controls and systems could be addressed by using a single principal borrower that has proprietary lending systems and operational expertise.

Commentators opposed to this requirement generally noted that its effect will be to increase costs to mutual funds, while only incrementally minimizing risk. Several commentators urged the CSA to re-examine this requirement, if they decided to retain it, following practical experience with the new regime.

Several commentators suggested that the requirements in subsection 2.15(4) proposed by the January Draft Amendments precluded the use of a a third party lending agent unless the fund's custodian was believed to be incompetent at performing this function.

***CSA Response*:**

The CSA have not changed the requirements to engage an agent to carry out securities lending and repurchase transactions on behalf of mutual funds. Operating a securities lending and repurchase transaction program requires significant operational safeguards and a level of expertise and experience beyond the current scope of most mutual fund managers. A prudent securities lender operating a securities lending program must have safeguards to ensure daily marking to market calculations, collection of collateral and distributions, diversification of collateral and maintenance of credit standards on borrowers. A securities lender must also have access and in-depth knowledge of the market for a specific security that the mutual fund intends to lend. The CSA are of the view that to ensure the appropriate protection of the investors, at present, all mutual funds must use a lending agent for securities lending and repurchase transactions. The CSA have made an exception for reverse repurchase transactions, since the CSA view reverse repurchase transactions as a cash reinvestment tool where special expertise and control systems are more widespread and the practices are more developed within the Canadian mutual fund industry.

As noted above, the CSA will welcome submissions on this point, amongst others, following practical experience with the rules.

The CSA note the comments in respect of the drafting contained in subsection 2.15(4) of the January Draft Amendments, and have deleted much of the provisions commented upon. A third party may act as a lending agent for a mutual fund so long as the agent is appointed as a sub-custodian of the mutual fund regardless of the mutual fund's views of its custodian's ability to perform this function.

Subsection 2.15(3) of the Rule Amendments to NI 81-102 contains the amended rules. The CSA have included a discussion of their views on this issue to subsection 3.7(12) of Policy Amendments to CP81-102.

11. Advance Notice to Mutual Fund Securityholders

One commentator suggested that the 60 days advance notice requirement to securityholders of mutual funds intending to enter into securities lending and repurchase transactions should not be required as commencing a program is not analogous to the commencement of the use of derivatives or other risk increasing strategies. In the alternative, the commentator argued that those currently engaging in reverse repurchase transactions should not be required to give a notice to continue in such investment activities.

CSA Response:

The CSA believe that securityholders of a mutual fund should receive notice of the mutual fund's intention to enter into securities lending, repurchase or reverse repurchase transactions, since these transactions could have an impact both on the risks to the mutual fund and its potential revenues. However, the Rule Amendments clarify that for those mutual funds which currently enter into these transactions pursuant to exemptive relief decisions no notice is required to continue in those activities.

Subsection 2.17(2) of the Rule Amendments to NI 81-102 has been added to address the situation for those mutual funds that have exemptive relief to enter into reverse repurchase transactions.

12. Lending to Related Parties

One commentator provided views on the application of the self-dealing prohibitions proposed in section 4.2 of the January Draft Amendments to NI 81-102. The commentator noted that mutual funds sponsored by financial institutions should be able to lend securities to related parties, particularly their affiliated investment dealers or transfer agents and periodic reviews controls to ensure market rates on arm's length transactions should be imposed in place of the prohibitions.

CSA Response:

The CSA have not amended section 4.2 in response to this comment and continue of the view that these prohibitions are necessary for mutual funds at this time. Any change to the prohibitory regime for related party transactions will be made in conjunction with a complete review of governance and conflicts of interest related to mutual funds.

13. Custodial Provisions as they Relate to Securities Lending and Repurchase Transactions

One commentator pointed to several technical changes that should be made to Part 6 of NI 81-102 to properly implement the securities lending and repurchase transaction regime.

CSA Response:

The CSA have amended Part 6 in the manner noted above in the Notice to reflect the comments received.

14. Proposed changes to subsection 6.8(3) of NI 81-102

Many commentators argued that the proposed amendment to subsection 6.8(3) of NI 81-102 included with the January Draft Amendments would cause serious problems for many mutual funds which use over-the-counter forward contracts with one counterparty. In particular, this change would hamper the current structure of many RSP clone funds which had been structured in good faith on the current subsection 6.8(3). The proposed change would increase the cost of these forward contracts and may endanger the viability of these funds. The commentators explained that the current safeguards in Part 6 of NI 81-102 adequately protect a mutual fund's credit exposure under such forward derivative contracts, in three ways: (1) the counterparty must maintain an approved credit rating; (2) the mark-to-market exposure cannot exceed 10 percent of the fund's assets over a 30 day period; and (3) subsection 6.8(4) of NI 81-102 ensures that the records show the mutual fund as beneficial owner of those assets. One commentator noted that a pledge of collateral by a mutual fund does not expose the mutual fund to the credit risk of the counterparty and the risks of credit exposure to a counterparty have been adequately dealt with elsewhere in NI 81-102.

CSA Response:

The CSA have not finalized the proposed amendment to subsection 6.8(3). The CSA are satisfied that the current safeguards which are currently built into NI 81-102 adequately protect the interests of securityholders of mutual funds which extensively use over-the-counter derivatives.

15. Sales Communications for Multi-Class Mutual Funds

Two commentators pointed out a technical deficiency in the drafting of proposed paragraph 15.6(2)(b) in the January Draft Amendments in that the rule could be interpreted to require all sales communications where performance data for one class is given, and the sales communications is designed to cover only that class, to provide the performance data for all classes. The commentators suggested the inclusion of the words "referred to in the sales communication" to make the intent of this section clear.

CSA Response:

The CSA have amended section 15.14 of the Rule Amendments to NI 81-102 to clarify the meaning of this rule and have incorporated the drafting suggestion of the commentator.

16. Calculation of Management Expense Ratio

A commentator pointed out the need for clarity in the application of the rules regarding calculation of management expense ratios for those fund of funds, where the underlying funds rebate to the top fund management fees paid by the top fund, so as to ensure no duplication of management fees.

A second commentator noted that the task of re-stating management expense ratios for the past five years as required by the new management expense ratio calculation mandated by NI 81-102 to be too onerous and accordingly should not be required.

CSA Response:

The CSA have added subsection 16.2(4) to the Rule Amendments to NI 81-102 to clarify the application of the applicable rules in response to the first comment.

The CSA note that in response to the second comment, that section 16.3 of the Rule Amendments to NI 81-102 clarifies the need for mutual funds to calculate management expense ratios in accordance with NI 81-102 for financial periods ending after February 1, 2000. The CSA further note that CSA staff published CSA Staff Notice 81-306 Disclosure by Mutual Funds of Changes in Calculation of Management Expense Ratio to clarify staff's views. Staff have been addressing issues related to management expense ratios on a fund by fund basis since February 1, 2000 and note general industry compliance with the matters addressed in that notice.

17. Accounting issues

One commentator recommended that repurchase transactions be treated as off balance sheet items in order to conform with the balance sheet treatment of securities loans. Since the lending agent is not acting as the portfolio manager for a mutual fund, these transactions should be treated as being off the balance sheet. Note disclosure to the financial statements could adequately describe the transactions. Another commentator asked for guidance on how revenue received by a securities lending program should be treated.

CSA Response:

The CSA believe that generally accepted accounting principles in Canada (GAAP) apply in determining the accounting treatment for these transactions. Under GAAP, a repurchase transaction is a sale and must be disclosed as such on the balance sheet of the applicable mutual fund. This treatment is consistent with the accounting used by U.S. mutual funds. With respect to guidance on how revenues should be treated, subsections 14.3(4), 14.4(4) and 14.5(4) of the Policy Amendments to CP81-102 require that income from securities lending, repurchase and reverse repurchase transactions be presented as revenue and not as a deduction from expenses. No changes to the rules proposed in the January Draft Amendments have been made.

APPENDIX C

SUMMARY OF COMMENTS RECEIVED ON THE JUNE DRAFT AMENDMENTS ("THE INDEX FUND AMENDMENTS") AND RESPONSES OF THE CANADIAN SECURITIES ADMINISTRATORS

GENERAL COMMENTS

Four of the five commentators provided comments on specific provisions contained in the June Draft Amendments relating to the proposed changes designed to permit index mutual funds to better meet their investment objectives. One commentator focussed exclusively, and the other commentators also commented, on the rolling 12 month management expense ratio proposed in the June Draft Amendments.

All commentators were supportive of the proposed regime to permit mutual funds to better meet their investment objectives; one commentator commended the CSA for recognizing the "special nature of index mutual funds and the importance of meeting their fundamental investment objectives".

SPECIFIC COMMENTS

1. Definition of "index mutual fund"

One commentator proposed that the words "attempt to" ought to be inserted before the word "replicate" in the definition of index mutual fund in order to clarify that a mutual fund would still be considered an index fund if it attempts to replicate an index but does not identically replicate that index at all times.

Another commentator queried whether the definition of "index mutual fund" would include index mutual funds that track multiple indices. This commentator also asked whether the definition would include a fund that is invested in other index mutual funds (i.e. a fund of funds), and if so, whether an additional subparagraph should be added to the definition of "index mutual fund" to state that an index mutual fund means a mutual fund that has adopted fundamental investment objectives that require the mutual fund to invest in other "index mutual funds" as defined in that section.

CSA Response:

The CSA are of the view that the definition of "index mutual fund" is adequate and that no change is required in response to the comments received. In particular, with respect to the second comment, the CSA believe that the definition of "index mutual fund" is sufficiently broad enough as drafted to include index mutual funds that track multiple indices, as well as index mutual funds that are invested in other index mutual funds.

2. Definition of "permitted index"

Two commentators expressed concerns with the potential ambiguity of the requirement that the "permitted index" be one that is "widely quoted". For example, does this term mean widely quoted in the media or by money managers? Commentators proposed that the words "widely quoted" be

deleted from the definition, since the most important consideration should be whether the index is administered by a non-affiliate ((a) of the definition) and is widely recognized and used ((b) of the definition), not whether it is widely quoted.

Another commentator suggested that clear parameters should be established around what would constitute a "widely recognized and used" index.

CSA Response:

The CSA have deleted the words "widely quoted" from the definition of index fund in response to the comments. The definition now provides that a "permitted index" must be either one that is (a) both administered by an organization that is not affiliated with any of the mutual fund, its manager, its portfolio advisor or its principal distributor, and one that is available to persons or companies other than the mutual fund, or (b) one that is widely recognized and used.

The CSA do not believe that it is necessary to expand on the meaning of the phrase "widely recognized and used".

3. Mandatory use of the word "index" in the name of the mutual fund

One commentator asked that the requirement to include the word "index" in the name of the index mutual fund should be removed since the disclosure already provided in the fundamental investment objective is adequate.

CSA Response:

The CSA believe that investors are entitled to a clear and unambiguous indication that an index mutual fund is in fact an index fund that avails itself of exemptions from the customary rules applicable to other mutual funds. The CSA are of the view that the best way to provide this information is for the mutual fund to include the word "index" in its name. Index mutual funds not wishing to include this word in their name will not be able to utilize the exemption from the concentration restriction that is provided for in the Rule Amendments. No changes from the proposed rules in the June Draft Amendments have been made.

4. Mandatory Advance Notice to Securityholders

Two commentators suggested that index mutual funds that already benefit from an exemption which allows them to track their permitted index and invest up to 25 percent in any one issuer should not have to send out a 60 day notice to their securityholders given that their prospectuses have already been amended to disclose the exemption. The obligation for such funds to provide the 60 day notice would impose an additional and unjustifiable cost on these funds. Further, one commentator asked whether an index mutual fund that already benefits from an exemption from the concentration restriction would have to cease availing itself of the concentration relief during the 60 days notice period.

CSA Response:

The CSA confirm that an index mutual fund is required to provide 60 day written notice to its securityholders of its intention to rely on the exemption from the concentration restriction provided by subsection 2.1(5) of the Rule Amendments to NI 81-102, regardless of whether such mutual fund has obtained prior relief from the concentration restriction. However those index mutual funds whose prospectuses have since their inception contained the investment objective and risk disclosure referred to in subsection (5) of Item 6 and subsection (5) of Item 9 of Part B of Form 81-101F1 do not have to give advance notice.

The CSA note that they consider it very important that investors, both new and existing, understand the nature of an index mutual fund and how it differs from a conventional mutual fund that is subject to investment restrictions, including the concentration restriction. For this reason, the CSA have retained the notice requirement, however, index mutual funds should review this Notice under the heading "Transitional Matters" for the CSA's views on giving notices to securityholders before the effective date of the Rule Amendments.

5. Performance Data - General Requirements

One commentator proposed that the words "offered securities under a simplified prospectus in a jurisdiction for 12 consecutive months" as used in proposed subparagraph 15.6(a)(i), be clarified to mean the date on which the fund or its manager actually made the securities available to the public, regardless of when the receipt for the prospectus was issued. It is often the case that mutual funds do not make their units publicly available until several months after the receipt has been issued.

CSA Response:

Subparagraph 15.6(a)(i) of the Rule Amendments to NI 81-102 has been amended to clarify that no sales communication pertaining to a mutual fund shall contain performance data unless the mutual fund has "distributed" (rather than "offered") securities under a simplified prospectus in a jurisdiction for 12 consecutive months.

6. 12 Month Rolling Management Expense Ratio

All commentators provided their views on the proposal contained in the June Draft Amendments to require a 12 month "rolling" management expense ratio in media other than the prospectuses and annual financial statements. No one consensus view as to the utility of a rolling management expense ratio was expressed in the comments.

Two commentators noted that a rolling management expense ratio, as proposed to be calculated, would not reflect any management decisions to change the expenses charged to a fund on a go-forward basis. For example, the manager of a fund may change the management fee and/or introduce a cap on the management fee, but these decisions would not be immediately reflected in published ratios. The impact would be that the publicly reported management expense ratios would not reflect the actual costs incurred by securityholders until the end of a 12 month rolling period.

One commentator suggested that the timing of large expenses could significantly impact the management expense ratio calculated on a rolling 12-month basis. For example, if the rolling period happened to capture two prospectus renewals, those costs would have a significant impact on the stated ratio.

This could distort the management expense ratio for that period and could be misleading unless explained through detailed note disclosure.

Another commentator expressed the opinion that the 12 month rolling average is a historical measure of management expense ratio which, being an average measure, does not provide sufficient information as to the level of current fees being charged, and is therefore not useful for prospective investors, and of limited use for existing investors. This commentator further submitted that a historical 12 month rolling management expense ratio for those funds with increasing expenses will understate current fee levels, while for funds with decreasing expenses, the rolling management expense ratio will overstate current fee levels.

Finally, two commentators expressed concerns relating to mutual funds structured as funds of funds, where the underlying funds are mutual funds managed by parties unrelated to the manager of the top fund, may not be able to meet the month-end deadline for calculation of the rolling management expense ratio. Delayed reporting of updated management expense ratios could lead to securityholder confusion.

Commentators provided several recommendations as to acceptable substitutes for the proposed 12 month rolling management expense ratio:

- retain the current management expense ratio calculation and disclosure requirements, but permit a management expense ratio of a mutual fund to be recalculated if expense decisions are made that would materially impact the management expense ratio if taken into account;
- if the 12 month rolling management expense ratio is retained, it should be restricted to the publication of management expense ratios in non-mandatory media, so that semi-annual statements would be excluded from the rolling calculation and would include management expense ratios calculated on the basis outlined in section 16.1 of NI 81-102. Funds wishing to publish 12 month rolling management expense ratios in non-mandatory media could continue to do so;
- rather than using a 12-month rolling average, a current-month management expense ratio annualized (but not compounded) for a 12 months period would be more appropriate. Such a prospective management expense ratio would be based on the most recent month and could serve as supplementary information to the historical audited management expense ratio shown in the simplified prospectus, annual information form and annual financial statements. Audit verification should be required for both values and that notes as to the calculation of both ratios could be provided to avoid confusion between the two numbers.

CSA Response:

The CSA note that their proposal for a rolling 12 month management expense ratio outlined in the June Draft Amendments was the result of industry submissions on the practical implications of section 16.1 of NI 81-102, particularly given the practices of industry participants in providing management expense ratios in non standardized formats to public media service providers. Section 16.1 of NI 81-102 requires management expense ratios to be calculated based only on annual audited financial data and does not permit any other calculation or dissemination of management expense ratios.

The CSA continue of the view that a management expense ratio for a mutual fund is a useful figure for investors, both new and existing, and one standard method of calculation should be adhered to by the industry. The commentators have suggested to the CSA that there is no industry consensus on the correct calculation of management expense ratios, other than one based on the historical annual audited financial statements. The CSA have accordingly decided not to proceed at this time with their proposal for a rolling 12 month management expense ratio as proposed in the June Draft Amendments. The CSA are concerned that industry participants do not continue the practice of providing management expense ratios, particularly to media service providers, calculated in ways that are not in compliance with section 16.1 of NI 81-102, and have therefore included an explicit statement to this effect in subsection 14.1(5) in the Policy Amendments to CP 81-102. Once an industry consensus has been developed, the CSA will consider further whether it is advisable to amend section 16.1 of NI 81-102.

7. Calculation of Management Expense Ratio

One commentator suggested that capital taxes should be excluded from the calculation of "total expenses" in the same manner that income taxes and foreign withholding taxes have been excluded. Capital taxes are not consumption taxes like GST that are directly related to expenses and capital taxes are only chargeable based on the level of capital as at the tax year-end of a mutual fund. Including capital taxes in the calculation of management expense ratios distorts the ratios. Given that capital taxes are only charged on corporate funds, it would make sense for comparability of management expense ratios among other mutual funds that capital taxes be excluded, much like income taxes.

CSA Response:

The CSA have not made any changes in response to this comment. The CSA's views on the appropriate accounting treatment of capital taxes in determining the "total expenses before income taxes" for a mutual fund are set out in subsection 14.1(2) of the Policy Amendments to CP81-102. These views have not changed from the June Draft Amendments.

8. Risk disclosure

One commentator suggested that the proposed required disclosure regarding the impact of an increased concentration in any one issuer on the fund's liquidity should not be required. Those securities that are likely to exceed the prescribed 10 percent concentration limit are typically among the most liquid and have the largest trading volumes.

In addition, two commentators expressed concerns regarding the requirement to disclose occurrences during the 12 month period preceding the date of the simplified prospectus of a

mutual fund where more than 10 percent of the fund's net assets were invested in the securities of an issuer and asked what the CSA expect this disclosure to include. In particular, they queried as to whether each and every instance where the 10 percent limit had been exceeded in the past 12 months would have to be disclosed. They suggested that, if so, a better approach would be to require disclosure based on how long the mutual fund has held the position in excess of 10 percent, or alternatively require this disclosure based on the numbers available as at any month end during the preceding 12 month period.

CSA Response:

The CSA have not changed the Rule Amendments to NI 81-101 to accommodate the first comment. The CSA are of the view that disclosure of the potential impact of exceeding the concentration restriction on the fund's liquidity must be disclosed and do not agree with the commentator's assertion that in all cases the subject securities will be large and liquid.

In response to the second comment, the CSA have amended paragraph (6) to Item 9 of Form 81-101F1 to clarify what disclosure must be provided. In addition, instruction (6) to Item 9 of Part B of Form 81-101F1 has been added to clarify that it is not necessary to provide particulars or a summary of each and every occurrence where the concentration restriction was exceeded by a mutual fund in the 12 months preceding the date of the simplified prospectus. Rather, the CSA believe it sufficient for a mutual fund to disclose only that at a time during the 12 month period referred to, the 10 percent concentration restriction was exceeded by the fund.

AMENDMENT TO NATIONAL INSTRUMENT 81-102 MUTUAL FUNDS

PART 1 AMENDMENTS

1.1 Amendments

(1) Section 1.1 of National Instrument 81-102 Mutual Funds is amended by

(a) the addition of the following as paragraphs 5 and 6 of the definition of "cash cover":

"5. Securities purchased by the mutual fund in a reverse repurchase transaction under section 2.14, to the extent of the cash paid for those securities by the mutual fund.

6. Commercial paper that has a term to maturity of 365 days or less and an approved credit rating and that was issued by a person or company other than a government or permitted supranational agency.";

(b) the deletion of the definition of "index mutual fund" and the substitution of the following:

""index mutual fund" means a mutual fund that has adopted fundamental investment objectives that require the mutual fund to

(a) hold the securities that are included in a permitted index or permitted indices of the mutual fund in substantially the same proportion as those securities are reflected in that permitted index or those permitted indices, or

(b) invest in a manner that causes the mutual fund to replicate the performance of that permitted index or those permitted indices";

(c) the addition of the following definition:

""permitted index" means, in relation to a mutual fund, a market index that is

(a) both

(i) administered by an organization that is not affiliated with any of the mutual fund, its manager, its portfolio adviser or its principal distributor, and

(ii) available to persons or companies other than the mutual fund, or

(b) widely recognized and used;";

(d) the addition of the following definition:

" "qualified security" means

(a) an evidence of indebtedness that is issued, or fully and unconditionally guaranteed as to principal and interest, by

(i) the government of Canada or the government of a jurisdiction,

(ii) the government of the United States of America, the government of one of the states of the United States of America, the government of another sovereign state, or a permitted supranational agency, if, in each case, the evidence of indebtedness has an approved credit rating, or

(iii) a Canadian financial institution or a financial institution that is not incorporated or organized under the laws of Canada or of a jurisdiction if, in either case, evidences of indebtedness of that issuer or guarantor that are rated as short term debt by an approved credit rating organization have an approved credit rating, or

(b) commercial paper that has a term to maturity of 365 days or less and an approved credit rating and that was issued by a person or company other than a government or permitted supranational agency;" and

(e) the deletion of item 1 of paragraph (b) of the definition of "sales communication", and the renumbering of existing items 2 through 6 of that paragraph as items 1 through 5.

(2) National Instrument 81-102 is amended by the renumbering of section 1.3 as subsection 1.3(1), and by the addition of the following as subsections 1.3(2) and (3):

"(2) A mutual fund that renews or extends a securities lending, repurchase or reverse repurchase transaction is entering into a securities lending, repurchase or reverse repurchase agreement for the purposes of section 2.12, 2.13 or 2.14.

(3) In this Instrument, a reference to a "simplified prospectus" includes a prospectus, a reference to a "preliminary simplified prospectus" includes a preliminary prospectus and a reference to a "*pro forma* simplified prospectus" includes a *pro forma* prospectus.".

(3) National Instrument 81-102 is amended by

(a) the deletion of the words "prospectus or" in each of paragraph 1.2(a), paragraph 8.1(a), paragraph 17.3(2)(a) and paragraph 20.4(b);

(b) the addition of the word "simplified" immediately before the word "prospectus" in paragraph 1.2(b); and

(c) the deletion of the words "preliminary prospectus or" and "prospectus or" in subsection 15.4(9).

(4) Section 2.1 of National Instrument 81-102 Mutual Funds is amended by the addition of the following as subsections 2.1(5), (6) and (7):

"(5) Despite subsection (1), an index mutual fund, the name of which includes the word "index", may purchase a security, enter into a specified derivatives transaction or purchase index participation units if required to allow the index mutual fund to satisfy its fundamental investment objectives.

(6) An index mutual fund shall not rely on the relief provided by subsection (5) unless

(a) its simplified prospectus contains the disclosure referred to in subsection (5) of Item 6 and subsection (5) of Item 9 of Part B of Form 81-101F1 Contents of Simplified Prospectus; and

(b) the index mutual fund has provided to its securityholders written notice given not less than 60 days before it first relies on the relief provided by subsection (5), that discloses that it may, from time to time, rely on that relief and that contains the disclosure referred to in paragraph (a).

(7) Paragraph (6)(b) does not apply if each simplified prospectus of the index mutual fund since its inception contains the disclosure referred to in paragraph (6)(a).".

(5) National Instrument 81-102 is amended by the deletion of subsections 2.7(1) and (2) and the substitution of the following:

"(1) A mutual fund shall not purchase an option that is not a clearing corporation option or a debt-like security or enter into a swap or a forward contract unless

(a) in the case of an option, swap or forward contract, the option, swap or contract has a remaining term to maturity of

(i) three years or less, or

(ii) between three and five years if, at the time of the transaction, the option, swap or contract provides the mutual fund with a right, at its election, to eliminate its exposure under the option, swap or contract no later than three years after the mutual fund has purchased the option or entered into the swap or contract; and

(b) at the time of the transaction, the option, debt-like security, swap or contract, or equivalent debt of the counterparty, or of a person or company that has fully and unconditionally guaranteed the obligations of the counterparty in respect of the option, debt-like security, swap or contract, has an approved credit rating.

(2) If the credit rating of an option that is not a clearing corporation option, the credit rating of a debt-like security, swap or forward contract, or the credit rating of the equivalent debt of the writer or guarantor of the option, debt-like security, swap or contract, falls below the level of approved credit rating while the option, debt-like security, swap or contract is held by a mutual fund, the mutual fund shall take the steps that are reasonably required to close out its position in the option, debt-like security, swap or contract in an orderly and timely fashion.".

(6) National Instrument 81-102 is amended by the addition of the following as section 2.12:

"2.12 Securities Loans

(1) Despite any other provision of this Instrument, a mutual fund may enter into a securities lending transaction as lender if the following conditions are satisfied for the transaction:

1. The transaction is administered and supervised in the manner required by sections 2.15 and 2.16.

2. The transaction is made under a written agreement that implements the requirements of this section.

3. Securities are loaned by the mutual fund in exchange for collateral.

4. The securities transferred, either by the mutual fund or to the mutual fund as collateral, as part of the transaction are immediately available for good delivery under applicable legislation.

5. The collateral to be delivered to the mutual fund at the beginning of the transaction

(a) is received by the mutual fund either before or at the same time as it delivers the loaned securities; and

(b) has a market value equal to at least 102 percent of the market value of the loaned securities.

6. The collateral to be delivered to the mutual fund is one or more of

(a) cash;

(b) qualified securities;

(c) securities that are immediately convertible into, or exchangeable for, securities of the same issuer, class or type, and the same term, if applicable, as the securities that are being loaned by the mutual fund, and in at least the same number as those loaned by the mutual fund; or

(d) irrevocable letters of credit issued by a Canadian financial institution that is not the counterparty, or an affiliate of the counterparty, of the mutual fund in the transaction, if evidences of indebtedness of the Canadian financial institution that are rated as short term debt by an approved credit rating organization have an approved credit rating.

7. The collateral and loaned securities are marked to market on each business day, and the amount of collateral in the possession of the mutual fund is adjusted on each business day to ensure that the market value of collateral maintained by the mutual fund in connection with the transaction is at least 102 percent of the market value of the loaned securities.

8. If an event of default by a borrower occurs, the mutual fund, in addition to any other remedy available under the agreement or applicable law, has the right under the agreement to retain and dispose of the collateral to the extent necessary to satisfy its claims under the agreement.

9. The borrower is required to pay promptly to the mutual fund amounts equal to and as compensation for all dividends and interest paid, and all distributions made, on the loaned

securities during the term of the transaction.

10. The transaction is a "securities lending arrangement" under section 260 of the ITA.

11. The mutual fund is entitled to terminate the transaction at any time and recall the loaned securities within the normal and customary settlement period for securities lending transactions in the market in which the securities are lent.

12. Immediately after the mutual fund enters into the transaction, the aggregate market value of all securities loaned by the mutual fund in securities lending transactions and not yet returned to it or sold by the mutual fund in repurchase transactions under section 2.13 and not yet repurchased does not exceed 50 percent of the total assets of the mutual fund, and for such purposes collateral held by the mutual fund for the loaned securities and cash held by the mutual fund for the sold securities shall not be included in total assets.

(2) A mutual fund may hold all cash delivered to it as the collateral in a securities lending transaction or may use the cash to purchase

(a) qualified securities having a remaining term to maturity no longer than 90 days;

(b) securities under a reverse repurchase agreement permitted by section 2.14; or

(c) a combination of the securities referred to in paragraphs (a) and (b).

(3) A mutual fund, during the term of a securities lending transaction, shall hold all, and shall not invest or dispose of any, non-cash collateral delivered to it as collateral in the transaction.".

(7) National Instrument 81-102 is amended by the addition of the following as section 2.13:

"2.13 Repurchase Transactions

(1) Despite any other provision of this Instrument, a mutual fund may enter into a repurchase transaction if the following conditions are satisfied for the transaction:

1. The transaction is administered and supervised in the manner required by sections 2.15 and 2.16.

2. The transaction is made under a written agreement that implements the requirements of this section.

3. Securities are sold for cash by the mutual fund, with the mutual fund assuming an obligation to repurchase the securities for cash.

4. The securities transferred by the mutual fund as part of the transaction are immediately available for good delivery under applicable legislation.

5. The cash to be delivered to the mutual fund at the beginning of the transaction

(a) is received by the mutual fund either before or at the same time as it delivers the sold securities; and

(b) is in an amount equal to at least 102 percent of the market value of the sold securities.

6. The sold securities are marked to market on each business day, and the amount of sale proceeds in the possession of the mutual fund is adjusted on each business day to ensure that the amount of cash maintained by the mutual fund in connection with the transaction is at least 102 percent of the market value of the sold securities.

7. If an event of default by a purchaser occurs, the mutual fund, in addition to any other remedy available under the agreement or applicable law, has the right under the agreement to retain or dispose of the sale proceeds delivered to it by the purchaser to the extent necessary to satisfy its claims under the agreement.

8. The purchaser of the securities is required to pay promptly to the mutual fund amounts equal to and as compensation for all dividends and interest paid, and all distributions made, on the sold securities during the term of the transaction.

9. The transaction is a "securities lending arrangement" under section 260 of the ITA.

10. The term of the repurchase agreement, before any extension or renewal that requires the consent of both the mutual fund and the purchaser, is not more than 30 days.

11. Immediately after the mutual fund enters into the transaction, the aggregate market value of all securities loaned by the mutual fund in securities lending transactions under section 2.12 and not yet returned to it or sold by the mutual fund in repurchase transactions and not yet repurchased does not exceed 50 percent of the total assets of the mutual fund, and for such purposes collateral held by the mutual fund for the loaned securities and the cash held by the mutual fund for the sold securities shall not be included in total assets.

(2) A mutual fund may hold cash delivered to it as consideration for sold securities in a repurchase transaction or may use the cash to purchase

(a) qualified securities having a remaining term to maturity no longer than 30 days;

(b) securities under a reverse repurchase agreement permitted by section 2.14; or

(c) a combination of the securities referred to in paragraphs (a) and (b).".

(8) National Instrument 81-102 is amended by the addition of the following as section 2.14:

"**2.14 Reverse Repurchase Transactions**

(1) Despite any other provision of this Instrument, a mutual fund may enter into a reverse repurchase transaction if the following conditions are satisfied for the transaction:

1. The transaction is administered and supervised in the manner required by sections 2.15 and 2.16.

2. The transaction is made under a written agreement that implements the requirements of this section.

3. Qualified securities are purchased for cash by the mutual fund, with the mutual fund assuming the obligation to resell them for cash.

4. The securities transferred as part of the transaction are immediately available for good delivery under applicable legislation.

5. The securities to be delivered to the mutual fund at the beginning of the transaction

(a) are received by the mutual fund either before or at the same time as it delivers the cash used by it to purchase those securities; and

(b) have a market value equal to at least 102 percent of the cash paid for the securities by the mutual fund.

6. The purchased securities are marked to market on each business day, and either the amount of cash paid for the purchased securities or the amount of purchased securities in the possession of the seller or the mutual fund is adjusted on each business day to ensure that the market value of purchased securities held by the mutual fund in connection with the transaction is not less than 102 percent of the cash paid by the mutual fund.

7. If an event of default by a seller occurs, the mutual fund, in addition to any other remedy available in the agreement or applicable law, has the right under the agreement to retain or dispose of the purchased securities delivered to it by the seller to the extent necessary to satisfy its claims under the agreement.

8. The transaction is a "securities lending arrangement" under section 260 of the ITA.

9. The term of the reverse repurchase agreement, before any extension or renewal that requires the consent of both the seller and the mutual fund, is not more than 30 days.".

(9) National Instrument 81-102 is amended by the addition of the following as section 2.15:

"**2.15 Agent for Securities Lending, Repurchase and Reverse Repurchase Transactions**

(1) The manager of a mutual fund shall appoint an agent or agents to act on behalf of the mutual fund in administering the securities lending and repurchase transactions entered into by the mutual fund.

(2) The manager of a mutual fund may appoint an agent or agents to act on behalf of the mutual fund to administer the reverse repurchase transactions entered into by the mutual fund.

(3) The custodian or a sub-custodian of the mutual fund shall be the agent appointed under subsection (1) or (2).

(4) The manager of a mutual fund shall not authorize an agent to enter into a securities lending, repurchase or, if applicable, reverse repurchase transactions on behalf of the mutual fund until the agent enters into a written agreement with the manager and the mutual fund in which

(a) the mutual fund and the manager provide instructions to the agent on the parameters to be followed in entering into the type of transactions to which the agreement pertains;

(b) the agent agrees to comply with this Instrument, accepts the standard of care referred to in subsection (5) and agrees to ensure that all transactions entered into by it on behalf of the mutual fund will comply with this Instrument; and

(c) the agent agrees to provide to the mutual fund and the manager regular, comprehensive and timely reports summarizing the mutual fund's securities lending, repurchase and reverse repurchase transactions, as applicable.

(5) An agent appointed under this section, in administering the securities lending, repurchase and, if applicable, reverse repurchase transactions of the mutual fund shall exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.".

(10) National Instrument 81-102 is amended by the addition of the following as section 2.16:

"2.16 Controls and Records

(1) A mutual fund shall not enter into transactions under sections 2.12, 2.13 or 2.14 unless,

(a) for transactions to be entered into through an agent appointed under section 2.15, the manager has reasonable grounds to believe that the agent has established and maintains appropriate internal controls and procedures and records; and

(b) for reverse repurchase transactions directly entered into by the mutual fund without an agent, the manager has established and maintains appropriate internal controls, procedures and records.

(2) The internal controls, procedures and records referred to in subsection (1) shall include

(a) a list of approved borrowers, purchasers and sellers based on generally accepted creditworthiness standards;

(b) as applicable, transaction and credit limits for each counterparty; and

(c) collateral diversification standards.

(3) The manager of a mutual fund shall, on a periodic basis not less frequently than annually,

(a) review the agreements with any agent appointed under section 2.15 to determine if the agreements are in compliance with this Instrument;

(b) review the internal controls described in subsection (2) to ensure their continued adequacy and appropriateness;

(c) make reasonable enquiries as to whether the agent is administering the securities lending, repurchase or reverse repurchase transactions of the mutual fund in a competent and responsible manner, in conformity with the requirements of this Instrument and in conformity with the agreement between the agent, the manager and the mutual fund entered into under subsection 2.15(4);

(d) review the terms of any agreement between the mutual fund and an agent entered into under subsection 2.15(4) in order to determine if the instructions provided to the agent in connection with the securities lending, repurchase or reverse repurchase transactions of the mutual fund continue to be appropriate; and

(e) make or cause to be made any changes that may be necessary to ensure that

(i) the agreements with agents are in compliance with this Instrument,

(ii) the internal controls described in subsection (2) are adequate and appropriate,

(iii) the securities lending, repurchase or reverse repurchase transactions of the mutual fund are administered in the manner described in paragraph (c), and

(iv) the terms of each agreement between the mutual fund and an agent entered into under subsection 2.15(4) are appropriate.".

(11) National Instrument 81-102 is amended by the addition of the following as section 2.17:

"**2.17 Commencement of Securities Lending, Repurchase and Reverse Repurchase Transactions by a Mutual Fund**

(1) A mutual fund shall not enter into securities lending, repurchase or reverse repurchase transactions unless

(a) its simplified prospectus contains the disclosure required for mutual funds entering into those types of transactions; and

(b) the mutual fund has provided to its securityholders, not less than 60 days before it begins entering into those types of transactions, written notice that discloses its intent to begin entering into those types of transactions and the disclosure required for mutual funds entering into those types of transactions.

(2) Paragraph (1)(b) does not apply to a mutual fund that has entered into reverse repurchase agreements as permitted by a decision of the securities regulatory authority or regulator.".

(12) National Instrument 81-102 is amended by the deletion of section 4.2 and the substitution of the following:

"**4.2 Self-Dealing**

(1) A mutual fund shall not purchase a security from, sell a security to, or enter into a securities lending, repurchase or reverse repurchase transaction under section 2.12, 2.13 or 2.14 with, any of the following persons or companies:

1. The manager, portfolio adviser or trustee of the mutual fund.

2. A partner, director or officer of the mutual fund or of the manager, portfolio adviser or trustee of the mutual fund.

3. An associate or affiliate of a person or company referred to in paragraph 1 or 2.

4. A person or company, having fewer than 100 securityholders of record, of which a partner, director or officer of the mutual fund or a partner, director or officer of the manager or portfolio adviser of the mutual fund is a partner, director, officer or securityholder.

(2) Subsection (1) applies in the case of a sale of a security to, or a purchase of a security from, a mutual fund only if the person or company that would be selling to, or purchasing from, the mutual fund would be doing so as principal.".

(13) National Instrument 81-102 is amended by the deletion of subsection 4.4(5), the substitution of subsection (5) below as the new subsection (5) and the addition of subsection (6) below as subsection (6):

"(5) This section does not apply to any losses to a mutual fund or securityholder arising out of an action or inaction by

(a) a director of the mutual fund; or

(b) a custodian or sub-custodian of the mutual fund, except as set out in subsection (6).

(6) This section applies to any losses to a mutual fund or securityholder arising out of an action or inaction by a custodian or sub-custodian acting as agent of the mutual fund in administering the securities lending, repurchase or reverse repurchase transactions of the mutual fund.".

(14) National Instrument 81-102 is amended by

(a) the addition of the words "or regulator" immediately after the words "securities regulatory authority" in subsections 5.5(1), 5.5(2) and 5.6(1) and section 5.9; and

(b) the addition of the following as subsection 5.5(3):

"(3) Despite subsection (1), in Ontario only the regulator may grant an approval referred to in subsection (1)."

(15) Paragraph 6.3(3)(b) of National Instrument 81-102 is amended by striking out "subsidiary" and substituting "affiliate".

(16) National Instrument 81-102 is amended by

(a) changing the title of section 6.8 to "Custodial Provisions relating to Derivatives and Securities Lending, Repurchase and Reverse Repurchase Agreements";

(b) the deletion of subsection 6.8(4) and the substitution of the following:

"(4) The agreement by which portfolio assets of a mutual fund are deposited in accordance with subsection (1), (2) or (3) shall require the person or company holding portfolio assets of the mutual fund so deposited to ensure that its records show that that mutual fund is the beneficial owner of the portfolio assets."; and

(c) by the addition of the following as subsection 6.8(5):

"(5) A mutual fund may deliver portfolio assets to a person or company in satisfaction of its obligations under a securities lending, repurchase or reverse purchase agreement that complies with this Instrument if the collateral, cash proceeds or purchased securities that are delivered to the mutual fund in connection with the transaction are held under the custodianship of the custodian or a sub-custodian of the mutual fund in compliance with this Part.".

(17) National Instrument 81-102 is amended by the deletion of the words "immediately before the close of business" in paragraph 9.4(4)(a).

(18) National Instrument 81-102 is amended by the deletion of subsection 11.4(1) and the substitution of the following:

"(1) Sections 11.1 and 11.2 do not apply to members of The Investment Dealers Association of Canada, The Montreal Exchange, The Toronto Stock Exchange or the Canadian Venture Exchange Inc.".

(19) National Instrument 81-102 is amended by the deletion of subsection 12.1(4) and the substitution of the following:

"(4) Subsection (3) does not apply to members of The Investment Dealers Association of Canada, The Montreal Exchange, The Toronto Stock Exchange or the Canadian Venture Exchange Inc.".

(20) National Instrument 81-102 is amended by the deletion of subsection 15.4(12).

(21) National Instrument 81-102 is amended by the deletion of subparagraph 15.6(a)(i) and the substitution of the following:

"(i) the mutual fund has distributed securities under a simplified prospectus in a jurisdiction for 12 consecutive months, or the asset allocation service has been operated for at least 12 consecutive months and has invested only in participating funds each of which has distributed securities under a simplified prospectus in a jurisdiction for at least 12 consecutive months, or".

(22) National Instrument 81-102 is amended by the addition of the following as section 15.14:

"**Sales Communication - Multi-Class Mutual Funds** - A sales communication for a mutual fund that distributes different classes or series of securities that are referable to the same portfolio shall not contain performance data unless the sales communication complies with the following requirements:

1. The sales communication clearly specifies the class or series of security to which any performance data contained in the sales communication relates.

2. If the sales communication refers to more than one class or series of security and provides performance data for any one class or series, the sales communication shall provide performance data for each class or series of security referred to in the sales communication and shall clearly explain the reasons for different performance data among the classes or series.

3. A sales communication for a new class or series of security and an existing class or series of security shall not contain performance data for the existing class or series unless the sales communication clearly explains any differences between the new class or series and the existing class or series that could affect performance.".

(23) Section 16.1 of National Instrument 81-102 is amended by the deletion of subparagraph (1)(a)(i) and the substitution of the following:

"(i) the total expenses of the mutual fund, before income taxes, for the financial year, as shown on its income statement,".

(24) National Instrument 81-102 is amended by the addition of the following as subsection 16.1(4):

"(4) The requirements to provide note disclosure contained in subsections (2) and (3) do not apply if a mutual fund provides its management expense ratio to a service provider that will arrange for public dissemination of the management expense ratio, if the mutual fund indicates, as applicable, that management fees have been waived or that management fees were paid directly by investors during the period for which the management expense ratio was calculated.".

(25) National Instrument 81-102 is amended by the renumbering of existing subsections 16.1(4), (5), (6), (7) and (8) as subsections 16.1(5), (6), (7), (8) and (9), respectively.

(26) National Instrument 81-102 is amended by the deletion of section 16.2 and the substitution of the following:

"**16.2 Fund of Funds Calculation**

(1) For the purposes of subparagraph 16.1(1)(a)(i), the total expenses of a mutual fund that invests in securities of one or more other mutual funds is equal to the sum of:

(a) the total expenses incurred by the mutual fund that are for the period that the calculation of management expense ratio is made and that are attributable to its investment in each underlying mutual fund, as calculated by

(i) multiplying the total expenses of each underlying mutual fund, before income taxes, for the period, by

(ii) the average proportion of securities of the underlying mutual fund held by the mutual fund during the period, calculated by

(A) adding together the proportion of securities of the underlying mutual fund held by the mutual fund on each day in the period, and

(B) dividing the amount obtained under clause (A) by the number of days in the period; and

(b) the total expenses of the mutual fund, before income taxes, for the period.

(2) A mutual fund that has exposure to one or more other mutual funds through the use of specified derivatives in a financial year shall calculate its management expense ratio for the financial year in the manner described in subsection (1), treating each mutual fund to which it has exposure as an "underlying mutual fund" under subsection (1).

(3) Subsection (2) does not apply if the specified derivatives do not expose the mutual fund to expenses that would be incurred by a direct investment in the relevant mutual funds.

(4) Despite subsection 16.1(5), management fees rebated by an underlying fund to a mutual fund that invests in the underlying fund shall be deducted from total expenses of the underlying fund if the rebate is made for the purpose of avoiding duplication of fees between the two mutual funds.".

(27) National Instrument 81-102 is amended by the addition of the following as section 16.3:

"**16.3 Application of Section 16.1** - Section 16.1 does not apply to a mutual fund in respect of a financial year that ended before February 1, 2000 if the management expense ratio for that financial year is disclosed and calculated in accordance with securities legislation applicable to mutual funds on January 31, 2000.".

(28) National Instrument 81-102 is amended by the deletion of section 20.3 and the substitution of the following:

"**20.3 Reports to Securityholders** - This Instrument does not apply to reports to securityholders

(a) printed before February 1, 2000; or

(b) that include only financial statements that relate to financial periods that ended before February 1, 2000.".

PART 2 EFFECTIVE DATE

2.1 Effective Date - This Amendment comes into force on May 2, 2001.

AMENDMENT TO COMPANION POLICY 81-102CP MUTUAL FUNDS

PART 1 AMENDMENTS

1.1 Amendments

(1) Companion Policy 81-102CP is amended by the addition of the following as paragraph 5 of subsection 2.13(2):

"5. (a) The mutual fund has become legally entitled to dispose of the collateral held by it under a securities loan or repurchase agreement and to apply proceeds of realization to satisfy the obligations of the counterparty of the mutual fund under the transaction, and

(b) sufficient time has passed after the event described in paragraph (a) to enable the mutual fund to sell the collateral in a manner that maintains an orderly market and that permits the preservation of the best value for the mutual fund."

(2) Companion Policy 81-102CP is amended by the deletion of subsection 2.16(2), the substitution of subsection (2) below as the new subsection 2.16(2) and the addition of subsection (3) below as subsection 2.16(3):

"(2) Because of the broad ambit of the lead-in language to the definition, it is impossible to list every instrument, agreement or security that might be caught by that lead-in language but that is not considered to be a derivative in any normal commercial sense of that term. The Canadian securities regulatory authorities consider conventional floating rate debt instruments, securities of a mutual fund or commodity pool, non-redeemable securities of an investment fund, American depositary receipts and instalment receipts generally to be within this category, and generally will not treat those instruments as specified derivatives in administering the Instrument.

(3) However, the Canadian securities regulatory authorities note that these general exclusions may not be applicable in cases in which a mutual fund invests in one of the vehicles described in subsection (2) with the result that the mutual fund obtains or increases exposure to a particular underlying interest in excess of the limit set out in section 2.1 of the Instrument. In such circumstances, the Canadian securities regulatory authorities are likely to consider that instrument a specified derivative under the Instrument.

(3) Companion Policy 81-102CP is amended by the addition of the following as section 3.2, and the consequent renumbering of existing sections 3.2, 3.3, 3.4 and 3.5 as sections 3.3, 3.4, 3.5 and 3.6, respectively:

"**3.2 Index Mutual Funds**

(1) An "index mutual fund" is defined in section 1.1 of the Instrument as a mutual fund that has adopted fundamental investment objectives that require it to

(a) hold the securities that are included in a permitted index or permitted indices of the mutual fund in substantially the same proportion as those securities are reflected in that permitted index or permitted indices; or

(b) invest in a manner that causes the mutual fund to replicate the performance of that permitted index or those permitted indices.

(2) This definition includes only mutual funds whose entire portfolio is invested in accordance with one or more permitted indices. The CSA recognizes that there may be mutual funds that invest part of their portfolio in accordance with a permitted index or indices, with a remaining part of the portfolio being actively managed. Those mutual funds cannot avail themselves of the relief provided by subsection 2.1(5) of the Instrument, which provides relief from the "10 percent rule" contained in subsection 2.1(1) of the Instrument, because they are not "index mutual funds". The CSA acknowledge that there may be circumstances in which the principles behind the relief contained in subsection 2.1(5) of the Instrument is also applicable to "partially-indexed" mutual funds. Therefore, the CSA will consider applications from those types of mutual funds for relief analogous to that provided by subsection 2.1(5) of the Instrument.

(3) It is noted that the manager of an index mutual fund may make a decision to base all or some of the investments of the mutual fund on a different permitted index than a permitted index previously used. This decision might be made for investment reasons or because that index no longer satisfies the definition of "permitted index" in the Instrument. It is noted that this decision by the manager will be considered by the Canadian securities regulatory authorities generally to constitute a change of fundamental investment objectives, thereby requiring securityholder approval under paragraph 5.1(c) of the Instrument. In addition, this decision would also constitute

a significant change for the mutual fund, thereby requiring an amendment to the simplified prospectus of the mutual fund and the issuing of a press release under section 5.10 of the Instrument.".

(4) Companion Policy 81-102CP is amended by the addition of the following as section 3.7:

"**3.7 Securities Lending, Repurchase and Reverse Repurchase Transactions**

(1) Section 2.12, 2.13 and 2.14 of the Instrument each contains a number of conditions that must be satisfied in order that a mutual fund may enter into a securities lending, repurchase or reverse repurchase transaction in compliance with the Instrument. It is expected that, in addition to satisfying these conditions, the manager on behalf of the mutual fund, in co-ordination with an agent, will ensure that the documentation evidencing these types of transactions contains customary provisions to protect the mutual fund and to document the transaction properly. Among other things, these provisions would normally include:

(a) a definition of an "event of default" under the agreement, which would include failure to deliver cash or securities, or to promptly pay to the mutual fund amounts equal to dividends and interest paid, and distributions made, on loaned or sold securities, as required by the agreement;

(b) provisions giving non-defaulting parties rights of termination, rights to sell the collateral, rights to purchase identical securities to replace the loaned securities and legal rights of set-off in connection with their obligations if an event of default occurs; and

(c) provisions that deal with, if an event of default occurs, how the value of collateral or securities held by the non-defaulting party that is in excess of the amount owed by the defaulting party will be treated.

(2) Section 2.12, 2.13 and 2.14 of the Instrument each imposes a requirement that a mutual fund that has entered into a securities lending, repurchase or reverse repurchase transaction hold cash or securities of at least 102 percent of the market value of the securities or cash held by the mutual fund's counterparty under the transaction. It is noted that the 102 percent requirement is a minimum requirement, and that it may be appropriate for the manager of a mutual fund, or the agent acting on behalf of the mutual fund, to negotiate the holding of a greater amount of cash or securities if necessary to protect the interests of the mutual fund in a particular transaction, having regard to the level of risk for the mutual fund in the transaction. In addition, if the recognized best practices for a particular type of transaction in a particular market calls for a higher level of collateralization than 102 percent, it is expected that, absent special circumstances, the manager or the agent would ensure that its arrangements reflect the relevant best practices for that transaction.

(3) Paragraph 3 of subsection 2.12(1) of the Instrument refers to securities lending transactions in terms of securities that are "loaned" by a mutual fund in exchange for collateral. Some securities lending transactions are documented so that title to the "loaned" securities is transferred from the "lender" to the "borrower". The Canadian securities regulatory authorities do not consider this fact as sufficient to disqualify those transactions as securities loan transactions within the meaning of the Instrument, so long as the transaction is in fact substantively a loan. References throughout the Instrument to "loaned" securities, and similar references, should be read to include securities "transferred" under a securities lending transaction.

(4) Paragraph 6 of subsection 2.12(1) permits the use of irrevocable letters of credit as collateral in securities lending transactions. The Canadian securities regulatory authorities believe that, at a minimum, the prudent use of letters of credit will involve the following arrangements:

(a) the mutual fund should be allowed to draw down any amount of the letter of credit at any time by presenting its sight draft and certifying that the borrower is in default of its obligations under the securities lending agreement, and the amount capable of being drawn down would represent the current market value of the outstanding loaned securities or the amount required to cure any other borrower default; and

(b) the letter of credit should be structured so that the lender may draw down, on the date immediately preceding its expiration date, an amount equal to the current market value of all outstanding loaned securities on that date.

(5) Paragraph 9 of subsection 2.12(1) and paragraph 8 of subsection 2.13(1) of the Instrument each provides that the agreement under which a mutual fund enters into a securities lending or repurchase transaction include a provision requiring the mutual fund's counterparty to promptly pay to the mutual fund, among other things, distributions made on the securities loaned or sold in the transaction. In this context, the term "distributions" should be read broadly to include all payments or distributions of any type made on the underlying securities, including, without limitation, distributions of property, stock dividends, securities received as the result of splits, all rights to purchase additional securities and full or partial redemption proceeds. This extended meaning conforms to the meaning given the term "distributions" in several standard forms of securities loan agreements widely used in the securities lending and repurchase markets.

(6) Section 2.12, 2.13 and 2.14 of the Instrument make reference to the "delivery" and "holding" of securities or collateral by the mutual fund. The Canadian securities regulatory authorities note that these terms will include the delivery or holding by an agent for a mutual fund. In addition, the Canadian securities regulatory authorities recognize that under ordinary market practice, agents pool collateral for securities lending/repurchase clients; this pooling of itself is not considered a violation of the Instrument.

(7) Section 2.12, 2.13 and 2.14 of the Instrument require that the securities involved in a securities lending, repurchase or reverse repurchase transaction be marked to market daily and adjusted as required daily. It is recognized that market practice often involves an agent marking to market a portfolio at the end of a business day, and effecting the necessary adjustments to a portfolio on the next business day. So long as each action occurs on each business day, as required by the Instrument, this market practice is not a breach of the Instrument.

(8) As noted in subsection (7), the Instrument requires the daily marking to market of the securities involved in a securities lending, repurchase or reverse repurchase transaction. The valuation principles used in this marking to market may be those generally used by the agent acting for the mutual fund, even if those principles deviate from the principles that are used by the mutual fund in valuing its portfolio assets for the purposes of calculating net asset value.

(9) Paragraph 6 of subsection 2.13(1) of the Instrument imposes a requirement concerning the delivery of sales proceeds to the mutual fund equal to 102 per cent of the market value of the securities sold in the transaction. It is noted that accrued interest on the sold securities should be included in the calculation of the market value of those securities.

(10) Section 2.15 of the Instrument imposes the obligation on a manager of a mutual fund to appoint an agent or agents to administer its securities lending and repurchase transactions, and makes optional the ability of a manager to appoint an agent or agents to administer its reverse repurchase transactions. A manager that appoints more than one agent to carry out these functions may allocate responsibility as it considers best. For instance, it may be appropriate that one agent be responsible for domestic transactions, with one or more agents responsible for off-shore transactions. Managers should ensure that the various requirements of sections 2.15 and 2.16 of the Instrument are satisfied for all agents.

(11) It is noted that the responsibilities of an agent appointed under section 2.15 of the Instrument include all aspects of acting on behalf of a mutual fund in connection with securities lending, repurchase or reverse repurchase agreements. This includes acting in connection with the reinvestment of collateral or securities held during the life of a transaction.

(12) Subsection 2.15(3) of the Instrument requires that an agent appointed by a mutual fund to administer its securities lending, repurchase or reverse repurchase transactions shall be a custodian or sub-custodian of the mutual fund. It is noted that the provisions of Part 6 of the Instrument generally apply to the agent in connection with its activities relating to securities lending, repurchase or reverse repurchase transactions. The agent must have been appointed as custodian or sub-custodian in accordance with section 6.1, and must satisfy the other requirements of Part 6 in carrying out its responsibilities.

(13) Subsection 2.15(5) of the Instrument provides that the manager of a mutual fund shall not authorize an agent to enter into securities lending, repurchase or, if applicable, reverse repurchase transactions on behalf of the mutual fund unless there is a written agreement between the agent, the manager and the mutual fund that deals with certain prescribed matters. Subsection (5) requires that the manager and the

mutual fund, in the agreement, provide instructions to the agent on the parameters to be followed in entering into the type of transaction to which the agreement pertains. The parameters would normally include:

(a) details on the types of transactions that may be entered into by the mutual fund;

(b) types of portfolio assets of the mutual fund to be used in the transaction;

(c) specification of maximum transaction size, or aggregate amount of assets that may be committed to transactions at any one time;

(d) specification of permitted counterparties;

(e) any specific requirements regarding collateralization, including minimum requirements as to amount and diversification of collateralization, and details on the nature of the collateral that may be accepted by the mutual fund;

(f) directions and an outline of responsibilities for the reinvestment of cash collateral received by the mutual fund under the program to ensure that proper levels of liquidity are maintained at all times; and

(g) duties and obligations on the agent to take action to obtain payment by a borrower of any amounts owed by the borrower.

(14) The definition of "cash cover" contained in section 1.1 of the Instrument requires that the portfolio assets used for cash cover not be "allocated for specific purposes". Securities loaned by a mutual fund in a securities lending transaction have been allocated for specific purposes and therefore cannot be used as cash cover by the mutual fund for its specified derivatives obligations.

(15) A mutual fund sometimes needs to vote securities held by it in order to protect its interests in connection with corporate transactions or developments relating to the issuers of the securities. The manager and the portfolio adviser of a mutual fund, or the agent of the mutual fund administering a securities lending program on behalf of the mutual fund, should monitor corporate developments relating to securities that are loaned by the mutual fund in securities lending transactions, and take all necessary steps to ensure that the mutual fund can exercise a right to vote the securities when necessary. This may be done by way of a termination of a securities lending transaction and recall of loaned securities, as described in paragraph 11 of subsection 2.12(1) of the Instrument.

(16) As part of the prudent management of a securities lending, repurchase or reverse repurchase program, managers of mutual funds, together with their agents, should ensure that transfers of securities in connection with those programs are effected in a secure manner over an organized market or settlement system. For foreign securities, this may entail ensuring that securities are cleared through central depositories. Mutual funds and their agents should pay close attention to settlement arrangements when entering into securities lending, repurchase and reverse repurchase transactions.".

(5) Companion Policy 81-102CP is amended by the addition of the following as section 5.2:
"Securities Lending, Repurchase and Reverse Repurchase Transactions

(1) As described in section 5.1, section 4.4 of the Instrument is designed to ensure that the manager of a mutual fund is responsible for any loss that arises out of the failure of it, and of any person or company retained by it or the mutual fund to discharge any of the manager's responsibilities to the mutual fund, to satisfy the standard of care referred to in that section.

(2) The retention by a manager of an agent under section 2.15 of the Instrument to administer the mutual fund's securities lending, repurchase or reverse repurchase transactions does not relieve the manager from ultimate responsibility for the administration of those transactions in accordance with the Instrument and in conformity with the standard of care imposed on the manager by statute and required to be imposed on the agent in the relevant agreement by subsection 2.15(6) of the Instrument.

(3) Because the agent is required to be a custodian or sub-custodian of the mutual fund, its activities, as custodian or sub-custodian, are not within the responsibility of the manager of the mutual fund, as provided for in subsection 4.4(5) of the Instrument. However, the activities of the agent, in its role as administering the mutual funds' securities lending, repurchase or reverse repurchase transactions, are within the ultimate responsibility of the manager,

as provided for in subsection 4.4(6) of the Instrument."

(6) Companion Policy 81-102CP is amended by the addition of the following as subsections 13.2(5),(6), (7) and (8):

"(5) Subsections 15.8(2) and (3) of the Instrument require disclosure of standard performance data of a mutual fund, in some circumstances, from "the inception of the mutual fund". It is noted that paragraph 15.6(d) generally prohibits disclosure of performance data for a period that is before the time when the mutual fund offered its securities under a simplified prospectus or before an asset allocation service commenced operation. Also, Instruction (1) to Item 5 of Part B of Form 81-101F1 Contents of Simplified Prospectus requires disclosure of the date on which a mutual fund's securities first became available to the public as the date on which the mutual fund "started". Therefore, consistent with these provisions, the words "inception of the mutual fund" in subsections 15.8(2) and (3) should be read as referring to the beginning of the distribution of the securities of the mutual fund under a simplified prospectus of the mutual fund, and not from any previous time in which the mutual fund may have existed but did not offer its securities under a simplified prospectus.

(6) Paragraph 15.6(a) of the Instrument contains a prohibition against the inclusion of performance data for a mutual fund that has been distributing securities for less than 12 consecutive months. The creation of a new class or series of security of an existing mutual fund does not constitute the creation of a new mutual fund and therefore does not subject the mutual fund to the restrictions of paragraph 15.6(a) unless the new class or series is referable to a new portfolio of assets.

(7) Section 15.14 of the Instrument contains the rules relating to sales communications for multi-class mutual funds. Those rules are applicable to a mutual fund that has more than one class of securities that are referable to the same portfolio of assets. Section 15.14 does not deal directly with asset allocation services. It is possible that asset allocation services could offer multiple "classes"; the Canadian securities regulatory authorities recommend that any sales communications for those services generally respect the principles of section 15.14 in order to ensure that those sales communications not be misleading.

(8) The Canadian securities regulatory authorities believe that the use of hypothetical or *pro forma* performance data for new classes of securities of a multi-class mutual fund would generally be misleading.".

(7) Companion Policy 81-102CP is amended by the deletion of section 14.1 and the substitution of the following:

"14.1 Calculation of Management Expense Ratio

(1) Part 16 of the Instrument sets out the method to be used by a mutual fund in calculating its management expense ratio. The requirements contained in Part 16 are applicable in all circumstances in which a mutual fund calculates and discloses a management expense ratio.

(2) Subsection 16.1(1) requires a mutual fund to use its "total expenses" before income taxes for the relevant period as the basis for the calculation of management expense ratio. Total expenses before income taxes will include interest charges and taxes of virtually all types, including sales taxes, GST and capital taxes, payable by the mutual fund. Income taxes, of course, would not be included in a calculation of total expenses before income taxes. In addition, Canadian GAAP would permit a mutual fund to deduct withholding taxes from the income to which they apply; therefore, withholding taxes would not be included as part of "total expenses".

(3) Brokerage charges are not considered to be part of total expenses as they are included in the cost of purchasing, or netted out of the proceeds from selling, portfolio assets.

(4) Subsection 16.1(4) of the Instrument makes reference to a mutual fund indicating, when providing management expense ratio information to a service provider that will arrange for public dissemination of the management expense ratio, whether management fees were waived or paid directly by investors during the relevant period. It is expected that the service providers will include this information in any disclosure of management expense ratio to the public in a manner that is clear and easily understandable by investors. Service providers may use symbols to inform the public of the different elements of a management expense ratio. If symbols are used, they should be accompanied by an explanatory legend.

(5) Mutual funds are reminded to ensure that any management expense ratio provided to

a service provider for public dissemination should be only the management expense ratio calculated as required by the Instrument.".

(8) Part 14 of Companion Policy 82-102CP is amended by

(a) the change of the title of the part to "Financial Disclosure Matters";

(b) the addition of the following as section 14.2:

"**14.2 Financial Statement Requirements in Securities Lending, Repurchase and Reverse Repurchase Transactions** - Mutual funds are required to follow Canadian GAAP in preparing financial statements, as supplemented as applicable by the requirements of other applicable securities legislation. The Canadian securities regulatory authorities wish to provide their views on the appropriate application of Canadian GAAP in circumstances where mutual funds enter into securities lending, repurchase and reverse repurchase transactions. Sections 14.3, 14.4 and 14.5 reflect the views of the Canadian securities regulatory authorities as to the steps those mutual funds should take in order to ensure that their financial statements comply with Canadian GAAP.";

(c) the addition of the following as section 14.3:

"**14.3 Financial Statement Requirements Concerning Securities Lending Transactions**

(1) A mutual fund, in the statement of investment portfolio included in the annual and interim financial statements of the mutual fund, or in the notes to that statement, should

(a) disclose the aggregate dollar value of securities that were lent in the securities lending transactions of the mutual fund that remain outstanding as at the date of the statement; and

(b) disclose the type and aggregate amount of collateral received by the mutual fund under securities lending transactions of the mutual fund that remain outstanding as at the date of the statement.

(2) A balance sheet of a mutual fund that has received cash collateral in a securities lending transaction that remains outstanding as of the date of the balance sheet should fairly present

(a) the cash collateral received by it as an asset; and

(b) the obligation to repay the cash collateral as a liability.

(3) The asset and liability referred to in subsection (2) should be shown as separate line items in the balance sheet.

(4) An income statement of a mutual fund should fairly present income from securities lending transactions as revenue and not as deductions from expenses.";

(d) the addition of the following as section 14.4:

"**14.4 Financial Statement Requirements Concerning Repurchase Transactions**

(1) A mutual fund, in the statement of investment portfolio included in the annual and interim financial statements of the mutual fund, or in the notes to that statement, should, for each repurchase transaction of the mutual fund that remains outstanding as at the date of the statement, disclose the date of the transaction, the expiration date of the transaction, the name of the counterparty of the mutual fund, the nature and market value of the securities sold by the mutual fund, the amount of cash received, the repurchase price to be paid by the mutual fund and the market value of the sold securities as at the date of the statement.

(2) A balance sheet of a mutual fund that has entered into a repurchase transaction that remains outstanding as of the date of the balance sheet should fairly present the obligation of the mutual fund to repay the collateral as a liability.

(3) The liability referred to in subsection (2) should be shown as

a separate line item in the balance sheet.

(4) An income statement of a mutual fund should fairly present income from the use of the cash received on repurchase transactions as revenue and not to offset expenses incurred in connection with the repurchase transaction."; and

(e) the addition of the following as section 14.5:

"14.5 **Financial Statement Requirements Concerning Reverse Repurchase Transactions**

(1) A mutual fund, in the statement of investment portfolio included in the annual and interim financial statements of the mutual fund, or in the notes to that statement, should for each reverse repurchase transaction of the mutual fund that remains outstanding as at the date of the statement, disclose the date of the transaction, the expiration date of the transaction, the name of the counterparty of the mutual fund, the total dollar amount paid by the mutual fund, the nature and value or principal amount of the securities received by the mutual fund and the market value of the purchased securities as at the date of the statement.

(2) A balance sheet of a mutual fund that has entered into a reverse repurchase transaction that remains outstanding as of the date of the balance sheet should fairly present the reverse repurchase agreement relating to the transaction as an asset at market value.

(3) The asset referred to in subsection (2) should be shown as a separate line item in the balance sheet.

(4) An income statement of a mutual fund should fairly present income from reverse repurchase transactions as revenue and not as deductions from expenses.".

PART 2 EFFECTIVE DATE

2.1 Effective Date - This Amendment comes into force on May 2, 2001.

NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE AMENDMENTS TO FORM 81-101F1 CONTENTS OF SIMPLIFIED PROSPECTUS AND FORM 81-101F2 CONTENTS OF ANNUAL INFORMATION FORM

PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 81-101

1.1 Amendments to National Instrument 81-101

(1) National Instrument 81-101 is amended by the deletion of the definition of "material contract" in section 1.1 and the substitution of the following:

""material contract" means, for a mutual fund, a contract listed in the annual information form of the mutual fund in response to Item 16 of Form 81-101F2 Contents of Annual Information Form;"

(2) National Instrument 81-101 is amended by the deletion of the words "made by" and the substitution of the word "of" in subparagraphs 2.3(1)(b)(i), 2.3(2)(a)(i), 2.3(3)(a)(i), 2.3(4)(a)(i) and 2.3(5)(a)(i).

(3) National Instrument 81-101 is amended by the addition of the following as subsection 2.3(6):

"(6) Despite any other provision of this section, a mutual fund may delete commercial or financial information from the copy of an agreement of the mutual fund, its manager or trustee with a portfolio adviser or portfolio advisers of the mutual fund filed under this section if the disclosure of that information could reasonably be expected to

(a) prejudice significantly the competitive position of a party to the agreement; or

(b) interfere significantly with negotiations in which parties to the agreement are involved.".

PART 2 AMENDMENTS TO FORM 81-101F1

2.1 Amendments to Form 81-101F1

(1) The "General Instructions" of Form 81-101F1 are amended by the addition of the following sentence at the end of subsection (2):

"However, subsection 1.3(3) of National Instrument 81-102 does not apply to this Form."

(2) The "General Instructions" of Form 81-101F1 are amended by the addition of the following immediately after subsection (20):

"*Multi-Class Mutual Funds*

(21) A mutual fund that has more than one class or series that are referable to the same portfolio may treat each class or series as a separate mutual fund for purposes of this Form, or may combine disclosure of one or more of the classes or series in one simplified prospectus. If disclosure pertaining to more than one class or series is combined in one simplified prospectus, separate disclosure in response to each Item in this Form must be provided for each class or series unless the responses would be identical for each class or series.

(22) As provided in National Instrument 81-102, a section, part, class or series of a class of securities of a mutual fund that is referable to a separate portfolio of assets is considered to be a separate mutual fund. Those principles are applicable to National Instrument 81-101 and this Form.".

(3) Item 1 of Part A of Form 81-101F1 is amended by

(a) the deletion of subsection 1.1(2) and the substitution of the following:

"(2) Indicate on the front cover the name of the mutual fund to which the simplified prospectus pertains. If the mutual fund has more than one class or series of securities, indicate the name of each of those classes or series covered in the simplified prospectus."; and

(b) the deletion of subsection 1.2(2) and the substitution of the following:

"(2) Indicate on the front cover the names of the mutual funds and, at the option of the mutual funds, the name of the mutual fund family, to which the document pertains. If the mutual fund has more than one class or series of securities, indicate the name of each of those classes or series covered in the simplified prospectus.".

(4) Item 6 of Part B of Form 81-101F1 is amended by the addition of the following as subsection (5):

"(5) For an index mutual fund,

(a) disclose the name or names of the permitted index or permitted indices on which the investments of the index mutual fund are based,

(b) briefly describe the nature of that permitted index or those permitted indices,

(c) for the 12 month period immediately preceding the date of the simplified prospectus,

(i) indicate whether one or more securities represented more than 10 percent of that permitted index or those permitted indices,

(ii) identify that security or securities, and

(iii) disclose the maximum percentage of the permitted index or permitted indices that that security or those securities represented in the 12 month period, and

(d) disclose the percentage of the permitted index that the security or securities referred to in paragraph (c) represented at the most recent date for which that information is available.".

(5) Item 7 of Part B of Form 81-101F1 is amended by the addition of the following as subsection (8):

"(8) If the mutual fund intends to enter into securities lending, repurchase or reverse repurchase transactions under sections 2.12, 2.13 or 2.14 of National Instrument 81-102

(a) state that the mutual fund may enter into securities lending, repurchase or reverse repurchase transactions; and

(b) briefly describe

(i) how those transactions are or will be entered into in conjunction with other strategies and investments of the mutual fund to achieve the mutual fund's investment objectives;

(ii) the types of those transactions to be entered into and give a brief description of the nature of each type, and

(iii) the limits of the mutual fund's entering into of those transactions.".

(6) Item 9 of Part B of Form 81-101F1 is amended by

(a) the addition of the following as subsections (5), (6) and (7):

"(5) For an index mutual fund, disclose that the mutual fund may, in basing its investment decisions on one or more permitted indices, have more of its net

assets invested in one or more issuers than is usually permitted for mutual funds, and disclose the risks associated with that fact, including the possible effect of that fact on the liquidity and diversification of the mutual fund, its ability to satisfy redemption requests and on the volatility of the mutual fund.

(6) If, at any time during the 12 month period immediately preceding the date of the simplified prospectus, more than 10 percent of the net assets of a mutual fund were invested in the securities of an issuer, other than a government security or a security issued by a clearing corporation, disclose

(a) the name of the issuer and the securities;

(b) the maximum percentage of the net assets of the mutual fund that securities of that issuer represented during the 12 month period; and

(c) disclose the risks associated with these matters, including the possible or actual effect of that fact on the liquidity and diversification of the mutual fund, its ability to satisfy redemption requests and on the volatility of the mutual fund.

(7) If the mutual fund is to enter into securities lending, repurchase or reverse repurchase transactions, describe the risks associated with the mutual fund entering into those transactions.";

(b) the addition of the following as Instruction (6):

"In responding to subsection (6) above, it is necessary to disclose only that at a time during the 12 month period referred to, more than 10 percent of the net assets of the mutual fund were invested in the securities of an issuer. Other than the maximum percentage required to be disclosed under paragraph (6)(b), the mutual fund is not required to provide particulars or a summary of any such occurrences.".

(7) Item 11.1 of Part B of Form 81-101F1 is amended by

(a) the addition of the following as subsection (8):

"(8) A reference to "the inception of a mutual fund" in Item 11 refers to the time at which the mutual fund first began distributing its securities under a simplified prospectus."; and

(b) the deletion of subparagraph 11.3(3)(b)(iii).

(8) Item 13.2 of Part B of Form 81-101F1 is amended by

(a) the deletion of the words "and operating expenses" in paragraph 13.2(2)(c); and

(b) the addition of the following as subsection (4):

"(4) If the management expense ratio of the mutual fund is composed, in part, of fees charged directly to investors, include disclosure of that fact. The management expense ratio used in calculating the disclosure to be provided under this Item should be the management expense ratio that includes these fees directly charged to investors; that is, the management expense ratio calculated in accordance with the general rules of Part 16 of National Instrument 81-102."; and

(c) the renumbering of existing subsection (4) as subsection (5), and the addition of the words "which are not included in the calculation of management expense ratio" at the end of that subsection.

PART 3 AMENDMENTS TO FORM 81-101F2

3.1 Amendments to Form 81-101F2

(1) The "General Instructions" of Form 81-101F2 are amended by the addition of the following sentence at the end of subsection (2):

"*However, subsection 1.3(3) of National Instrument 81-102 does not apply to this Form.*".

(2) The "General Instructions" of Form 81-101F2 are amended by the addition of the following immediately after subsection (13):

"*Multi-Class Mutual Funds*

(14) A mutual fund that has more than one class or series that are referable to the same portfolio may treat each class or series as a separate mutual fund for purposes of this Form, or may combine disclosure of one or more of the classes or series in one annual information form. If disclosure pertaining to more than one class or series is combined in one annual information form, separate disclosure in response to each Item in this Form must be provided for each class or series unless the responses would be identical for each class or series.

(15) As provided in National Instrument 81-102, a section, party, class or series of a class of securities of a mutual fund that is referable to a separate portfolio of assets is considered to be a separate mutual fund. Those principles are applicable to National Instrument 81-101 and this Form.".

(3) Item 1 of Form 81-101F2 is amended by

(a) the deletion of subsection 1.1(2) and the substitution of the following:

"(2) Indicate on the front cover the name of the mutual fund to which the annual information form pertains. If the mutual fund has more than one class or series of securities, indicate the name of each of those classes or series covered in the annual information form."; and

(b) the deletion of subsection 1.2(2) and the substitution of the following:

"(2) Indicate on the front cover the names of the mutual funds and, at the option of the mutual funds, the name of the mutual fund family to which the document pertains. If the mutual fund has more than one class or series of securities, indicate the name of each of those classes or series covered in the document.".

(4) Item 12 of Form 81-101F2 is amended by the addition of the following as subsections (4) and (5):

"(4) If the mutual fund intends to enter into securities lending, repurchase or reverse repurchase transactions, describe the policies and practices of the mutual fund to manage the risks associated with those transactions.

(5) In the disclosure provided under subsection (4), include disclosure of

(a) the involvement of an agent to administer the transactions on behalf of the mutual fund, and the details of the instructions provided by the mutual fund to the agent under the agreement between the mutual fund and the agent;

(b) whether there are written policies and procedures in place that set out the objectives and goals for securities lending, repurchase transactions or reverse repurchase transactions, and the risk management procedures applicable to the mutual fund's entering into of those transactions;

(c) who is responsible for setting and reviewing the agreement referred to in paragraph (a) and the policies and procedures referred to in paragraph (b), how often the policies and procedures are reviewed, and the extent and nature of the involvement of the board of directors or trustee in the risk management process;

(d) whether there are limits or other controls in place on the entering into of those transactions by the mutual fund and who is responsible for authorizing those limits or other controls on those transactions;

(e) whether there are individuals or groups that monitor the risks independent of those who enter into those transactions on behalf of the mutual fund; and

(f) whether risk measurement procedures or simulations are used to test the portfolio under stress conditions.".

(5) Item 15 of Form 81-101F2 is amended by the addition of the following as subsection (3):

"(3) For a mutual fund that is a trust, describe the arrangements, including the amounts paid and expenses reimbursed, under which compensation was paid or payable by the mutual fund during the most recently completed financial year of the mutual fund for the services of the trustee or trustees of the mutual fund.".

PART 4 EFFECTIVE DATE

Effective Date - This Amendment comes into force on May 2, 2001.

AMENDMENT TO
COMPANION POLICY 81-101CP
MUTUAL FUND PROSPECTUS DISCLOSURE

PART 1 AMENDMENTS

1.1 Amendments

(1) Companion Policy 81-101CP is amended by the substitution of the reference to "section 2.2" in section 2.5 with a reference to "section 2.3".

(2) Companion Policy 81-101CP is amended by the deletion of section 2.6 and the substitution of the following:

"(1) Section 2.3 of the Instrument and other Canadian securities legislation require supporting documents to be filed with a simplified prospectus and annual information form and amendments. A list of documents required is set out in an Appendix to National Policy 43-201 Mutual Reliance System for Prospectus and Initial AIFs.

(2) Subsection 2.3(6) of the Instrument permits the filing of certain material contracts from which certain commercial or financial information was deleted in order to be kept confidential. The Canadian securities regulatory authorities are of the view that information such as fees and expenses and non-competition clauses is the type of information that could be kept confidential under this provision. In these cases, the benefits of disclosing that information to the public are outweighed by the potentially adverse consequences of disclosure for mutual fund managers and portfolio advisers. However, the basic terms of these agreements must be included in the contracts that are filed. These terms would include the provisions relating to the term and termination of the agreements and the rights and responsibilities of the parties to the agreements.".

PART 2 EFFECTIVE DATE

2.1 **Effective Date** - This Amendment comes into force on May 2, 2001.

5.1.2 Multilateral Instrument 33-107 - Proficiency Requirements

NOTICE OF RULE MADE UNDER THE SECURITIES ACT

MULTILATERAL INSTRUMENT 33-107
FORMS 33-107F1, 33-107F2 AND 33-107F3

PROFICIENCY REQUIREMENTS FOR REGISTRANTS HOLDING THEMSELVES OUT AS PROVIDING FINANCIAL PLANNING AND SIMILAR ADVICE

Notice of Multilateral Instrument

The Commission has, under section 143 of the Securities Act, made Multilateral Instrument 33-107 – Proficiency Requirements for Registrants Holding Themselves out as Providing Financial Planning and Similar Advice as a Rule under the Act and Forms 33-107F1, 33-107F2 and 33-107F3.

The Instrument and the Forms have been or are proposed to be adopted in certain jurisdictions comprising the Canadian Securities Administrators ("CSA"). It has not been necessary for the Québec securities and insurance regulators to participate directly in this initiative. A comprehensive regulatory regime governing financial planning came into effect in Québec on October 1, 1999 as part of a larger regime governing professions in the province. The Instrument would be adopted as a rule in Ontario and Nova Scotia, a Commission regulation in Saskatchewan, and a policy in one other participating jurisdictions represented by the CSA. The Forms will be adopted as rules in Ontario.

The proficiency requirements created by the Instrument have been developed by a special CSA Committee sponsored by the CSA and the Joint Forum of Financial Market Regulators. The CSA Committee includes representatives drawn from government insurance regulators and insurance councils. The insurance regulator or insurance council of certain jurisdictions represented by the CSA has recommended, or is expected to recommend, the adoption of a regulation, by-law or other instrument analogous to the Instrument. It is expected that the insurance regulators and councils will accept Forms 33-107F1, 33-107F2 and 33-107F3.

The Instrument, the Forms and the material required by the Act to be delivered to the Minister of Finance were delivered on February 9, 2001. If the Minister does not reject the Instrument or return it to the Commission for further consideration by April 10, 2001, or if the Minister approves the Instrument, the Instrument will come into force, pursuant to section 4.1 of the Instrument, on February 15, 2002. If the Minister does not reject the Forms or return them to the Commission for further consideration by April 9, 2001, or if the Minister approves the Forms, the Forms will come into force on February 15, 2002. The Financial Services Commission of Ontario ("FSCO") will recommend to the Minister the adoption of a regulation in respect of life agents licensed under the Insurance Act similar in substance to the Instrument for consideration at the same time as the Instrument.

Drafts of the Instrument and Forms were published in December 1999.[1] During the period which ended on March 6, 2000 the CSA and the insurance regulators and councils received various submissions. The comments provided in these submissions have been considered by the CSA and the final versions of the Instrument and Forms being published with this Notice reflect the decisions of the participating members of the CSA.

Appendix A to this Notice provides a summary of the comments received and the response of the CSA.

Insurance and securities regulators in British Columbia participated in this initiative. At present the British Columbia Securities Commission will continue to apply its existing policy dealing with financial planning proficiency requirements. It proposes to include the examination required by the Instrument as one of the options available for satisfying the requirements of the policy. The Insurance Council of British Columbia is considering including the examination required by the Instrument as one of the options available for satisfying the Council's proficiency requirements for members. Insurance and securities regulators in Alberta and Manitoba were represented on the CSA Committee, but are not participating in the financial planning proficiency regime contemplated by the Instrument at this time.

Substance and Purpose of the Instrument

A. Scope of Instrument

The Instrument applies to individuals and firms registered to trade or advise under securities laws. The Instrument requires individual registrants who hold themselves out under a variety of titles specified in the Instrument to satisfy an objectively determined proficiency standard. When used by securities registrants, these titles convey the impression that financial planning or similarly objective, comprehensive, integrated personal financial advice is offered.

Registered firms that use the restricted titles as business names or use a restricted service description are required to provide those advertised services, and to provide them through officers, employers or agents who meet the proficiency standard.

The same restrictions apply to titles and service descriptions used by licensed insurance agents and agencies.

B. Proficiency Standard

The proficiency standard created by the Instrument consists of:

- passing the Financial Planning Proficiency Examination (the "FPPE") sponsored by the CSA and insurance regulators
- two years of insurance or securities industry experience in the last five years
- commitment to an approved continuing education program

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[1] In Ontario, at (Dec. 3, 1999) 22 OSCB 7669.

The FPPE will be identical for both securities registrants and insurance licensees and will be administered on a national basis.

C. *Transitional Grandfathering Relief*

Individuals who have completed one of the financial planning education programs or testing processes specified in the Instrument or who enroll in a specified program before March 31, 2001 and in most cases complete it no later than March 31, 2003 will not need to write the FPPE.

This transitional relief will expire on March 31, 2004.

D. *Notice*

Registrants planning to offer financial planning and similar advice are required to notify all applicable regulators in advance that they have satisfied the proficiency standard.

E. *Impact on Existing Registrants and Licensees*

The CSA wish to emphasize that the Instrument will have no effect on the ability of registered dealers to act on behalf of their clients in buying or selling securities in which they are registered to trade. Similarly, the analogous insurance provisions will not prevent licensed insurance agents from selling insurance products.

However, the Instrument restricts the use of titles by individuals that are licensed or registered to sell financial products that would convey to customers the impression that objective, comprehensive, integrated financial advice tailored to their present and future financial circumstances is being offered. These registrants and licensees will not be able to hold themselves out to the public using these titles unless they have demonstrated their competence to provide the type of advice suggested by the titles. By the same token, registered firms will not be able to hold themselves out under the equivalent business titles unless the financial planning or similar advice is provided to customers by qualified individual registrants and licensees.

Summary of Changes to the Instrument

This section describes changes made in the Instrument from the version published for comment in December 1999, except that some changes of a minor nature are not discussed. For a detailed summary of the contents of the version of the Instrument published for comment in December 1999, reference should be made to the Notice published at that time. As the changes to the Instrument and the Forms are intended to clarify the intended meaning of the draft Instrument or to ensure overall consistency, they are not material and are not subject to a further comment period. The majority of changes were made by the CSA in response to comments received; others were made as a result of further consideration by the CSA.

Other than changes consequential to the Instrument, the only changes to the Forms are to require Forms 33-107F1 and 33-107F2 to be certified by the sponsoring firm, if applicable, as well as the individual registrant or licensee.

A. *Clarification of "Provide a Document"*

The application of the Instrument to a registered firm that provides clients with a document entitled "Financial Plan" has been clarified. An individual who does not satisfy the proficiency requirements may deliver or send the document so long as the individual does so on the instructions of an officer, employee or agent of the firm who satisfies the requirements.

New subsection 1.1(5) addresses the concept of "providing a plan" where a registrant that does not use a restricted title or service description and does not prepare a financial plan for its clients, pays a third party to prepare the plan for the clients. This provision states that the registrant will not be considered to have provided the document to a client if four conditions are met. These are that the preparer of the plan obtains directly from the client the information used to prepare the plan, the preparer delivers the document directly to the client, the preparer is independent of the registrant (as determined by an arm's length relationship as defined in the Income Tax Act), and the compensation arrangement is disclosed to the client.

B. *Applicability to Institutional Salespeople*

Subsection 1.1(6) has been added to clarify that the Instrument is not intended to apply to registrants that use restricted titles and service descriptions exclusively in providing services to institutional clients. The FPPE regime implemented by the Instrument is concerned with proficiency in financial planning and similar advice provided to individuals only.

C. *Additional Grandfathering Exemptions*

The CSA has added two programs to the transitional grandfathering exemptions following presentations made by the Canadian Association of Insurance and Financial Advisors ("CAIFA"), together with the delivery of detailed written submissions.

An additional grandfathering exemption is available to all those who passed the courses and examinations of the Chartered Life Underwriter (CLU) program offered by CAIFA before September 1995. The CSA are satisfied that the content of this program is comparable to that of other educational programs whose graduates are grandfathered and adequately covers the content domain sub-topics identified by Brendan Wood International ("BWI"). Due to structural changes to the programs offered by CAIFA after 1995, a grandfathering exemption is not available to those who completed the CLU program in the form offered from September 1995. As indicated in the Notice accompanying the draft Instrument, grandfathering of this program was under consideration by the CSA at the time the Instrument was published, but the assessment of supporting information had not been completed.

The second grandfathering exemption has been added for the comprehensive financial planning program offered by CAIFA. This program is considered equivalent to the comprehensive financial planning program offered by The Canadian Institute of Financial Planning, with which it shares modules.

The grandfathering exemption for those who receive a diploma from the Institut québécois de planification financière has been

extended to include individuals enrolled in the Institut as of March 31, 2001 who receive a diploma from the Institut within two years.

D. Equivalency Exemption

The Notice published in December 1999 stated: "It is intended that discretionary exemptions will be available in limited situations, based on the general premise that everyone will be required to pass the FPPE unless grandfathered." The CSA have decided to clarify the limited scope of the equivalency exemption by explicitly restricting its application to the requirement for registration or licensing for two years within the preceding five years.

The analysis of the equivalency of other Canadian examinations dealing with financial planning on an ongoing basis is inconsistent with the FPPE's value as a uniform, cross-sector standard. In that sense the FPPE is unique: by definition, no examination that was not also sponsored by the CSA and developed in accordance with the same processes could be equivalent in all material respects to the FPPE. Further, completion of a course and examination in a country outside Canada that is otherwise of the same scope and difficulty as the FPPE would not be equivalent to the FPPE due to the lack of Canadian content, such as Canadian taxation. The requirement to be subject to or undertake to comply with an approved continuing education regime is itself discretionary, so to provide for discretionary relief from it is redundant.

The CSA recognize that there are a wide variety of ways to obtain experience equivalent to two years of registration or licensing with a securities and insurance regulatory authority. These will be considered on an individual basis. It is anticipated that at a later date the CSA will publish a notice providing examples of the types of situations in which equivalency exemptions have been granted.

E. Other Changes

Other minor changes made for clarification purposes are as follows:

1. Clarification that an individual who satisfies the requirements on behalf of a registered firm must be an officer, employee or agent of the firm. That individual does not need to be a registrant.

2. Clarification that the reference to similar titles is to titles similar to "financial planner" and not to titles similar to any of the other titles derived from the pool. The same clarification is made with respect to similar service descriptions.

Additional Information

A. Update on the Development of the FPPE

A National Examination Working Committee ("NEWC") composed of four industry educational consultants representing the various industry sectors and chaired by Dr. Les McLean, a testing specialist, began preparing the FPPE in October 1999, working from a "blueprint" prepared by BWI from a survey of industry representatives. NEWC decided unanimously to prepare an examination that would consist of multiple-choice questions (50%) and realistic cases to which examinees would have to construct responses (50%). Three hundred four-option multiple-choice questions were written, discussed, revised and edited, and three cases and questions were written. NEWC assigned multiple-choice items to one or more of the eight content "domains" specified by BWI and also gave each one a provisional difficulty/complexity rating using the Bloom Taxonomy (Knowledge, Understanding, Application, Analysis or Synthesis).

A pilot test was administered in Vancouver, Regina, Winnipeg, Toronto and St. John's on October 2, 2000 as a formal trial of the material. Volunteers were solicited by the CSA staff through industry organizations, CSA websites, and an advertisement in the Globe and Mail. Volunteers received a handbook describing the purpose, procedures, content (with examples), feedback to be provided, and the rules of conduct expected of those who wrote the pilot examination.

Two versions (forms) of the test were assembled by selecting multiple-choice items at random from the eight domains, 100 items for each form, and choosing three cases (two for Form A and one for Form B). Boxes of examinations, answer sheets, volunteer questionnaires, evaluation forms and administration instructions were sent out from Toronto, and the examinations were administered in the same way at all five locations.

Responses were obtained from 135 volunteers to 200 multiple-choice items and three cases. Volunteers completed a confidential personal questionnaire and most responded to a FPPE evaluation form. All forms were returned to Toronto. This information was analyzed and the results summarized in a report prepared by NEWC.

Various methods were used to analyze the quality of each multiple-choice question. These included whether a reasonable number of examinees chose each of the wrong answers, comparison of volunteers' performance on each item with their performance on the test as a whole, determining whether the test was most informative near the pass/fail level, and estimating the margin of error of the scores. These results were used to select the items for the FPPE.

Responses to the cases from the afternoon session were read and marked by the four industry representatives on NEWC. They followed procedures recommended in the testing profession: (a) discussing and, if necessary, revising suggested marking scales and criteria; and (b) marking the responses independently, discussing problematic cases as necessary to arrive at a consensus mark. The two cases included in Form A were less difficult than the case in Form B. NEWC members prepared a single revised case study for the first FPPE.

After studying the results from the pilot test and reviewing the items, NEWC has recommended 100 multiple-choice items and a single complex case study, each weighted at 50%, to make up the first FPPE. The items are distributed over the eight content domains as suggested in the BWI report, and there are numerous difficult/complex items as well as easier/less complex ones. NEWC is confident that the

examinees will find the FPPE challenging but fair, and submits that the FPPE will be an effective test of proficiency in financial planning.

B. Administration of the FPPE

A governance structure is being created for the administration of the FPPE. The structure is intended to involve the following:

1. Sub-Committee of the Joint Forum of Financial Market Regulators

The Joint Forum of Financial Market Regulators is an association of Canadian securities, insurance and pension regulators. Its Financial Planning Sub-committee will be responsible for ensuring that a national, uniform and rigorous standard is maintained through coordination, cooperation and consensus among securities and insurance regulators. The sub-committee will provide oversight and overall direction to the National Steering Committee, and resolve issues if agreement and consensus cannot be reached by that Committee.

2. National Steering Committee (NSC)

The NSC will be the key decision-making forum for industry participants to maintain and update the proficiency standard and to recommend revisions to the Instrument. Its functions will include designing and updating policies for the FPPE, providing direction to NEWC, determining the annual budget for the administration of the FPPE and the examination fee, and implementing a common communications plan, including informational materials for those planning to write the FPPE.

3. National Examination Working Committee (NEWC)

NEWC will be the technical body responsible for the implementation of the FPPE. Its members will be designated by the industry associations and their educational affiliates, but it will be chaired by an independent measurement and testing expert. NEWC will develop and maintain the examination blueprint, the item bank of questions, scoring methodologies, and a code of conduct for the FPPE. It will also implement a secure central exam correction procedure, score the FPPE, train correctors, ensure consistency in the level of difficulty among various sittings of the FPPE, develop standards for educators, and analyze and evaluate the results. The chair of NEWC will report to the NSC.

4. Central Support

Central Support will consist initially of one permanent staff person, who will provide administrative support for the Joint Forum Sub-committee, the NSC and NEWC. Central Support will be responsible for ensuring that inquiries are answered or directed to the appropriate area for response, and prepare agendas and minutes for meetings of the NSC and NEWC.

5. Industry Associations

The individual industry associations will be responsible for organizing examination sittings at their own test sites, delivering the FPPE, sending out materials including results, handling appeals in accordance with established policies, and collecting exam application forms and fees.

C. Continuing Education

The continuing education programs of CAIFA, the Canadian Bankers Association, the Investment Dealers Association of Canada and The Investment Funds Institute of Canada are approved for purposes of the Instrument. These associations have worked towards harmonizing the requirements of their programs to facilitate compliance by persons with multiple licenses or registrations and persons transferring among industry sectors. The CSA will consider requests for approval by other formal continuing education programs designed to update persons providing financial planning services.

Text of Instrument and Forms

The text of the Instrument and the Forms follows the Appendices to this Notice.

February 9, 2001.

SUMMARY OF COMMENTS
ON
PROPOSED MULTILATERAL INSTRUMENT 33-107

PROFICIENCY REQUIREMENTS FOR REGISTRANTS HOLDING THEMSELVES OUT AS PROVIDING FINANCIAL PLANNING AND SIMILAR ADVICE

PUBLISHED DECEMBER 1999

List of Commentators

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Bureau - Bureau des services financiers (Louise Champoux-Paillé, Economist)
CAFP - Canadian Association of Financial Planners
CAIFA - Canadian Association of Insurance and Financial Advisors (David Thibaudeau, President & CEO)
CBA - Canadian Bankers Association (Raymond J. Protti, President & Chief Executive Officer)
CBAO - Securities Subcommittee of the Business Law Section of the Canadian Bar Association (Ontario) (Jennifer Northcote, Stikeman, Elliott)
CGA - CGA-Canada (Guy Legault, President and Chief Operating Officer)
Chambre - Chambre de la sécurité financière (Josée Turcotte, Attorney, Senior Management Advisor)
CICA - Canadian Institute of Chartered Accountants (William J.L. Swirsky, Vice-President, Professional Affairs)
Clarica - Clarica Life Insurance Company (Michael Geraghty, Vice-President, Retail Customer Sales)
CLHIA - Canadian Life and Health Insurance Association Inc. (Mark R. Daniels, President)
CLUs - various holders of the CLU designation
CMA - Society of Management Accountants of Canada (R.W. Dye, President & CEO)
Co-operators - The Co-operators Group Limited (Dennis Deters, Senior Vice-President, Member & Corporate Relations)
CSI - Canadian Securities Institute (Roberta Wilton, President)
CUFPA - CUFPA Financial Planning Group (John E. Martin, President)
CUIC - Credit Union Institute of Canada (Elizabeth Thorn, Executive Director)
Dolan - R.J. Dolan, Associate Dean, Financial Management Technology, British Columbia Institute of Technology
ET Sub. (IDA) - Education & Training Subcommittee of the RS Com. (IDA) (Kristine Vikmanis, Chair)
FCPO - Fédération des caisses populaires de l'Ontario (Alain Boucher, Directeur)
FCSI - Academy of Fellows of the Canadian Securities Institute (Bruce Templeton, Chair)
Foster - Sandra Foster, RFP, FCSI, CaratConnect
FPSC - Financial Planners Standards Council (Donald Johnston, President)
IDA - Investment Dealers Association of Canada (Joseph J. Oliver, President and Chief Executive Officer)
IFIC - The Investment Funds Institute of Canada (Hon. Thomas A. Hockin, President & C,E.O.)
ILIB - Independent Life Insurance Brokers of Canada (Jim Bullock)
IMCA - Investment Management Consultants Association (Bruce B. Curwood, Chairman of the Canadian Advisory Board)
Investors - Investors Group Inc. (W. Terrence Wright, Senior Vice-President, General Counsel & Secretary)
IQPF - Institut québécois de planification financière (Denis Boucher, President)
LU - CISRO Financial Planning Program and Certificat en Planification Financière Personelle of Laurentian University (Tov Assogbavi, Executive Director)
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MD - MD Management Limited (John Klaas, Assistant Vice President, Financial Services)
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Middlefield - Middlefield Securities Limited (W. Garth Jestley, President)
Nesbitt Burns - BMO Nesbitt Burns Inc. (Dean Manjuris, President & Managing Director, Private Client Division)
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Royal Bank - Royal Bank Financial Group (W. Reay Mackay, Vice Chairman, Royal Bank of Canada)
RS Com. (IDA) - Retail Sales Committee of the IDA (Gary Reamey, Chair)
ScotiaMcLeod - ScotiaMcLeod Inc. (James Werry, Managing Director)
Streek - Frank Streek CLU, Certified Financial Planner, Money Concepts
TD - TD Evergreen Investment Services (Susan Stefura, Manager, Financial Planning; Christopher Climo, Senior Vice-President, Compliance)
WLU - Wilfred Laurier University (George Athanassakos, Professor of Finance & Director, Financial Planning Program)
Wood Gundy - CIBC World Markets Inc. (Thomas S. Monahan, Head of Wood Gundy Private Client Investments)

Issue	Commenters	Comment	CSA Response
General			
Overall desirability	CAIFA CBA CGA Clarica CSI CUFPA Dolan FCPO FPSC IFIC ILIB IMCA Macdonald Manulife Nesbitt Burns Primerica ScotiaMcLeod Streek	CBA, Clarica, IFIC, IMCA, Macdonald, Manulife, Nesbitt Burns and ScotiaMcLeod commented to the effect that the proposal to implement the Instrument is generally desirable. CAIFA, CUFPA, FCPO, Primerica and Streek commented to the effect that they generally approve of the contents of the Instrument. Streek commented: "I applaud the work you . . . are doing and have no negative comments." ILIB commented that the consumer already is adequately safeguarded by existing legal requirements, including common law duties. It states: "Advice is 'opinion' and insurance practitioners are not willing to accept the notion that any regulator is empowered to regulate opinion." ILIB is concerned that the inevitable impact of the Instrument would be the end of all advice-giving by commissioned dual-licensed independents. ILIB further commented that its members are suspicious that the regulatory involvement may reflect a marketing concern by securities dealers and banks. CSI commented that the Instrument is unnecessary on the assumption that the existing courses are adequate, as indicated by the review done by Brendan Wood International. FPSC and CGA, one of its members, commented that the Instrument will create public confusion.	The general support for the Instrument is noted. The CSA became involved in this matter to promote an industry-based solution to the concerns raised by the various industry sectors and others about the absence of proficiency requirements as a prerequisite to the provision of financial planning advice. The CSA also were concerned about ensuring that pedagogical concerns would not be subordinated to other considerations. The Instrument is designed to reduce confusion by instituting a single proficiency standard across all sectors of the industry, regardless of designation. The Instrument does not restrict anyone's exercise of judgment in providing financial planning advice, but only addresses their having the proficiency to do so. The CSA disagree with ILIB on the adequacy of a system of consumer protection that relies solely on expensive redress in the courts after harm has been done and when the responsible person might not have adequate resources to compensate for the loss.
Participation	CBA CLHIA Clarica Dolan IFIC AIMR Manulife	CBA, IFIC, CLHIA, AIMR and Manulife commented that the collaborative effort, including the joint involvement of the securities and insurance sectors, is beneficial. Dolan, an academic at the British Columbia Institute of Technology, commented that the proposal should include the active involvement of persons other than industry course providers. Clarica commented that it should include FPSC.	The comments on the collaborative effort are noted. Of the four organizations that participated in the developing the FPPE and were actively involved in discussions concerning the Instrument, two, IFIC and CAIFA, are members of FPSC. Consideration is being given to having a larger number of organizations participate in the FPPE's ongoing governance and administration.
Self-regulation	CGA Clarica CSI CUIC CMA FPSC IDA IFIC Investors Macdonald McCallum RS Com. (IDA) WLU Wood Gundy	IDA, its Retail Sales Committee and Wood Gundy, an IDA member, commented that the requirements should be imposed through the IDA as a self-regulatory organization (SRO). IDA considers it a basic tenet of the SRO system that it is responsible for its registrants' proficiency requirements and is of the view that the Instrument undermines its SRO proficiency function in terms of setting financial planning proficiency requirements. FPSC, together with CGA, CMA, CUIC and IFIC, which are all members of FPSC, Investors, a member of IFIC, Clarica and McCallum, head of a British Columbia Institute of Technology program accredited by FPSC, also advocate the use of an SRO model, but suggest that it be through the FPSC. WLU, which has a financial planning program accredited by FPSC, commented that all financial planners should be required to have FPSC's Certified Financial Planner	The difficulties incumbent with designating either the IDA or FPSC as the SRO for financial planning are described under "Alternatives Considered" in the original Notice. The CSA understand that those advocating the IDA as the SRO would not accept the FPSC as the SRO and those advocating the FPSC as the SRO would not accept the IDA as the SRO. Thus the SRO alternative does not appear to be viable at this point. The CSA's experience to date verifies Macdonald's observation that the industry is too diverse for self-regulation by a single body, at least without the creation of a completely new regulatory structure as Quebec has done. The CSA proposed the FPPE requirement only after the various industry organizations were unable to agree among themselves on how to proceed. Persons who satisfy the Instrument's requirements remain entitled to obtain and promote themselves using the Certified Financial Planner designation or any other designation.

Issue	Commenters	Comment	CSA Response
		designation. CSI favours use of the existing SRO model. Macdonald, a self-described "fee-for-service" advisor who has been in the "financial planning industry" for 28 years says that he has watched the various competitive groups in both Canada and the United States jockey for position: "The industry is too diverse to have self-regulation by a single body and, furthermore, this would not be desirable. It is very much in the consumer's interest to have a number of competing organizations."	
Scope			
Use of title-based approach	CBA CBAO CLHIA Clarica Co-operators MD ScotiaMcLeod	CBA, CLHIA and Clarica endorse the use of a title-based approach for establishing the scope of the Instrument. CBAO and MD suggest the use of an activity-based approach, as used elsewhere in securities legislation. CBAO stated that the focus of the regulation should remain on the actual provision of financial planning services, rather than on titular nomenclature. Co-operators and ScotiaMcLeod also support an activity-based approach.	The CSA have chosen an approach based on holding out under a particular title because it provides the greatest degree of certainty in the application of the Instrument and is clearest for compliance purposes. A major problem with an activity-based approach is determining a suitable definition for the activity. FPSC and other industry groups advocate defining financial planning according to a six step process. These steps are not, however, sufficiently precise to serve as a definition of a regulated activity. A definition in terms of a process leaves open the question of how to classify a person who deviates from the process in some way, but nonetheless performs an activity that the public considers to be financial planning. As an alternative, the CSA would prefer a reliance-based approach over an activity-based approach, looking at whether a person has reasonably invited reliance by the public. Although the title-based approach chosen by the CSA creates the greatest certainty in the application of the Instrument, the CSA recognize that this approach creates technical problems, including the need to balance anti-avoidance concerns in creating the title pools with concerns that the restrictions could be over-inclusive in particular cases where avoidance is not intended.
Inclusiveness	CLHIA Clarica Co-operators Foster IDA IFIC Investors Macdonald MD RS Com. (IDA) ScotiaMcLeod Streek	IDA, RS Com. (IDA), IFIC, CLHIA, Co-operators, MD, Foster, Macdonald (who describes himself as a fee-for-service advisor) and Streek commented that the requirements should apply not just to registrants and licensees, but also to fee-for-service planners and others who provide financial planning services. IDA suggests that the CICA and provincial law societies should be encouraged to adopt similar requirements in order to ensure the greatest number of individuals engaged in financial planning are subject to similar proficiency standards. IFIC mentions deposit brokers and income tax preparers as others who would not be covered. CLHIA and Streek are concerned about unqualified people in the banking industry. The concerns raised include the possibility of public confusion, uneven protections for the public, and competitive concerns. CLHIA strongly disagrees with the assertion that "consumers can only be injured by financial planning advice if the advice is implemented by the purchase of a product". Clarica commented that those not covered by the	As discussed in the Notice, the consumer protection concerns arise predominantly in the case of persons who are registered or licensed to sell securities and insurance products. The issue of non-registrants receiving referral fees is beyond the scope of the Instrument. This issue is being addressed by the new Mutual Fund Dealers Association. The CSA note that any act directly or indirectly in furtherance of a sale of a security for valuable consideration generally requires registration under applicable securities legislation. Bank employees who sell mutual funds will be subject to the Instrument's requirements. The CSA further understand that the banks will voluntarily require some of their employees who deal with customers but are not registrants or licensees to comply with the Instrument's proficiency requirements. The CSA note IDA's suggestion that other organizations be encouraged to adopt similar requirements. The CSA do not consider the Instrument to be over-inclusive in capturing individuals who do not provide true financial planning advice on the basis that those individuals should not hold themselves out as financial planners or under one of the other

Issue	Commenters	Comment	CSA Response
		Instrument could include those who receive "referral fees" on related product sales without being registered or licensed themselves. ScotiaMcLeod commented that the Instrument is over-inclusive in capturing a large number of individuals who may be providing a component of financial planning advice, but are not providing true financial planning advice.	restricted titles. They are entitled to provide a component of financial planning advice under other titles. A drafting change has been made to clarify that a "similar" title must be similar to "financial planning", not just to one of the other titles in the pool.
Title Pools (s. 1.1(1)(a) and others)			
Use of pools	CAFP CAIFA CBA Chambre Clarica FCPO IDA IFIC Manulife McCallum Merrill Lynch Middlefield Nesbitt Burns RS Com. (IDA) Royal Bank Wood Gundy TD	CAFP, CAIFA, IFIC, FCPO, Manulife and Nesbitt Burns support the use of the title pools for determining the Instrument's coverage. IDA, RS Com. (IDA), CBA, Clarica, Merrill Lynch, Middlefield, Royal Bank, TD, Wood Gundy, Chambre and McCallum oppose the use of the title pools and would limit coverage only to those holding themselves out as "financial planners".	The CSA are concerned that limiting the coverage of the Instrument to the use of the term "financial planner" allows the effect of the Instrument to be too easily avoided through the marketing of terms given a similar connotation. The Instrument is revised to remove the title "insurance planner" as a restricted title on the basis that it more specifically carries a product connotation and is currently in use for that purpose.
Terms in pool	CAIFA CLHIA Clarica IDA Manulife Merrill Lynch RS Com. (IDA)	The term "financial consultant" should not be included in the pool. This title does not cause confusion on the part of consumers, it is used by Merrill Lynch worldwide and CIBC World Markets in Canada, and the restriction on its use is costly and unnecessary. CAIFA (Canadian Association of Insurance and Financial Advisors) commented that it assumes its members are not precluded from holding themselves out as such without satisfying the Instrument's requirements. Clarica and Investors request clarification that the Instrument will not preclude the use of professional designations. CLHIA commented that the phrase "or any other similar title" may be too broad. Manulife queries whether that phrase includes the word "investment" and whether there is any restriction on a firm using "Financial Services" in its name.	The CSA are concerned that the term "financial consultant" is susceptible to misuse by firms whose names are unfamiliar to consumers and in mass marketing efforts by better known firms. The CSA have not received any information to change its view that titles such as "financial advisor" and "financial consultant" are not an indicator to consumers to expect that financial planning services are being provided. The Instrument's restrictions apply to professional designations on business cards or elsewhere, whether used in full or in abbreviated form. The Instrument will not restrict members of CAIFA from holding themselves out as such because the name "Canadian Association of Insurance and Financial Advisors" indicates that its membership is more broadly based than just financial advisors (or financial planners) and that membership does not in itself indicate that the member is holding itself out as a financial advisor. The use of the phrase "or any other similar title" is an anti-avoidance provision to address the concern that other titles similar to those on the list can be developed as a means of marketing someone as a person who provides financial planning services. The applicable regulatory authority should be contacted if there is uncertainty over the use of any proposed title. The use of any of the words "insurance", "investment" or "securities" is not restricted by the Instrument. There also is no restriction on a firm using "Financial Services" in its name.

Issue	Commenters	Comment	CSA Response
Provide a Financial Plan (s. 1.1(1)(b) & 1.1(2)(b))			
Wording of provision	CAFP CAIFA CBA CBAO Clarica Foster Investors Nesbitt Burns Primerica Royal Bank ScotiaMcLeod TD	Comment was requested on whether this provision might present difficulties due to the manner in which firms are organized CAIFA, CBA and Royal Bank commented that the requirement seems clear. CBAO requests clarification that the requirement excludes persons performing purely administrative functions in delivering or sending the document, rather than authoring or explaining it. Clarica and Investors request clarification that head office personnel who are not registered or licensed are entitled under the Instrument to prepare financial plans for salespeople to provide to clients. Several commenters construed the phrase "document referred to as a financial plan" more broadly than intended. Foster commented that other terms used in place of "financial plan" are "analysis", "review" and "financial independence calculation".	The wording "document referred to as a financial plan" is revised to say "document having a title that includes the expression 'financial plan'". The Instrument's requirements must be satisfied where either a registered individual or a registered firm provides a document of this type. Persons performing purely administrative functions are not subject to the requirements if they are not registered, but a registered firm employing them would be subject to the requirements. The provision has been revised to clarify that the person at the firm who does the act of delivering or sending the document does not need to satisfy the requirements if that person is acting on the instructions of a registered individual. Employees of a registered or licensed firm are not subject to the Instrument's requirements if their involvement is limited to preparing a financial plan for use by a salesperson who meets with the client. The CSA will consider revising this paragraph of the Instrument should it prove to be too narrow.
Scope of provision	TD	TD favours a broader provision that addresses the substance of what is actually being done for the client, for which they state that a definition of "financial plan" is imperative.	In not addressing what is actually being done for the client, this provision corresponds with the title-based approach in aiming for greater clarity.
Examination Requirement (FPPE) (s. 1.1(1)1)			
Nature of FPPE	CBA IMCA FCPO	CBA approves the proposed nature of the FPPE, including the use of constructed-response questions. FCPO commented that there should be a French version of the FPPE. IMCA commented that specialized proficiency examinations should be adopted. Alternatively, allow exemptions for areas of non-expertise and grant designations such as FPPE Insurance and FPPE Investments.	The CSA will offer a French version of the FPPE. The use of specialized proficiency examinations is inconsistent with the Instrument's goal of establishing a generally applicable integrated examination. Persons lacking proficiency in particular aspects of financial planning should hold themselves out according to their particular area of expertise rather than as financial planners or under one of their other restricted titles.
Development of FPPE	CUFPA FPSC LU Macdonald	Macdonald and CUFPA commented that the FPPE should be set and administered by the CSA. FPSC commented that the FPPE should be measured against generally accepted standards through independent audits. LU commented that to preserve impartiality all program providers should be invited to contribute to the FPPE or none at all.	The CSA retained Dr. Les McLean, a measurement expert, as an independent consultant to lead the development of the FPPE according to generally accepted measurement standards. Dr. McLean has reviewed and concurs with the standards applied to FPSC's examination. Impartiality has been maintained by developing the FPPE according to the domain sampling weights and levels of mastery established by Brendan Wood International, an independent consultant. The question pool has been created through the consensus view of four educational experts under the guidance of Dr. McLean. These experts are employed by CAIFA, CIFP, CSI and ICB, which are industry financial planning course providers. Including all program providers in the development process would make the process unwieldy and would not, in the CSA's view, alter the impartiality of the FPPE.

Issue	Commenters	Comment	CSA Response
Experience Requirement (s. 1.1(1)2)			
Alternative criteria	CAFP CBA Clarica FPSC IFIC Investors Nesbitt Burns	Limiting the requisite experience to two years of registration or licensing (other than through an individual application for an exemption) is overly restrictive. There should be a more general provision covering fee-only planners and others who have financial planning experience outside the securities and insurance industries, including accounting, law and other sectors of the financial services industry. The CBA recommends an alternative requirement consisting of attestation, subject to audit, of two years of financial planning related experience, including a financial plan prepared by the individual.	The factors to be considered in assessing the experience of persons who do not satisfy the registration or licensing requirement include involvement in gathering and analyzing data for the preparation of financial plans as well as dealing with clients. The CSA are unable to generalize the criteria for satisfying the experience requirement at this point.
Additional requirements	ET Sub. (IDA) ScotiaMcLeod WLU	ScotiaMcLeod commented that the requirement should relate more specifically to the actual provision of financial planning services. WLU commented that the experience requirement should be made more explicit. ET Sub. (IDA) commented that only experience subsequent to passing the FPPE should be considered.	The experience requirement has not been limited to experience obtained after passing the FPPE in order to maintain flexibility in respect of the varying practices of the various industry sectors.
Supervised experience	Foster Nesbitt Burns	Foster commented that the experience should be required to be under the supervision of someone qualified to provide financial planning services. Nesbitt Burns proposes that the two-year requirement be reduced for new entrants into the industry at firms which provide appropriate training and supervision in financial planning	Supervisory requirements otherwise applicable to the activities and dealings of registrants and licensees will continue to apply. Harmonization of supervisory requirements and processes among the securities and insurance sectors is not necessary for implementation of the financial planning proficiency requirements.
Other	Foster MD ScotiaMcLeod	ScotiaMcLeod commented that the experience requirement places an unnecessary hiring and training burden on firms by completely limiting rather than restricting the activities performed by new entrants. MD Management commented that, as a firm in the financial planning business, new entrants in the industry would essentially be unable to do any productive work during the two-year period. ScotiaMcLeod proposed as one option the creation of a lower level category for those who had passed the FPPE, but not completed the experience requirement. Foster commented that the experience requirement should be coordinated with the new MFDA requirement.	The CSA note that the experience requirement has not been of general concern for the financial services industry and that the various industry associations have supported this requirement. The Instrument restricts the activities to be performed by new entrants rather than limiting them completely.
Continuing Education Requirement (s. 1.1(1)3)			

Issue	Commenters	Comment	CSA Response
General	CAFP CAIFA CBA Clarica IFIC LU Royal Bank	All approve of the continuing education requirement. CBA (endorsed by IFIC and Royal Bank) provided a detailed outline for a set of continuing education requirements. IFIC recommends that the requirements be incorporated into the text of the Instrument. LU commented that the requirements should be clear in all respects.	The CSA will allow the industry associations to establish the applicable continuing education requirements. Individuals not subject to an approved continuing education program are required to commit to the program of their choice.
Amount required	CAFP CBA FCPO Foster IFIC Royal Bank TD	All commenters on this point other than FCPO consider 30 hours per year to be appropriate. FCPO recommend a minimum of 15 hours per year. CAFP and Foster recommend a maximum number of unverifiable hours (*e.g.*, 10 hours per year), including for reading. CBA, IFIC and Royal Bank endorsed a requirement based on a three-year cycle.	The CSA do not expect to approve a continuing education regime having fewer than 15 verifiable hours per year of formal programs.
Coverage	CAFP CBA FCPO Foster IFIC Royal Bank ScotiaMcLeod TD WLU	WLU commented that the topics to be covered should be specified. CAFP, Foster and TD recommend that at least three domains be required, and CBA, IFIC and Royal Bank recommend at least two. FCPO commented that tax, law and insurance should be covered principally, while CAFP recommends at least one credit per year in ethical practice standards. ScotiaMcLeod commented that there should not be minimum requirements for certain domains, while CBA, IFIC and Royal Bank suggest that the requirements should establish general parameters.	This determination will be left to the industry associations. A key objective for avoiding duplicity is to integrate requirements for financial planning continuing education with existing continuing education requirements in related areas.
Procedural aspects	CAFP FPSC IFIC MD Nesbitt Burns ScotiaMcLeod TD	FPSC commented that everyone should be subject to a formal reporting requirement. Several commenters requested that the requirements be harmonized with those of the self-regulatory organizations. CAFP and ScotiaMcLeod particularly recommended that all filing requirements should be uniform.	Compliance with financial planning requirements will be harmonized with continuing education requirements regarding sales and advice to clients otherwise applicable to registrants and licensees. The CSA will not impose their own reporting requirements, but could audit the satisfaction of the continuing education requirements as part of compliance reviews. The CSA concur that the various industry organizations should harmonize their reporting and other requirements.
Existing continuing education programs	CBA TD	Existing continuing education programs are sufficient.	Noted.
Grandfathering Exemption (s. 2.1(1))			
Provision of exemption	CBA CUFPA Macdonald Royal Bank	CBA and Royal Bank endorse the approach of the grandfathering exemption. CUFPA and Macdonald recommend that there not be any grandfathering, but rather a grace period of a few years for passing the FPPE. Macdonald points out that an individual who is qualified should easily pass the FPPE.	While the option of not providing a grandfathering exemption has theoretical appeal, the grandfathering of individuals affected by new proficiency requirements is a common transitional practice. The grandfathering exemption attempts to be fair to those individuals who have passed examinations or completed courses designed to test financial planning expertise, while at the same time protecting the interests of clients.
Timing	FPSC TD	TD commented that the exemption should only be available to those in courses as of December 6, 1999, when the FPPE was announced.	The CSA could have used a December 6, 1999 cut-off date if it had announced that date at the time of the original announcement, but it is now too late to do so. The cut-off date will be shortly

Issue	Commenters	Comment	CSA Response
		FPSC commented that the exemption should only be available to those who complete their programs before the FPPE is developed. It is concerned that otherwise the grandfathering exemption will have the effect of turning the entire brokerage industry into a community of financial planners.	after the date of the final publication of the Instrument. As a practical matter, the CSA view it as unlikely that individuals will flock to sign up for lengthy financial planning courses of study where they would not otherwise do this merely to avoid writing a one day examination which the courses would prepare them to take. For those working full-time, completion of the courses can take several years.
Suggested modifications for listed programs	CAIFA CBA FPSC IFIC Manulife	FPSC commented that the grandfathering exemption should not be available to those in the programs of the Canadian Securities Institute, The Canadian Institute of Financial Planning or The Institute of Canadian Bankers, unless they have written its own CFP Professional Proficiency Examination. Manulife commented that the exemption should only be available to those who maintain membership in good standing with a recognized financial planning organization for added assurance that they remain current and have not violated any codes of conduct. CAIFA commented that the exemption for those designated as Personal Financial Planners by The Institute of Canadian Bankers should also indicate the applicable examination and course, as with the other exemptions. Bureau, CBA and IFIC recommend that the exemption for the Quebec program should be extended to include those enrolled in the program who have not completed it by 2001.	The CSA have been unable to obtain from FPSC or other interested parties any empirical evidence to justify requiring the CFP Professional Proficiency Examination as a supplement to the other indicated programs. The CSA considered a requirement as part of the grandfathering exemption that membership be maintained in the relevant organization for added assurance that an individual remains current, but concluded that individuals might choose not to maintain a membership in a voluntary organization for a variety of legitimate reasons. Grandfathered individuals will be subject to the Instrument's continuing education commitment and applicable registration and licensing requirements apply in respect of conduct. The exemption for those designated as Personal Financial Planners is revised to indicate the applicable examination and course. An exemption is added for those enrolled in the Quebec program before the Instrument becomes effective.
Additional programs	CAIFA CLUs Clarica Co-operators ET Sub. (IDA) FCPO FCSI FPSC IDA LU Manulife Merrill Lynch RS Com. (IDA) WLU	Additional programs suggested for inclusion in the list for purposes of the grandfathering exemption are CAIFA's Chartered Life Underwriter (CLU) program (CAIFA, Clarica, Co-operators, Manulife and various holders of the CLU designation), CAIFA's comprehensive financing planning program (CAIFA, FPSC), Fellows of the Canadian Securities Institute (ET Sub. (IDA), FCSI, IDA, Merrill Lynch, RS Com. (IDA)) and the CISRO financial planning program of Laurentian University (FCPO). FPSC, LU and WLU commented more generally on the absence of university and college financial planning programs from the list of grandfathered programs.	A grandfathering exemption is added for those who entered the previous CLU program before September 1, 1995 and complete it by March 31, 2002. On the basis of additional materials submitted and presentations made by CAIFA, the CSA are satisfied that the content of the previous CLU program is comparable to that of other educational programs being grandfathered and adequately covers the content domain sub-topics identified by Brendan Wood International. A grandfathering exemption is added for the comprehensive financial planning program offered by CAIFA on the basis that this program is equivalent to the comprehensive financial planning program offered by The Canadian Institute of Financial Planning, which already was proposed to be grandfathered in the draft Instrument. Grandfathering for these programs had not been requested at the time the CSA initially made their grandfathering determinations. The CSA have decided not to grandfather the Fellows of the Canadian Securities Institute on the basis that its financial planning component is inadequate for this purpose, having been based on Part I of the CIM Program. The purpose of the grandfathering exemption is to provide fair treatment to those in the financial services industry who have already pursued financial planning programs and who otherwise would be adversely affected in their livelihoods. The CSA do not consider the same concern to apply to graduates of accredited financial planning programs in academic institutions, and further understand that individuals in academic programs generally would be grandfathered in any event as

Issue	Commenters	Comment	CSA Response
			a result of satisfying one of the other provisions for the grandfathering exemption, in particular the exemptions for those who pass the Professional Proficiency Examination administered by FPSC. Moreover, none of the academic programs have provided adequate information on their programs for an assessment nor have they formally requested the CSA to consider their programs..
Methodology for making determinations	CAFP CICA FPSC Investors LU ScotiaMcLeod WLU	CAFP, CICA, FPSC and ScotiaMcLeod commented that grandfathering determinations should be made after the FPPE is established, and WLU commented that the level of competence for the FPPE should first be defined. Investors commented that more discriminating analysis of the courses of study is needed. WLU commented that the grandfathering decisions are partisan and biased in favour of the Canadian Securities Institute and The Institute of Canadian Bankers.	Before proposing the exemptions for the purpose of public comment, the content domains for the FPPE were established, the test specifications were developed, and the levels of mastery for each domain were determined. Brendan Woods International assessed to a norm the curricula of a number of financial planning programs, including those grandfathered. The assessment of the grandfathered programs properly relies on the content which the examination questions will test rather than the particular questions that are available in the question pool will appear on any one examination. In any event, the grandfathering determinations were not finalized until after the initial question pool for the FPPE was established and the pilot test for the FPPE was evaluated. The grandfathering decisions were made on the basis of fairness, not on the basis of strict equivalence between examinations. No factual support has been provided to the CSA during the comment process to justify exclusion of any of the programs proposed to be grandfathered.
Equivalency Exemption (s. 2.2)			
Application	FPSC	FPSC suggests that a mechanism be created to determine equivalencies on an ongoing basis. It also criticizes the statement in the Notice to the effect that the general premise is that everyone will be required to pass the FPPE unless grandfathered.	Applications for equivalency exemptions may only be made by individuals and will be considered on an individual basis. A mechanism for determining equivalencies on an ongoing basis is contrary to the general principle that on a going forward basis everyone will be required to pass the FPPE. This is clarified in the Instrument by specifically limiting the equivalency exemption to the experience requirement.
Portfolio Manager Exemption (s. 2.3)			
Provision for exemption	FPSC Investors	This exemption should be removed.	The exemption recognizes existing practice. The activities permitted to portfolio managers under the exemption are very limited.
Expanded applicability	IDA RS Com. (IDA) Royal Bank Wood Gundy	This exemption should be expanded to include portfolio managers registered with the IDA, who are not registered as portfolio managers, but are designated as such.	This exemption is directed to a very specific group of individuals who are subject to the securities regulatory regime through their portfolio management activities. The rationale for the exemption does not apply to portfolio managers registered with the IDA because they are also registered to trade.
Additional restrictions	Foster IFIC	IFIC commented that "financial" and "wealth" should be deleted from the list of terms permitted to be used by registered portfolio managers. Foster commented that portfolio managers should be required to disclose whether or not	These terms reflect the nature of the category of registration and the terms currently in use. Due to the restrictions on the use of the exemption, the CSA do not expect this usage to cause confusion on the part of the public. Portfolio managers relying on the exemption are

Issue	Commenters	Comment	CSA Response
		their services include comprehensive financial planning.	not permitted to provide comprehensive financial planning services.
Notice Requirement (s. 3.1)			
Procedure	IFIC Manulife	IFIC suggests that firms should monitor and certify compliance by their sponsored individual registrants/licensees. Manulife requests clarification whether the notice must be filed with each regulatory authority.	The CSA concur with IFIC's comment. The forms are revised to require this certification except in the case of insurance agents who do not have a sponsoring firm. For each regulatory authority, the notice and other requirements will be put in place separately through a regulation, rule, policy or otherwise. The notice must be filed with each participating regulatory authority with which an individual is registered or licensed.
Disclosure Requirements			
Proposed disclosure	CGA Foster Macdonald MD	Various disclosure items were proposed, including disclosure about compensation arrangements. MD also suggested that clients be told in writing that they should see a tax practitioner, there is a time limit to the validity of the advice, and the reliability of the financial planning services depends on the information provided by the client. Foster suggested requiring disclosure as to whether the services include objective, comprehensive financial planning. Macdonald suggested that someone using an "adviser" type of title as opposed to a "salesperson" title should be required to provide a declaration in respect of their resulting fiduciary obligation.	The CSA are considering these comments in connection with the second phase of this project, which will deal with the management of conflicts of interest and the exercise of professional judgment in the provision of financial planning advice.
Additional Requirements			
Course requirements	CSI Dolan ET Sub. (IDA) IDA FCPO FPSC Foster LU Nesbitt Burns Royal Bank RS Com. (IDA) Wood Gundy	The suggestion that there be a requirement to take a recognized course in addition to passing the FPPE was made by IDA, its Retail Sales Committee, its Education & Training Subcommittee, its educational body (CSI) and three of its members. It was also made by FPSC and two of the academic programs it accredits. FCPO suggested that an academic course be required. The IDA letters express the concern that undue reliance is placed on the FPPE and the lack of a course requirement would result in an imbalanced educational model. The CSI letter makes detailed submissions about the preference for a course-based model and using mastery-based learning methodology, rather than traditional testing, for assessment. It states that an examination-based model encourages cramming, reduces knowledge breadth, reduces the competitive viability of intellectually challenging courses, sacrifices the advancement of modern learning techniques, typically reduces the period of required intellectual training, and obliterates the technological advantages now available to educators. FPSC commented that the FPPE should not be the exclusive filter and that mandatory	The Instrument only adds to any existing requirement to take a course a uniform cross-sector examination to serve as a proficiency filter. As the CSI and others have acknowledged, a properly designed examination is capable of assessing proficiency and depth of knowledge without being susceptible to cramming. The FPPE is being designed with this in mind. Half of the FPPE will consist of performance tasks that reward modern learning techniques, and place less emphasis on multiple choice questions. The FPPE is being prepared with examinable content that is wide and challenging with a view that, to the extent it changes the knowledge breadth, it is more likely to expand it for some course providers.

Issue	Commenters	Comment	CSA Response
		education prerequisites should be supported by a comprehensive course outline indicating topics and required levels of competence. Foster suggests the addition of a 90-day training course.	
Supervision requirement	Bureau CAIFA CBAO ET Sub. (IDA) IDA IFIC MD Middlefield Royal Bank ScotiaMcLeod TD	All commenters except CAIFA and IFIC suggest that a supervised experience requirement be added. IDA, ET Sub. (IDA), CBAO, Middlefield, Royal Bank and TD recommend a period of close supervision after completion of the FPPE for training purposes. CBAO, MD and ScotiaMcLeod recommend ongoing supervision of financial planners by the firms for compliance purposes. CAIFA and IFIC oppose implementation of a requirement that registered or licensed individuals be subject to a day-to-day supervision requirement.	Supervisory requirements cover all activities of registrants and licensees, not just financial planning. Existing standards already address supervisory requirements. Possible changes to current supervisory requirements, including greater harmonization, are being addressed separately by certain jurisdictions. Some insurance regulators are in the process of implementing supervisory requirements for new insurance licensees.
Ethical requirements	CAFP CICA Dolan FPSC TD	It is important to institute a code of ethical behaviour for financial planners.	Standards of conduct for securities registrants and insurance licensees are already contained in applicable legislation and applied by common law doctrines. Consideration is being given to whether additional standards of conduct should be imposed specifically in relation to financial planning activity or more generally to the provision of advice. Any such additional requirements are not expected to impact on the proficiency requirements pu tinto place by the Instrument. In addition, the securities and insurance regulators are separately working on the harmonization of practice code standards. Certain items that are appropriate for an industry association code of ethics are not appropriate for government prescription.
Other requirements	TD	TD suggests an additional requirement for submission of a financial plan to show proficiency.	The constructed response portion of the FPPE is designed in part to assess an examinee's ability to prepare a financial plan. Among other things, the CSA are concerned about their ability to ensure that a financial plan submitted for this purpose has in fact been prepared by the individual submitting it. The CSA also note that at least one of the industry organizations has recently eliminated a requirement to submit a financial plan for review.
Ongoing Administratio n			
General	CSI FPSC IFIC Manulife	FPSC commented that a governance structure needs to be determined and published before implementation. IFIC commented that government regulators should be full participants in the ongoing development of the proficiency standard. On an ongoing basis, there should also be sufficient input from all constituencies of the financial planning industry as well as self-regulatory bodies. Manulife commented that the Instrument needs to be followed up with additional standards and monitoring. CSI commented on the tasks involved in the ongoing administration of the FPPE. It advocates allocating the task of overseeing and administering the FPPE together with its related pedagogical issues at a competitive	A structure for administering the FPPE is being implemented, as discussed in the Notice to which this Summary of Comments is attached. The FPPE is being developed by the CSA in consultation with industry representatives and Dr. McLean. The ongoing administrative structure will have a wide ranging cross-sectoral representation and limited securities and insurance regulatory involvement. There will be ongoing development and testing of questions using generally accepted measurement standards, including testing for bias. The CSA note that a two year experience requirement must be satisfied in addition to the FPPE and that the experience can be obtained before or after writing the FPPE. As a result, the CSA believe that there will be less need to offer the FPPE as frequently as examinations that

Issue	Commenters	Comment	CSA Response
		price to the industry educators assisting in its creation. It also suggests that the FPPE will need to be offered on a regular basis and that doing so will be burdensome, resulting in additional costs to be borne by examinees and their employers.	themselves are prerequisites for undertaking a particular activity or are prerequisites for satisfying a subsequent experience or other requirement.
Quebec Concerns			
Applicability in Quebec	Bureau Chambre IQPF	All Quebec commenters, which are the regulatory bodies governing financial planning in Quebec, express the concern that the Instrument not be imposed on financial planners in Quebec. Chambre requests an exemption for financial planners conducting business in Quebec, while Bureau is concerned that the IDA will itself impose the requirements of the Instrument nationally.	The Instrument itself has no legal effect, but is implemented in each province and territory separately through the enactment of regulation, rule, policy or otherwise. A rule, for example, that is enacted in a particular province applies only in that province. In the case of the Instrument, it impacts only persons who are registered or licensed in that province and then only those who are holding themselves out as providing financial planning services in that province. The CSA would be concerned that a specific carve-out in this instance would imply the a rule otherwise could be considered applicable outside the province that enacts it. The structure of the Instrument does not require the IDA to take any action to implement it and, in fact, assumes that no such action will be taken. The CSA does not support imposing duplicative proficiency requirements.
Recognition of Quebec Standards	Bureau CBA	Bureau requests that all Quebec financial planners be exempted from the FPPE. CBA, whose financial planning program is the only industry program recognized in Quebec, encourages the establishment of reciprocity between Quebec and the other provinces in order that financial planning staff have mobility across the country.	The CSA Financial Planning Committee intends to discuss issues of reciprocity and mutual recognition with the Bureau.
Miscellaneous			
Additional restrictions on titles	AIMR CLHIA Chambre FPSC	CLHIA, Chambre and FPSC commented that persons eligible to use the term "financial planner" should not be allowed to use any other title in order to reduce confusion. AIMR commented that "money manager" and certain other titles should be reserved for the exclusive use of portfolio managers.	The CSA are of the view that imposing on everyone the use of a particular title would not further the purposes of the Instrument. Individuals who have satisfied the requirements of the Instrument might prefer to emphasize their particular area of expertise by holding themselves out as providing services principally in either the securities or insurance area. In addition, so long as coverage of the Instrument is limited to registrants and licensees, the CSA jurisdictions lack the power to impose a single uniform title on all persons holding themselves out as providing financial planning advice. As a practical matter, the CSA lacks the power to require everyone who would be entitled to use the title "financial planner" to do so. Exclusive use of the title "money manager" by portfolio managers is beyond the scope of the Instrument.
Use of definitions	CAFP CGA Nesbitt Burns ScotiaMcLeod TD	CAFP and ScotiaMcLeod commented on providing a definition of "financial planning" based on the CAFP's definition of financial planning as a process that involves six steps. CGA, Nesbitt Burns and TD commented that the definition of "financial planning" in the Notice is too focussed on retirement.	The Instrument has been structured in a way that defining "financial planning" by means of a six-step process would serve no regulatory purpose. The six steps as typically described by financial planning organizations are vaguely expressed and could apply to any advice to an individual for any purpose.

MULTILATERAL INSTRUMENT 33-107

PROFICIENCY REQUIREMENTS FOR REGISTRANTS HOLDING THEMSELVES OUT AS PROVIDING FINANCIAL PLANNING AND SIMILAR ADVICE

PART 1 PROFICIENCY REQUIREMENTS

1.1 Proficiency Requirements

(1) A registrant who is an individual shall not:

(a) hold himself or herself out in any manner:

(i) using a title that includes the word "planner",

(ii) using a title that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "adviser", "advisor", "consultant", "specialist", "expert", "manager" or "counsellor", or a title similar to "financial planner",

(iii) as providing services described by the registrant using an expression that includes the word "planning", or

(iv) as providing services described by the registrant using an expression that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "advising", "consulting", "specialty", "expertise", "management" or "counselling", or an expression similar to "financial planning"; or

(b) provide a document having a title that includes the expression "financial plan" to a client,

unless, except as provided in Part 2, the individual has satisfied the following requirements:

1. The individual has passed the Financial Planning Proficiency Examination approved by the regulator and administered in a manner approved by the regulator.

2. The individual has been a registrant under any Canadian securities legislation or a licensed life agent under any Canadian insurance legislation set out in Appendix A for at least two years during the five year period immediately preceding the day on which a notice is filed pursuant to section 3.1.

3. The individual is subject to or has undertaken to comply with a continuing education regime approved by the regulator.

(2) A registrant other than an individual shall not:

(a) hold out any of its officers, employees or agents:

(i) using a title that includes the word "planner",

(ii) using a title that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "adviser", "advisor", "consultant", "specialist", "expert", "manager" or "counsellor", or a title similar to "financial planner",

(iii) as providing services described by the registrant using an expression that includes the word "planning", or

(iv) as providing services described by the registrant using an expression that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "advising", "consulting", "specialty", "expertise", "management" or "counselling", or an expression similar to "financial planning",

unless the officer, employee or agent has satisfied the requirements of subsection (1); or

(b) provide a document having a title that includes the expression "financial plan" to a client, unless the document is provided on behalf of the registrant by, or on the instructions of, an officer, employee or agent who has satisfied the requirements of subsection (1).

(3) A registrant other than an individual shall not hold itself out in any manner:

(a) using a title that includes the word "planner"; or

(b) using a title that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "adviser", "advisor", "manager", "consultant", "specialist", "expert" or "counsellor", or a title similar to "financial planner",

unless it provides the services described by the title and those services are provided on its behalf directly to the client by an officer, employee or agent who has satisfied the requirements of subsection (1).

(4) A registrant other than an individual shall not hold itself out in any manner:

(a) as providing services described by the registrant using an expression that includes the word "planning"; or

(b) as providing services described by the registrant using an expression that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "advising", "consulting", "specialty", "expertise", "management" or "counselling", or an expression similar to "financial planning",

unless it provides the services described by the title and those services are provided on its behalf directly to the client by an officer, employee or agent who has satisfied the requirements of subsection (1).

(5) For purposes of paragraphs 1.1(1)(b) and 1.1(2)(b), if a registrant compensates a person or company for preparing a document, the registrant will not be considered to have provided the document to a client if:

(a) all of the information used to prepare the document was obtained directly from the client by that person or company;

(b) the document was delivered directly to the client by that person or company;

(c) that person or company is dealing at arm's length with the registrant within the meaning of that term in the ITA; and

(d) the compensation arrangement was disclosed to the client.

(6) This Part shall not apply to a holding out to a person who is not an individual.

PART 2 EXEMPTIONS

2.1 Grandfathering

(1) Subject to subsection (2), an individual need not satisfy the requirement contained in paragraph 1.1(1)1 if the individual falls into one of the following categories:

1. Individuals who, as of March 31, 2001, have passed the Professional Proficiency Examination offered by the Financial Planners Standards Council.

2. Individuals who, as of March 31, 2001, were enrolled in a course of study approved by the Financial Planners Standards Council as of January 1, 2001 and, by March 31, 2003, have passed the Professional Proficiency Examination offered by it.

3. Individuals who, as of March 31, 2001, have completed the courses in the Personal Financial Planner program offered by The Institute of Canadian Bankers.

4. Individuals who, as of March 31, 2001, were enrolled in a course of study of the Personal Financial Planning program offered by The Institute of Canadian Bankers and, by March 31, 2003, have completed the courses in that program.

5. Individuals who, as of March 31, 2001, have completed the courses in the Specialist in Financial Counselling program offered by The Institute of Canadian Bankers and, by March 31, 2003, have completed its Insurance and Estate Planning Course and Taxation and Investment Course.

6. Individuals who, as of March 31, 2001, were enrolled in a course of study of the Specialist in Financial Counselling program offered by The Institute of Canadian Bankers and, by March 31, 2003, have completed the courses in that program and its Insurance and Estate Planning Course and Taxation and Investment Course.

7. Individuals who, as of March 31, 2001, have completed the Professional Financial Planning Course offered by the Canadian Securities Institute.

8. Individuals who, as of March 31, 2001, were enrolled in the Professional Financial Planning Course offered by the Canadian Securities Institute and, by March 31, 2003, have completed that course.

9. Individuals who, as of August 31, 1995, were enrolled in the Chartered Life Underwriter program offered by the Canadian Association of Insurance and Financial Advisors before that date and, by March 31, 2002, have passed the courses and examinations in that program.

10. Individuals who, as of March 31, 2001, have completed the comprehensive financial planning program offered by The Canadian Institute of Financial Planning and passed the associated examinations.

11. Individuals who, as of March 31, 2001, were enrolled in the comprehensive financial planning program offered by The Canadian Institute of Financial Planning and, by March 31, 2003, have completed that program and passed the associated examinations.

12. Individuals who, as of March 31, 2001, have completed the comprehensive financial planning program offered by the Canadian Association of Insurance and Financial Advisors and passed the associated examinations.

13. Individuals who, as of March 31, 2001, were enrolled in the comprehensive financial planning program offered by the Canadian Association of Insurance and Financial Advisors and, by March 31, 2003, have completed that program and passed the associated examinations.

14. Individuals who, as of March 31, 2001, have passed the courses and examinations in the Chartered Financial Consultant program offered by the Canadian Association of Insurance and Financial Advisors.

15. Individuals who, as of March 31, 2001, were enrolled in the Chartered Financial Consultant program offered by the Canadian Association of Insurance and Financial Advisors and, by March 31, 2003, have passed the courses and examinations in that program.

16. Individuals who, as of March 31, 2001, have passed the Registered Financial Planner examination and hold the designation of Registered Financial Planner administered by the Canadian Association of Financial Planners.

17. Individuals who, as of March 31, 2001, have received a diploma from the Institut québécois de planification financière and were authorized by it to use the title of financial planner under the *Act respecting the distribution of financial products and services* (Quebec).

18. Individuals who, as of March 31, 2001, were enrolled in the Institut québécois de planification financière and, by March 31, 2003, have received a diploma from it and are authorized by it to use the title of financial planner under the *Act respecting the distribution of financial products and services* (Quebec).

(2) Subsection (1) does not apply to an individual who files the notice under section 3.1 after March 31, 2004.

2.2 Equivalency – Where the regulator is satisfied that an individual has qualifications that are equivalent to those specified in paragraph 1.1(1)2, the regulator may exempt the individual from that paragraph.

2.3 Portfolio Managers

(1) Paragraph 1.1(1)(a) does not apply to a registrant in the category of portfolio manager who is engaged solely in managing the investment portfolios of clients through discretionary authority granted by one or more clients, provided that the registrant:

(a) holds himself or herself out under a title that includes any of the words "financial", "wealth", "security", "asset" or "money" in combination with the word "manager", and not under a title that includes any of the other word combinations listed in subparagraph 1.1.(1)(a)(ii) nor the word "planner", nor under a title similar to "financial planner"; or

(b) holds himself or herself out as providing services described by an expression that includes any of the words "financial", "wealth", "security", "asset" or "money" in combination with the word "management", and not described by an expression that includes any of the other word combinations listed in subparagraph 1.1(1)(a)(iv) nor the word "planning", nor described by an expression similar to "financial planning".

(2) Paragraph 1.1(2)(a) does not apply to a registrant in the category of portfolio manager that is engaged in the business of managing the investment portfolios of clients through discretionary authority granted by one or more clients, provided that the individuals held out to advise on its behalf are exempt from paragraph 1.1(1)(a) under subsection (1).

(3) Subsections 1.1(3) and (4) do not apply to a registrant in the category of portfolio manager that is engaged solely in the business of managing the investment portfolios of clients through discretionary authority granted by one or more clients, provided that the titles or services held out by the registrant are limited to the titles or services permitted to a registrant who is exempt under subsection (1).

PART 3 NOTICE

3.1 Notice

(1) Before a registrant holds himself, herself, itself or another person out in a manner described in section 1.1, or provides a document having a title that includes the expression "financial plan", he, she or it shall file with the regulator:

(a) a notice that the registrant so intends in the form of Form 33-107F1 for individual registrants until March 31, 2004, Form 33-107F2 for individual registrants after March 31, 2004, and Form 33-107F3 for firm registrants;

(b) if the registrant is an individual, evidence that the individual has fulfilled the requirements set out in:

(i) paragraph 1.1(1)1 or subsection 2.1(1), and

(ii) paragraph 1.1(1)2; and

(c) any undertaking required by paragraph 1.1(1)3.

(2) Despite subsection (1), a registrant that relies on section 2.1 is not required to file any material under subsection (1) until the first day on which the registration fee payable by the registrant is due

under the applicable provision set out in Appendix B, following the date on which the registrant first relies on the section.

PART 4 EFFECTIVE DATE

4.1 Effective Date - This Multilateral Instrument comes into force on February 15, 2002.

Dated _____ day of February 2001.

_____ _____

Appendix A - Canadian Insurance Legislation

LOCAL JURISDICTION	STATUTE
ALBERTA	*Insurance Act*
BRITISH COLUMBIA	*Financial Institutions Act*
MANITOBA	*Insurance Act*
NEW BRUNSWICK	*Insurance Act*
NEWFOUNDLAND	*Insurance Adjusters, Agents and Brokers Act*
NORTHWEST TERRITORIES	*Insurance Act*
NOVA SCOTIA	*Insurance Act*
NUNAVUT	*Insurance Act*
ONTARIO	*Insurance Act*
PRINCE EDWARD ISLAND	*Insurance Act*
QUEBEC	*Act Respecting Market Intermediaries*
SASKATCHEWAN	*Saskatchewan Insurance Act*
YUKON TERRITORY	*Insurance Act*

Appendix B - Fee Provisions

LOCAL JURISDICTION	FEE PROVISION
NEW BRUNSWICK	Section 9 of the *Security Frauds Prevention Act*
NEWFOUNDLAND	Section 30 of the *Securities Act*
NORTHWEST TERRITORIES	Section 7 of the *Securities Act*
NOVA SCOTIA	Section 35 of the *Securities Act*
NUNAVUT	Section 7 of the *Securities Act*
ONTARIO	Section 29 of the *Securities Act*
PRINCE EDWARD ISLAND	Section 4 of the *Securities Act*
SASKATCHEWAN	Section 31 of *The Securities Act, 1988*
YUKON TERRITORY	Section 9 of the *Securities Regulations*

MULTILATERAL INSTRUMENT 33-107
PROFICIENCY REQUIREMENTS FOR REGISTRANTS
HOLDING THEMSELVES OUT AS PROVIDING
FINANCIAL PLANNING AND SIMILAR ADVICE

FORM 33-107F1

NOTICE BY INDIVIDUAL REGISTRANT/LICENSEE

This Form is in effect until March 31, 2004.

This is notice that I intend to hold myself out in the manner described in subsection 1.1(1) of Multilateral Instrument 33-107 or to provide documents having a title that includes the expression "financial plan".

Name: _____

Date of birth: _____

Name of sponsoring firm (if any): _____

1. Education

Complete one of A or B below:

A. I have passed the Financial Planning Proficiency Examination. *[Attach proof of passing]* _____

OR

B. I am exempt from having to pass the Financial Planning Proficiency Examination because: *[Check one and attach evidence. Refer to section 2.1 of the Multilateral Instrument for the relevant timing requirements in each case.]*

1. I passed the Professional Proficiency Examination offered by the Financial Planners Standards Council on or before March 31, 2001. _____

2. I was enrolled in a course of study approved by the Financial Planners Standards Council as of January 1, 2001 on March 31, 2001 and passed the Professional Proficiency Examination offered by it on or before March 31, 2003. _____

3. I completed the courses in the Personal Financial Planner program offered by The Institute of Canadian Bankers on or before March 31, 2001. _____

4. I was enrolled in a course of study of the Personal Financial Planning program offered by The Institute of Canadian Bankers on March 31, 2001 and completed the courses in that program on or before March 31, 2003. _____

5. I completed the courses of the Specialist in Financial Counselling program offered by The Institute of Canadian Bankers on or before March 31, 2001 and completed its Insurance and Estate Planning Course and Taxation and Investment Course on or before March 31, 2003. _____

6. I was enrolled in a course of study of the Specialist in Financial Counselling Program offered by The Institute of Canadian Bankers on March 31, 2001, and completed the courses in that program and its Insurance and Estate Planning Course and Taxation and Investment Course on or before March 31, 2003. _____

7. I passed the Professional Financial Planning Course and examinations offered by the Canadian Securities Institute on or before March 31, 2001. _____

8. I was enrolled in the Professional Financial Planning Course offered by the Canadian Securities Institute on March 31, 2001 and completed that course on or before March 31, 2003. _____

9. I was enrolled on August 31, 1995 in the Chartered Life Underwriter program offered before that date by the Canadian Association of Insurance and Financial Advisors and, by March 31, 2002, passed the courses and examinations in that program. _____

10. I completed the comprehensive financial planning program offered by The Canadian Institute of Financial Planning and passed the associated examinations on or before March 31, 2001. _____

11. I was enrolled in the comprehensive financial planning program offered by The Canadian Institute of Financial Planning on March 31, 2001 and completed that program and passed the associated examinations on or before March 31, 2003. _____

12. I completed the comprehensive financial planning program offered by the Canadian Association of Insurance and Financial Advisors and passed the associated examinations on or before March 31, 2001. _____

13. I was enrolled in the comprehensive financial planning program offered by the Canadian Association of Insurance and Financial Advisors on March 31, 2001 and completed that program and passed the associated examinations on or before March 31, 2003.

_____

14. I passed the courses and examinations in the Chartered Financial Consultant program offered by the Canadian Association of Insurance and Financial Advisors on or before March 31, 2001. _____

15. I was enrolled in the Chartered Financial Consultant program offered by the Canadian Association of Insurance and Financial Advisors on March 31, 2001 and passed the courses and examinations in that program on or before March 31, 2003. _____

16. I passed the Registered Financial Planner examination on or before March 31, 2001 and held the designation of Registered Financial Planner administered by the Canadian Association of Financial Planners on that date. _____

17. I received a diploma from the Institut québécois de planification financière and was authorized by it to use the title of financial planner under the *Act respecting the distribution of financial products and services* (Quebec) on or before March 31, 2001.

_____

18. I was enrolled in the Institut québécois de planification financière on March 31, 2001 and received a diploma from it and was authorized by it to use the title of financial planner under the *Act respecting the distribution of financial products and services* (Quebec) on or before March 31, 2003. _____

2. Experience

[Delete any portion that does not apply] I have been [registered under securities legislation] and/or [licensed under insurance legislation] for at least two of the previous five years in the following province or territory: _____ *[Provide evidence of registration if this notice is sent to a different regulatory authority than that of previous registration/licensing].*

3. **Continuing Education**

[Delete the portion that does not apply] I [am subject to]/[undertake to comply with] the continuing education regime established for financial planning by the following organization:

_____

The personal information requested on this form is collected under the authority and used for the purposes of administering provincial and territorial securities and insurance legislation. I consent to the disclosure of any information contained on this form except my date of birth.

Dated: _____
This date may not be later than March 31, 2004.

The undersigned hereby certify that the foregoing statements are correct to the best of our knowledge, information and belief.

_____
Signature

_____
Signature of authorized officer of sponsoring firm

Name of signatory: _____

MULTILATERAL INSTRUMENT 33-107
PROFICIENCY REQUIREMENTS FOR REGISTRANTS
HOLDING THEMSELVES OUT AS PROVIDING
FINANCIAL PLANNING AND SIMILAR ADVICE

FORM 33-107F2

NOTICE BY INDIVIDUAL REGISTRANT/LICENSEE

This Form is for use after March 31, 2004.

This is notice that I intend to hold myself out in the manner described in subsection 1.1(1) of Multilateral Instrument 33-107 or to provide documents having a title that includes the expression "financial plan".

Name: _____

Date of birth: _____

Name of sponsoring firm (if any): _____

1. Education

I have passed the Financial Planning Proficiency Examination. *[Attach proof of passing]*

2. Experience

[Delete any portion that does not apply] I have been [registered under securities legislation] and/or [licensed under insurance legislation] for at least two of the previous five years in the following province: _____ *[Provide evidence of registration if this notice is sent to a different regulatory authority than that of previous registration/licensing]*

3. Continuing Education

[Delete the portion that does not apply] I [am subject to]/[undertake to comply with] the continuing education regime established for financial planning by the following organization:

_____

The personal information requested on this form is collected under the authority and used for the purposes of administering provincial and territorial securities and insurance legislation. I consent to the disclosure of any information contained on this form other than my date of birth.

Dated: _____

The undersigned hereby certify that the foregoing statements are correct to the best of our knowledge, information and belief.

_____
Signature

_____
Signature of authorized officer of sponsoring firm

Name of signatory: _____

MULTILATERAL INSTRUMENT 33-107
PROFICIENCY REQUIREMENTS FOR REGISTRANTS HOLDING THEMSELVES OUT AS PROVIDING FINANCIAL PLANNING AND SIMILAR ADVICE

FORM 33-107F3

NOTICE BY FIRM REGISTRANT/LICENSEE

This is notice that the firm intends to hold itself out or hold out any of its officers, employees or agents in the manner described in subsection 1.1(2), (3) or (4) of Multilateral Instrument 33-107 or to provide documents having a title that includes the expression "financial plan".

Name of registrant firm: _____

Head office business address: _____

_____

Dated: _____

_____
Signature

Name of signatory: _____

Chapter 6

Request for Comments

THERE IS NO MATERIAL FOR THIS CHAPTER

IN THIS ISSUE

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Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesScource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 8

Notice of Exempt Financings

Exempt Financings

The Ontario Securities Commission reminds Issuers of exempt financings that they are responsible for the completeness, accuracy and timely filing of Forms 20 and 21 pursuant to section 72 of the Securities Act and section 14 of the Regulation to the Act. The information provided is not verified by staff of the Commission and is published as received except for confidential reports filed under paragraph E of the Ontario Securities Commission Policy Statement No. 6.1.

Reports of Trades Submitted on Form 45-501f1

Trans. Date		Security	Price ($)	Amount
28Dec00		Acuity Pooled Canadian Equity Fund - Trust Units	465,915	26,413
25Jan01	#	Alliance Atlantis Communications Inc. - 13% Senior Subordinated Notes due December 15, 2009	US$2,000,000	2,000,000
01Jan01		Ascendant Limited Partnership - Limited Partnership Units	950,000	971
12Jan01		BPI American Opportunities Fund - Units	541,789	4,190
05Jan01		BPI Global Opportunities III Fund - Units	200,000	1,939
21Dec00 to 31Dec00	#	Canadian Superior Energy Inc. - Common Shares on a Flow-Through Basis	2,755,000	2,755,000
28Nov00		Canadian Superior Energy Inc. - Common Shares on a Flow-Through Basis	3,150,000	3,233,334
25Jan01	#	Canmine Resources Corporation - Units	554,769	123,282
02Jan01		CIBC Oppenheimer Technology International, Ltd. - Shares	350,000	1,211
31Jan01		Dorset Private Equity Limited Partnership - Limited Partnership Units	45,050,448	290,000
26Jan01		East West Resource Corporation - Common Shares	3,750	25,000
26Jan01		Emerging Markets Growth Fund, Inc. - Shares of Common Stock	US$400,000	7,241
10Jan01		Gametele Systems Inc. - Common Shares	150,000	600,000
01Feb01		Gluskin Sheff Fund, The - Units in Limited Partnership	2,051,613	22,218
22Jan01		Jetcom Inc. - Common Shares	150,000	1,500,000
30Jan01		Kicking Horse Resources Ltd. - Common Shares	150,000	750,000
12Jan01		Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Fixed Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	34,928	317
15Dec00		Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	7,319	68
18Dec00		Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	151,232	1,364
05Jan01		Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Fixed Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	250,685	2,311

Trans. Date	Security	Price ($)	Amount
21Dec00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Fixed Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	227,359	2,024
03Jan01	Lifepoints Achievement Fund, Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	43,148	390
28Dec00	Lifepoints Achievement Fund, Lifepoints Progress Fund, Russell Canadian Fixed Income Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	4,763	44
12Jan01	Lifepoints Balanced Long Term Growth Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund, Russell Canadian Equity Fund, Russell Overseas Equity Fund - Units	16,543	142
02Jan01	Lifepoints Balanced Income Fund, Lifepoints Balanced Long Term Growth Fund - Units	9,791	92
19Dec00	Lifepoints Balanced Income Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Long Term Growth Fund - Units	10,095	94
28Dec00	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Growth, Lifepoints Balanced Income - Units	20,605	189
03Jan01	Lifepoints Balanced Long Term Growth, Lifepoints Balanced Income - Units	20,577	192
19Dec00	Lifepoints Balanced Long Term Growth - Unit	76	.67
03Jan01	Lifepoints Balanced Growth - Units	21,264	202
29Dec00	Lifepoints Opportunity Fund - Units	26,497	113
29Dec00	Lifepoints Opportunity Fund, Russell Overseas Equity Fund - Units	385	3
27Dec00	Lifepoints Opportunity Fund - Units	5,187	45
28Dec00	Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	3,284	28
01Dec00	Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Fixed Income Fund - Units	34,132	307
20Dec00	Lifepoints Progress Fund, Russell Canadian Fixed Income Fund - Units	2,938	28
22Dec00	Lifepoints Progress Fund, Lifepoints Opportunity Fund - Units	31,670	284
Jan00	MediSolution Ltd. - Convertible Debenture to acquire Common Shares	1,500,000	1,500,000
31Jan01	Musicrypt Inc. - Convertible Note and Warrants	45,000	45,000
24Jan01	Net Integration Technologies Inc. - Common Shares	US10,000	20,000
29Dec00	Normabec Mining Resources Ltd. - Common Shares	200,000	800,000
12Jan01	Proximion Fiber Optics AB - Preference Shares of Series B	782,558	20,000
15Dec00	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	2,223	20
15Dec00	Russell Canadian Fixed Income Fund, Russell US Equity Fund - Units	30,413	253
29Dec00	Russell Canadian Fixed Income Fund, Russell Overseas Equity Fund - Units	59,000	506
28Dec00	Russell Canadian Fixed Income Fund, Lifepoints Achievement Fund Lifepoints Progress Fund, Lifepoints Opportunity Fund, Russell Canadian Equity Fund, Russell Global Equity Fund - Units	16,174	134

Trans. Date	Security	Price ($)	Amount
21Dec00	Russell Canadian Fixed Income Fund, Lifepoints Achieved Fund, Lifepoints Progress Fund, Russell Overseas Equity Fund - Unit	216	1
22Dec00	Russell Canadian Fixed Income Fund, Russell Canadian Equity Fund - Units	9,414	53
09Jan01	Russell Canadian Equity Fund - Units	50,000	284
11Jan01	Russell Canadian Equity Fund - Units	27,340	152
19Dec00	Russell Canadian Equity Fund, Russell Overseas Equity Fund - Units	8,000,000	57,881
19Dec00	Russell Canadian Equity Fund - Units	192,522,101	1,073,686
28Dec00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund - Units	150,750	1,088
28Dec00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund - Units	33,000	238
01Dec00	Russell Canadian Equity Fund - Units	5,000	21
28Dec00	Russell Canadian Equity Fund, Russell Canadian Fixed Income Fund, Russell US Equity Fund, Russell Overseas Equity Fund - Units	100,000	721
12Jan01	Russell Overseas Equity Fund, Russell US Equity Fund - Units	29,398	238
12Jan01	Russell Overseas Equity Fund, Lifepoints Balanced Growth Fund, Lifepoints Balanced Income Fund - Units	335,437	2,829
21Dec00	Russell U.S. Equity Fund - Units	217,165	1,609
04Jan01	Russell US Equity Fund, Russell Overseas Equity Fund - Units	16,200	122
29Jan01	Thales Active Asset Allocation Fund - Limited Partnership Units	200,000	196
01Dec00	TT International Investment Funds - Units	36,900,000	4,088,242
01Feb01	Upper Circle Equity Fund, The - Units	150,000	10,791
01Feb01	Upper Circle Equity Fund, The - Units	249,957	18,419
05Jun00	V NewRadio Investment Limited Partnership - Class A Units of the Limited Partnership	150,000	3
29Jan01	Western Copper Holdings Limited - Units	162,000	135,000
27Dec00	Workbrain Corporation - Class B Preferred Shares, Series I (Revised)	US$7,125,860	3,377,185
03Jan01	Zero-Knowledge Systems Inc. - Series I Class C Preferred Shares	494,635	494,635

Resale of Securities - (Form 45-501f2)

Date of Resale	Date of Orig. Purchase	Seller	Security	Price ($)	Amount
28Jun96	14Dec00 & 18Jan01	The Health Care and Biotechnology Venture Fund	AnorMED Inc. - Common Shares	4,382,118	243,451

Reports Made under Subsection 5 of Subsection 72 of the Act with Respect to Outstanding Securities of a Private Company That Has Ceased to Be a Private Company -- (Form 22)

Name of Company	Date the Company Ceased to be a Private Company
ConjuChem Inc.	28Nov00

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

Seller	Security	Amount
Paros Enterprises Limited	Acktion Corporation - Common Shares	2,000,000
Melnick, Larry	Champion Natural Health.com Inc. - Subordinate Voting Shares and Multiple Voting Shares	19,765, 100,000 Resp.
Estill, Glen R.	EMJ Data Systems Ltd. - Common Shares	39,900
Estill Holdings Limited	EMJ Data Systems Ltd. - Common Shares	1,270,600
Estill, James A.	EMJ Data Systems Ltd. - Common Shares	21,900
Jones, Ruth Ann	Gibraltar Springs Capitol Corporation - Common Shares	400,000
96307 Ontario Limited	Jetcom Inc. - Common Shares	1,000,000
Faye, Michael R.	Spectra Inc. - Common Shares	250,000
Malion, Andrew J.	Spectra Inc. - Common Shares	250,000

Chapter 9

Legislation

THERE IS NO MATERIAL FOR THIS CHAPTER

IN THIS ISSUE

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Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Air Canada
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated February 9th, 2001
Mutual Reliance Review System Receipt dated 12th, 2001
Offering Price and Description:
$100,000,000 9% Senior Debentures Due 2006 (unsecured)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #331301

Issuer Name:
Canadian Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 14th, 2001
Mutual Reliance Review System Receipt dated February 14th, 2001
Offering Price and Description:
$50,400,000 - 4,200,000 Units
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
Scotia Capital Inc.
CIBC World Markets Inc.
TD Securities Inc.
National Bank Financial Inc.
Raymond James Ltd.
Promoter(s):
-
Project #332058

Issuer Name:
CT Private Canadian Money Market Fund
CT Private Canadian Bonds/Income Fund
CT Private Canadian Bonds/Return Fund
CT Private Canadian Corporate Bond Fund
CT Private International Bonds Fund
CT RSP International Bonds Fund
CT Private North American Equity/Growth Fund
CT Private North American Equity/Income Fund
CT Private Canadian Equity/Growth Fund
CT Private Canadian Equity/Income Fund
CT Private Canadian Dividend Fund
CT Private U.S. Equity/Growth Fund
CT Private U.S. Equity/Income Fund
CT RSP U.S. Equity Fund
CT Private Small/Mid-Cap Equity Fund
CT Private International Equity Fund
CT RSP International Equity Fund

Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated February 13, 2001
Mutual Reliance Review System Receipt dated February 14, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s) or Distributor(s):
TD Asset Management Inc.
Promoter(s):
-
Project #331796

Issuer Name:
Hemosol Inc.
Type and Date:
Second Amended and Restated Preliminary Short PREP Prospectus dated February 9th, 2001
Receipted February 12th, 2001
Offering Price and Description:
US$ * - 7,000,000 Common Shares @ $US * per Common Share
Underwriter(s) or Distributor(s):

UBS Bunting Warburg Inc.

Promoter(s):
-
Project #326099

Issuer Name:
H&R Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated February 14th, 2001
Mutual Reliance Review System Receipt dated February 14th, 2001
Offering Price and Description:
$100,040,000 - 8,200,000 Units @ $12.20 per Unit
Underwriter(s) or Distributor(s):
Merrill Lynch Canada Inc.
CIBC World Markets Inc.
RBC Dominion Securities Inc.
Scotia Capital Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
HSBC Securities (Canada) Inc.
Raymond James Ltd.
Promoter(s):
-
Project #332044

Issuer Name:
Quebecor World Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Short Form Prospectus dated February 9th, 2001
Mutual Reliance Review System Receipt dated February 9th, 2001
Offering Price and Description:
$150,000,000 - 6,000,000 Shares 6.75% Cumulative Redeemable First Preferred Shares, Series 4 @ $25.00 per Share to yield 6.75% per annum
Underwriter(s) or Distributor(s):
BMO Nebitt Burns Inc
RBC Dominion Securities Inc.
Scotia Capital Inc.
National Bank Financial Inc.
CIBC World Markets Inc.
Merrill Lynch Canada Inc.
TD Securities Inc.
Promoter(s):
-
Project #331221

Issuer Name:
Retirement Residences Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated February 12th, 2001
Mutual Reliance Review System Receipt dated February 13th, 2001
Offering Price and Description:
$ * - * Units
Underwriter(s) or Distributor(s):
CIBC World Markets Inc.
HSBC Securities Canada Inc.
Merrill Lynch Canada Inc.
RBC Dominion Securities Inc.
TD Securities Inc.
National Bank Financial Inc.
Raymond James Ltd.
Promoter(s):
Central Park Lodges Ltd.
Project #331759

Issuer Name:
Spectrum Tactonics Fund
Spectrum RRSP Tactonics Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Simplified Prospectus dated February 9th, 2001
Mutual Reliance Review System Receipt dated February 9th, 2001
Offering Price and Description:
Retail Class Units, Class F Units and Institutional Class Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #331181

Issuer Name:
The Thomson Corporation
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Shelf Prospectus dated February 13th, 2001
Mutual Reliance Review System Receipt dated February 14th, 2001
Offering Price and Description:
$1,500,000,000 Debt Securities (unsecured)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #331815

Issuer Name:
NetScout Capital Corp.
Principal Regulator - Alberta
Type and Date:
Amended and Restated Prospectus dated December 13th, 2000
Mutual Reliance Review System Receipt dated 14th day of December, 2000
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
Canaccord Capital Corporation
Promoter(s):
David L. Tonken
Project #290819

Issuer Name:
Gro-Net Financial Tax & Pension Planners Ltd. (Formerly David Ingram and Associates Management Services Inc.)
Cen-ta Real Estate Ltd.
Type and Date:
Amendment #1 dated February 7th, 2001 to Prospectus dated March 23rd, 2000
Accepted 12th day of February, 2001
Offering Price and Description:
N/A
Underwriter(s), Agent(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #237100 & 237105

Issuer Name:
Aurora Platinum Corp.
Principal Regulator - British Columbia
Type and Date:
Final Prospectus dated February 6th, 2001
Mutual Reliance Review System Receipt dated 7th day of February, 2001
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
Haywood Securities Inc.
Dundee Securities Corporation
Promoter(s):
N/A
Project #323111

Issuer Name:
Canadian Spooner Industries Corporation
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated 22nd day of January, 2001
Mutual Reliance Review System Receipt dated January 26th, 2001
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
Registered Dealer
Promoter(s):
Imperial Investment Corporation
Project #288622

Issuer Name:
Centerfire Growth Fund Inc.
Type and Date:
Final Prospectus dated February 6th, 2001
Receipted 7th day of February, 2001
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
N/A
Promoter(s):
CFG Sponsor Inc.
Centrefire Investment Management Ltd.
Project #322354

Issuer Name:
Delvan Exploration Inc.
Principal Regulator - Alberta
Type and Date:
Final Prospectus dated January 29th, 2001
Mutual Reliance Review System Receipt dated January 30th, 2001
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
Canaccord Capital Corporation
Dominick & Dominick Securities Inc.
Promoter(s):
Martin J. Cheyne
Bradley Porter
Lyle Reinhart
Project #317904

Issuer Name:
Hixon Gold Resources Inc.
Type and Date:
Final Prospectus dated February 8th, 2001
Receipted 9th day of February, 2001
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #317791

Issuer Name:
TD TSE 300 Index Fund
TD TSE 300 Capped Index Fund
Principal Regulator - Ontario
Type and Date:
Final Prospectus dated February 6th, 2001
Mutual Reliance Review System Receipt dated February 9th, 2001
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #308347

Issuer Name:
G.T.C. Transcontinental Group Ltd.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated February 12th, 2001
Mutual Reliance Review System Receipt dated February 12th, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
Scotia Capital Inc.
Promoter(s):
-
Project #329771

Issuer Name:
MediSolution Ltd.
Principal Regulator - Quebec
Type and Date:
Final Short Form Prospectus dated February 8th, 2001
Mutual Reliance Review System Receipt dated February 9th, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
NewCrest Capital Inc.
Acumen Capital Finance Partners Limited
Promoter(s):
-
Project #325613

Issuer Name:
Noranda Inc.
Type and Date:
Final Short Form Shelf Prospectus dated February 13th, 2001
Receipted on February 14th, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #330649

Issuer Name:
Sears Canada Inc.
Principal Regulator - Ontario
Type and Date:
Final Short Form Shelf Prospectus dated February 9th, 2001
Mutual Reliance Review System Receipt dated February 12th, 2001
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
RBC Dominion Securities Inc.
BMO Nesbitt Burns Inc.
TD Securities Inc.
CIBC World Markets Inc.
Promoter(s):
-
Project #329709

Issuer Name:
Ensemble Aggressive Equity Portfolio
Ensemble Moderate Equity Portfolio
Ensemble Conservative Equity Portfolio
Ensemble Aggressive Equity Rsp Portfolio
Ensemble Moderate Equity Rsp Portfolio
Ensemble Conservative Equity Rsp Portfolio
(Investor Class Units
Exclusive Class Units
Institutional Class Units)
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated February 9th, 2001
Mutual Reliance Review System Receipt dated 12th day of February, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
Registered Dealer
Promoter(s):
ING Investment Management, Inc.
Project #310375

Issuer Name:
Global Leading Companies Trust, 2001 Portfolio
(formerly, "Global Leading Companies Trust, 2000 Portfolio")
Series A Units
Principal Regulator - Ontario
Type and Date:
Final Simplified Prospectus and Annual Information Form dated February 9th, 2001
Mutual Reliance Review System Receipt dated 12th day of February, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
First Defined Portfolio Management Inc.
Promoter(s):
First Defined Portfolio Management Inc.
Project #298255

Issuer Name:
IG AGF U.S. Growth RSP Fund
Principal Regulator - Manitoba
Type and Date:
Final Simplified Prospectus and Annual Information Form dated January 19th, 2001
Mutual Reliance Review System Receipt dated 23rd day of January, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
Investors Group Financial Services Inc.
Les Services Investors Limitee
Promoter(s):
Investors Group Financial Services Inc.
Project #310004

Issuer Name:
Investors Global Financial Services Fund
Investors Pan Asian Growth Fund
Investors Canadian High Yield Money Market Fund
Principal Regulator - Manitoba
Type and Date:
Final Simplified Prospectus and Annual Information Form dated January 19th, 2001
Mutual Reliance Review System Receipt dated 23rd day of January, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
Investors Group Financial Services Inc.
Promoter(s):
Investors Group Financial Services Inc.
Project #308419

Issuer Name:
Investors Global Science & Technology RSP Fund
Principal Regulator - Manitoba
Type and Date:
Final Simplified Prospectus and Annual Information Form dated January 19th, 2001
Mutual Reliance Review System Receipt dated 23rd January, 2001
Offering Price and Description:
Mutual Fund Securities - Net Asset Value
Underwriter(s), Agent(s) or Distributor(s):
Investors Group Financial Services Inc.
Les Services Investors Limitee
Promoter(s):
Investors Group Financial Services Inc.
Project #308722

Issuer Name:
Type and Date:
TD Managed Income Portfolio (formerly, Green Line Managed Income Portfolio)
TD Managed Income & Moderate Growth Portfolio (formerly, Green Line Managed Income & Moderate Growth Portfolio);
TD Managed Balanced Growth Portfolio (formerly, Green Line Managed Balanced Growth Portfolio)
TD Managed Aggressive Growth Portfolio (formerly, Green Line Managed Aggressive Growth Portfolio)
TD Managed Maximum Equity Growth Portfolio (formerly, Green Line Managed Maximum Equity Growth Portfolio)
TD Managed Income RSP Portfolio (formerly, Green Line Managed Income RSP Portfolio)
TD Managed Income & Moderate Growth RSP Portfolio (formerly, Green Line Managed Income & Moderate Growth RSP Portfolio)
TD Managed Balanced Growth RSP Portfolio (formerly, Green Line Managed Balanced Growth RSP Portfolio)
TD Managed Aggressive Growth RSP Portfolio (formerly, Green Line Managed Aggressive Growth RSP Portfolio)
TD Managed Maximum Equity Growth RSP Portfolio (formerly, Green Line Managed Maximum Equity Growth RSP Portfolio)
TD FundSmart Managed Income Portfolio (formerly, FundSmart Managed Income Portfolio)
TD FundSmart Managed Income & Moderate Growth Portfolio (formerly, FundSmart Managed Income & Moderate Growth Portfolio)
TD FundSmart Managed Balanced Growth Portfolio (formerly, FundSmart Managed Balanced Growth Portfolio)
TD FundSmart Managed Aggressive Growth Portfolio (formerly, FundSmart Managed Aggressive Growth Portfolio)
TD FundSmart Managed Maximum Equity Growth Portfolio (formerly, FundSmart Managed Maximum Equity Growth Portfolio)
TD FundSmart Managed Income RSP Portfolio (formerly, FundSmart Managed Income RSP Portfolio)
TD FundSmart Managed Income & Moderate Growth RSP Portfolio (formerly, FundSmart Managed Income & Moderate Growth RSP
Portfolio)
TD FundSmart Managed Balanced Growth RSP Portfolio (formerly, FundSmart Managed Balanced Growth RSP Portfolio)
TD FundSmart Managed Aggressive Growth RSP Portfolio (formerly, FundSmart Managed Aggressive Growth RSP Portfolio)
TD FundSmart Managed Maximum Equity Growth RSP Portfolio (formerly, FundSmart Managed Maximum Equity Growth RSP
Portfolio)
(Investor Series Units)
TD Managed Index Income Portfolio (formerly, Green Line Managed Index Income Portfolio)
TD Managed Index Income & Moderate Growth Portfolio (formerly, Green Line Managed Index Income & Moderate Growth Portfolio)
TD Managed Index Balanced Growth Portfolio (formerly, Green Line Managed Index Balanced Growth Portfolio)
TD Managed Index Aggressive Growth Portfolio (formerly, Green Line Managed Index Aggressive Growth Portfolio)
TD Managed Index Maximum Equity Growth Portfolio (formerly, Green Line Managed Index Maximum Equity Growth Portfolio)
TD Managed Index Income RSP Portfolio (formerly, Green Line Managed Index Income RSP Portfolio)
TD Managed Index Income & Moderate Growth RSP Portfolio (formerly, Green Line Managed Index Income & Moderate Growth RSP
Portfolio)
TD Managed Index Balanced Growth RSP Portfolio (formerly, Green Line Managed Index Balanced Growth RSP Portfolio)

TD Managed Index Aggressive Growth RSP Portfolio (formerly, Green Line Managed Index Aggressive Growth RSP Portfolio)
TD Managed Index Maximum Equity Growth RSP Portfolio (formerly, Green Line Managed Index Maximum Equity Growth RSP
Portfolio)
(Investor Series and e-Series Units)
Offering Price and Description:
Final Simplified Prospectus and Annual Information Form February 9th, 2001
Mutual Reliance Review System Receipt dated February 13th, 2001
Underwriter(s), Agent(s) or Distributor(s):
TD Asset Management Inc
Promoter(s):
TD Asset Management Inc
Project #314898

Issuer Name:
Cannect Networks Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Prospectus dated October 30th, 2000
Withdrawn 8th day of February, 2001
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
Research Capital Corporation
Promoter(s):
N/A
Project #308389

Issuer Name:
Legacy Hotels Real Estate Investment Trust
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated November 8th, 2000
Withdrawn 5th day of November, 2001
Offering Price and Description:
Underwriter(s), Agent(s) or Distributor(s):
RBC Dominion Securities Inc.
CIBC World Markets Inc.
TD Securities Inc.
BMO Nesbitt Burns Inc.
National Bank Financial Inc.
Scotia Capital Inc.
Promoter(s):
N/A
Project #310355

Chapter 12

Registrations

12.1.1 Securities

Type	Company	Category of Registration	Effective Date
New Registration	Interpose Sault Incorporated Attention: James Alfred Booth 268 Lakeshore Road East, Suite 109 Oakville ON L6J 7S4	Limited Market Dealer (Conditional)	Feb 09/01
New Registration	Houlihan Lokey Howard & Zukin Canada Inc. Attention: Glenn Martin Bowman 79 Wellington Street West, Suite 1207 Toronto ON M5K 1H6	Limited Market Dealer (Conditional)	Feb 12/01
New Registration	Sigma Analysis & Management Ltd. Attention: David Cleveland Rudd 222 College Street Toronto ON M5T 3J1	Investment Counsel & Portfolio Manager Commodity Trading Manager	Jan 22/01
Change in Category	Financial Architects Investments Inc. Attention: Chand Bhoshan Misir 1448 Lawrence Ave. East, Suite 2 North York ON M4A 2V6	From: Mutual Fund Dealer To: Mutual Fund Dealer Limited Market Dealer (Conditional)	Feb 07/01
Change of Name	NAPG Equities Inc. Attention: Robert Steven Green 2851 John Street, Suite 200 Markham ON L3R 5R7	From: North American Property Group Equities Inc. To: NAPG Equities Inc.	Jan 25/01

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Chapter 13

SRO Notices and Disciplinary Proceedings

13.1 SRO Notices and Disciplinary Proceedings

13.1.1 TSE Electronic Volume Weighted Average Price Trading System

NOTICE OF AMENDMENTS AND COMMISSION APPROVAL

ELECTRONIC VOLUME WEIGHTED AVERAGE PRICE TRADING SYSTEM

The Commission has approved the *Amendments to the Rules and Policies of The Toronto Stock Exchange Electronic Volume Weighted Average Price Trading System*. The Amendments were proposed in order to implement an electronic volume weighted average price trading system as a facility of the Exchange (the "eVWAP Facility") and allow Participating Organizations ("POs") and eligible institutional clients access to the eVWAP Facility. The proposed rule amendments were initially published on October 6, 2000 at (2000) 23 OSCB 6953. The notice that was published with the proposed rule amendments provided the background to the amendments. Two comment letters were received. A summary of the comments received and the response of the TSE is below. As a result of comments received and comments made by the OSC, some changes have been made to the rule since it was published previously.

SUMMARY OF CHANGES

The text of the amendments published on October 6, 2000, has been revised with respect to the client priority exception found in subparagraph (9) of paragraph 4 of Rule 4-105. This subparagraph has been revised to grant a specific exemption from the in-house client priority rule for orders being entered into the eVWAP Facility by eligible institutional clients pursuant to Rule 2-502. **All other client orders entered into the eVWAP Facility through a PO will be subject to the TSE client priority rule. However the eVWAP Facility will not be system enforcing client priority, therefore it is the sole responsibility of the POs.**

In response to a comment received, the second revision reduces the minimum order size from 10 board lots for one-sided orders and 5 board lots on each side of a two-sided commitment to 2 board lots or 1000 shares for both one-sided orders and two-sided commitments.

An editorial change was also made to the amendment with respect to unfiled portions of orders, to reflect the fact that orders are not only entered by POs.

SUMMARY OF COMMENTS RECEIVED AND THE RESPONSE OF THE TSE

The TSE received comment letters from two POs.

One PO expressed concerns with the proposed TSE eVWAP Facility. Firstly, the PO is of the opinion that operation of a volume weighted average price facility should not be limited to one single provider. Instead, the PO suggested that all POs be allowed to cross trades in the Special Trading Session at a volume weighted average price (a "VWAP Price") or to provide competing facilities.

At a recent TSE Trading Policy Committee meeting where the TSE eVWAP Facility was introduced, TSE staff committed to an assessment of the current Rules and possible amendments which would allow POs to effect crosses in the Special Trading Session at a volume weighted average price. Staff anticipates revisiting this issue at the TSE Trading Policy Committee early in 2001.

Secondly, the PO is concerned that anonymous direct order entry by clients into the TSE eVWAP Facility might result in a delay in the detection of order entry errors. Furthermore, the PO is concerned that the eVWAP Facility's credit limit feature may not be sufficient to manage a firm's credit risk. The PO suggests that access to the trades in the eVWAP Facility be set up in a firm's compliance department in order to mitigate the risks.

The Exchange believes that anonymity is a critical feature of the eVWAP Facility. Anonymity will allow POs and institutions to execute trading strategies efficiently and with reduced market costs. Moreover, the Exchange believes that the features of the eVWAP Facility and the ability of POs to choose which clients will benefit from full anonymity offset any additional market risks relating to errors or credit.

POs offering clients direct access to the eVWAP Facility will be required to negotiate and execute agreements to allow such access. These agreements may take the form of a separate agreement or as an addendum to a current system interconnect agreement pursuant to Policy 2-501. However, as a result, POs will have to decide whether they will allow a particular client's orders entering the eVWAP Facility to be fully anonymous. This decision will likely be made based upon a client's sophistication and creditworthiness, thereby mitigating the firm's capital risk. A firm may then further mitigate its risk by establishing credit limits based per client. Orders entered by an eligible client that exceed its credit limit would be rejected by the eVWAP Facility. The credit limits currently may be adjusted at any time although to be effective for a particular day's eVWAP Session they must be provided to the eVWAP Facility by 9:15 a.m. We also anticipate that a modification to the system which will allow firms to manage their own credit limits directly will be implemented by the launch date of the TSE's eVWAP Facility or soon thereafter.

POs will be able to terminate a client's access on the same basis.

If a PO chooses not to grant a client full anonymity, the client will be required to forward the firm with the report containing their fill confirmations immediately subsequent to the matching sequence. The fill confirmation will provide a firm with knowledge of the firm's potential exposure (depending on the eVWAP Price) in relation to a client's eVWAP trades prior to the opening of the Regular Trading Session. An additional report would then be required to be forwarded at the end of the day containing a full report of the client's trades and the eVWAP Prices assigned to those trades.

With respect to the PO's comments regarding cost reduction for POs placing two-sided orders, no decision has been made by the Exchange with respect to the fees that will be charged for orders entered into the eVWAP Facility. As soon as these fees are available the TSE will provide them to our POs.

The second PO comment letter was positive with respect to the implementation of the TSE's eVWAP Facility but requested that the TSE consider lowering the minimum order size. Upon consideration of this request, TSE staff intend to recommend to the TSE Board of Directors that the minimum order size in Rule 4-105(2) be amended to 2 board lots or 1000 shares for both one-sided orders and two-sided commitments. Originally the TSE was targeting institutions with large block orders. Accordingly, we set the minimum order size at 10 board lots or 5000 shares to prevent users from receiving small fills that would break up large orders. A minimum fill feature has been added to the eVWAP Facility, however, which will allow users to place a minimum fill amount on their order and therefore avoid a problem of small fills while facilitating the use of the eVWAP Facility by those users who wish to enter smaller orders.

TEXT OF AMENDMENTS TO THE RULES

Appendix "A" is the text of the amendments to the Rules of the TSE and Appendix "B" is the text of the amendments to the Policies of the TSE with respect to the eVWAP Facility. The amendments have been black lined to indicate the changes from the previously published version. The amendments are effective immediately.

QUESTIONS

Questions regarding the amendments should be directed to the TSE, Regulatory and Market Policy, by contacting either Patrick Ballantyne, Director at (416) 947-4281 or Noelle Wood, Senior Counsel at (416) 947-4562.

APPENDIX "A"

THE RULES of THE TORONTO STOCK EXCHANGE INC.

The Rules of The Toronto Stock Exchange Inc. are hereby amended as follows:

1. Rule 1-101 is amended by adding the following definitions:

"eVWAP Facility" means the facility of the trading system permitting the trading of orders at the eVWAP Price.

"eVWAP Order" means an order to purchase or sell an eVWAP Security entered into the eVWAP Facility to participate in the eVWAP Session.

"eVWAP Price" means, in respect of each eVWAP Security, a volume weighted average price of the eVWAP Security calculated in a manner determined by the Exchange from the trades of the eVWAP Security during the Regular Session on the same Trading Day.

"eVWAP Security" means those listed securities which have been designated from time to time by the Exchange.
"eVWAP Session" means a Session during which trading in an eVWAP Security is limited to the execution of the transaction at the eVWAP Price.

2. Rule 1-101 is amended by deleting and substituting:

"Regular Session" means a Session other than a Special Trading Session or an eVWAP Session.

3. Rule 3-101 is amended by deleting Rule 3-101(2) and substituting the following:

3-101 (2) Unless otherwise changed by a resolution of the Board

(a) the Regular Session shall open at 9:30 a.m. and close at 4:00 p.m.;
(b) the Special Trading Session shall open at 4:05 p.m. and close at 5:00 p.m.; and
(c) the eVWAP Session shall open at 9:15 a.m. and close prior to the opening of the Regular Session.

4. The following rules are added:

Rule 4-105 eVWAP Facility

(1) Execution

Orders are executed at the time the match results are determined with a to-be-determined (TBD) price.

(2) Eligible Orders

Orders eligible for the eVWAP Facility must be a minimum size of 2 board lots.

(3) Board Lots

"Board Lot" for the purposes of the eVWAP Facility means 500 units of an eVWAP Security.

(4) Settlement

All trades in the eVWAP Facility must be for regular settlement, as prescribed by the Exchange from time to time.

(5) Unfilled Portions of Orders

Any unfilled portion of an order in the eVWAP Facility shall be considered to be cancelled unless otherwise specified.

(6) Allocation of Trades

Notwithstanding Rules 4-801 and 4-802 and unless otherwise provided,

(a) trades in the eVWAP Facility shall be calculated at the eVWAP Price;

(b) trades shall be allocated among orders in the following manner and sequence:

(i) to intentional crosses;
(ii) to one-sided commitments, first by size and then time priority;
(iii) to two-sided commitments, first by size and then time priority; and then
(iv) to residual orders in amounts up to the limit guaranteed by a Participating Organization.

(c) trades allocated in the manner described in 4-105 (6)(b)(ii) and (iii) are subject to a revolving sequence in increments as designated by the Exchange from time to time.

(7) Restriction on Setting Last Sale or Closing Price

Trades executed in the eVWAP Facility shall not be used in calculation of either a last sale price or closing price for a stock for the Regular Session or the Special Trading Session.

(8) Exemption from Short Sale Rule

Short sale orders in the eVWAP Facility are exempt from the application of Rule 4-301(1).

(9) Client Priority

Rule 4-501(2) shall not apply to an allocation made by the eVWAP Facility, provided that the order has been entered by an eligible client pursuant to Rule 2-502.

THIS RULE AMENDMENT MADE this 30th day of January, 2001 to be effective immediately subject to the approval of the amendment by the Ontario Securities Commission.

"Daniel F. Sullivan"
Daniel F. Sullivan, Chair

"Leonard P. Petrillo"
Leonard P. Petrillo, Secretary

APPENDIX "B"

THE POLICIES
of
THE TORONTO STOCK EXCHANGE INC.

The Policies of The Toronto Stock Exchange Inc. are hereby amended as follows:

1. Policy 2-502(a) is amended by deleting and substituting the following:

(a) the eligible client is authorized to connect to the Participating Organization's order routing system or to the TSE eVWAP Facility;

2. Policy 2-502 is amended by adding:

(4) eVWAP Facility Requirements

(a) Notwithstanding Policy 2-501(1)(i), for the purposes of Rule 2-501, clients eligible to transmit orders to the Exchange's eVWAP Facility exclude:
(i) a client that is resident in the U.S., and
(ii) a client entering orders through an Order-Execution Account.

(b) If the agreement required by Rule 2-502(b) is between a designated Participating Organization and a client with respect to the eVWAP Facility, the agreement may omit provisions that would otherwise be required by Policy 2-502(1)(d), 2-502(2)(d) and (e), and 2-502(3)3 if the system through which the order is transmitted:
(i) enforces Exchange Requirements relating to the entry of orders,
(ii) enforces the credit limits imposed by the designated Participating Organization, and
(iii) has the ability to transmit a trade report to both the client and the designated Participating Organization.

3. Policy 6-501(9)1 is amended by inserting, "*other than purchases made in the eVWAP Facility,*" after the phrase "purchases made by issuers pursuant to a normal course issuer bid".

THIS POLICY AMENDMENT MADE this 30th day of January, 2001 to be effective immediately subject to the approval of the amendment by the Ontario Securities Commission.

"Daniel F. Sullivan"
Daniel F. Sullivan, Chair

"Leonard P. Petrillo"
Leonard P. Petrillo, Secretary

Chapter 25

Other Information

THERE IS NO MATERIAL FOR THIS CHAPTER

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