Ontario

ONTARIO SECURITIES COMMISSION Volume 1, Issue 2

PERSPECTIVES

FEATURE

Year 2000 Issues Demand Disclosure, Regulators Say

Regulators are addressing the potential for millennium mayhem by requiring companies that issue securities to disclose potential problems.

In January, the Canadian Securities Administrators (CSA) staff issued a Notice providing guidance to reporting issuers on their obligations to address the Year 2000 issue in continuous disclosure and prospectus documents. The Staff Notice has been sent to all Toronto Stock Exchange (TSE) listed companies and all companies reporting on the Canadian Dealing Network (CDN).

The TSE has passed a by-law requiring that material information on the Year 2000 be disclosed in annual reports. The TSE suggests that listed companies look to the January CSA Staff Notice to interpret this requirement.

The Staff Notice recommends that a reporting issuer's Management's Discussion and Analysis (MD&A) include:

- a discussion of the reporting issuer's vulnerability to the Year 2000 issue;
- a description of the reporting issuer's evaluation of its situation and the plans made to deal with critical systems;
- a discussion of the status of implementation of the plans and the expected timing of completion; and
- information about associated costs.

(continued on page 9)

INDEX

PERSPECTIVES

FEATURE

POLICY PROFILES

An overview of policy initiatives and where they stand in the policy development and implementation process.

New Rules on Registration

In order to upgrade and codify regulations on registration, the Ontario Securities Commission has recently adopted and proposed a number of rules, policies and rule changes. Actions have included:

Surrender of Registration

- on April 7, 1998, the OSC adopted Rule 33-501 on Surrender of Registration and rescinded Uniform Act Policy Statement 2-07. The Rule requires that upon application for surrender of registration, the registrant consents to registration being suspended. The suspension will provide the registrant with a period of non-activity during which he or she can discharge obligations in an orderly manner, subject to the oversight of the Commission.
  OSCB Jan.30., page 614

Inside Information

- on January 27, 1998, the OSC adopted Policy 33-601 on Guidelines for Policies and Procedures Concerning Inside Information. The Policy provides general guidelines to registrants concerning policies and procedures to prevent improper use of undisclosed material information (insider information). The Policy replaces OSC Policy Statement No. 10.2.
  OSCB Jan. 30, page 617

Compliance with Section 42

- on April 7, 1998, the OSC adopted Rule 33-504 on Compliance with Section 42 (Publication of names). The Rule provides an exemption from the requirements of Section 42 of the Act for members of The Toronto Stock Exchange (TSE) and Investment Dealers Association of Canada (IDA) who comply with related requirements of the SROs.
  OSCB Jan. 30, page 615

Limited Market Dealers

- on April 7, 1998, the OSC adopted Rule 31-503 on Limited Market Dealers. The Rule sets out the restrictions related to a limited market dealer registration and the conditions of registration for limited market dealers, their salespersons, officers and partners.
  OSCB Jan. 30, page 611

Proposed Rules:

Proficiency Requirements

- changes to proficiency requirements for registrants (Rule 31-502). Among other changes, the proposed Rule would update proficiency requirements for dealers and advisers by codifying OSC staff's administrative practice of accepting certain alternative courses. It also would adopt the proficiency requirements imposed by the TSE and IDA and apply these higher standards to securities dealers.
  OSCB Jan. 23, page 466

Registration of Compliance Officers

- changes to proposed Rule 31-505 on conditions of registration. The proposed Rule would codify staff's administrative practice of requiring compliance officers to be registered and consolidate current conditions of registration. It would also expand these requirements in order to apply to all categories of registrants and to individuals as well as firms.
  OSCB Jan. 23, page 405

Dealer as Administrator of Clients' Registered Plans

- with the CSA, National Instrument 33-101 regarding the administration of self-directed RRSPs, RESPs and RRIFs by dealers. The proposed National Instrument would impose conditions to protect clients' assets when dealers act as administrators of self-directed registered retirement savings plans (RRSPs), registered education savings plans (RESPs) and registered retirement income funds (RRIFs).
  OSC Feb. 13, page 963

Breach of Requirements of Another Jurisdiction

- with the CSA, National Policy Statement No. 34-201 on breach of requirements of other jurisdictions. The proposed National Policy would give notice to registrants and applicants that a breach of another jurisdiction's securities legislation may affect their fitness for registration. It would replace National Policy Statement No. 17.
  OSCB Feb. 13, page 968

Registrants as Corporate Directors

- with the CSA other than Quebec, Multi-Jurisdictional Policy 34-202 on registrants acting as corporate directors. The proposed Policy would alert registrants to the possibilities of a conflict of interest that can arise when a registrant is acting as a director of a reporting issuer. It would replace National Policy Statement No. 18.
  OSCB Feb. 13, page 972

For more information, please call **Nancy Ross**, Legal Advisor, Registration, (416) 593-8154.

Improvements to Communication with Beneficial Securityholders

The CSA has proposed National Instrument 54-101 on communication with beneficial securityholders, replacing National Policy Statement No. 41 (NP 41).

Since the advent of "paperless" securities trades, most investors hold their securities through an intermediary such as a broker, instead of taking possession of a certificate. Since

POLICY PROFILES

this means securities issuers often do not have complete lists of their beneficial securityholders, NP41 established procedures to deliver proxy-related materials to beneficial securityholders through intermediaries.

The new National Instrument would allow reporting issuers to obtain a list of non-objecting, beneficial owners from intermediaries holding securities on behalf of the beneficial owners. Beneficial owners are not shown on the issuer's records because their securities are held though the intermediary. If a beneficial owner is "non-objecting", it means he or she does not object to having their identity and securities position revealed to reporting issuers and others in accordance with the Instrument.

"Under the new Instrument, reporting issuers would be able to send materials directly to non-objecting, beneficial owners."

Under the new Instrument, reporting issuers would be able to send materials directly to non-objecting, beneficial owners. Issuers may also continue to distribute materials to non-objecting, beneficial owners indirectly through intermediaries, as is the current practice. If a securityholder does not respond to a request for instructions, they will be deemed to have given their consent to be non-objecting, beneficial owners.

The proposed National Instrument differs from NP41 in several other significant ways:

- The scope of materials that a beneficial owner may decline to receive has been narrowed. A beneficial owner can decline to receive proxy-related material for meetings at which only routine business is to be conducted or non-proxy-related materials not required by law to be sent to registered holders.
- Reporting issuers will no longer be able to override the decision of beneficial owners who decline to receive certain materials.
- Non-objecting, beneficial owner lists can be used by reporting issuers and other persons or companies for any matter relating to the affairs of the reporting issuer, subject to terms and conditions similar to those imposed by Canadian corporate law for the use of shareholder lists.
- Objecting beneficial owners — those who do not wish their identity revealed to reporting issuers — must continue to receive materials through their intermediary. They will be responsible for the costs incurred by their intermediaries in sending securityholder materials to them, unless the issuer is also sending those materials indirectly to non-objecting, beneficial owners through the intermediaries.

The proposed National Instrument has benefits for both reporting issuers and securityholders. Reporting issuers will benefit from being able to communicate directly with non-objecting, beneficial owners. Reporting issuers may choose which method to use to communicate to non-objecting, beneficial owners, and will have the ability to choose potentially less expensive means of communication with their securityholders. At the same time, by being identified, non-objecting, beneficial owners will be better able to change a vote and to attend or vote in person at meetings. Because they may choose to be objecting, beneficial owners may maintain confidentiality if they desire.

The Request for Comment period ends May 29, 1998. For more information, please call **Robert Kohl**, Legal Counsel, Market Operations, (416) 593-8233.

OSCB Feb. 27, page 1381

Exemptions for Trades by Issuers to Employees

As part of the ongoing rule reformulation process, the OSC has proposed a new Rule on exemptions from registration and prospectus requirements for trades by issuers of their securities to employees, executives and consultants. The Rule would enable companies to issue stock to employees, executives and consultants without approval by the OSC, under certain conditions.

The proposed Rule would incorporate exemptions not covered by current regulations but usually granted in practice. Changes from the current regime include:

- removing the requirement for approvals by the OSC Executive Director for certain issuances;
- providing new registration and prospectus exemptions for trades to non-employee officers who are not senior officers, subject to certain restrictions;
- providing new exemptions for trades to employee and executive RRIFs;
- extending exemptions to include trades to consultants and their companies, partnerships, RRSPs and RRIFs; and
- establishing a more simplified and comprehensive system of disclosure of trades under the exemptions in the Rule and a fee schedule for these trades.

The Request for Comment period ends May 22, 1998. For more information, please call **Cynthia Rogers**, Legal Counsel, (416) 593-8261.

OSCB Feb. 20, page 1113

Potential Underwriting Conflicts

A proposed Multi-Jurisdictional Instrument and Companion Policy would address the contentious issue of potential conflicts of interest during underwriting. The instrument is designed to reduce the number of cases in which an independent underwriter is required, but increase the independent's role in cases where serious potential conflicts of interest are identified.

The issue at stake concerns cases when the relationship between the issuer or selling security holder and the registrant acting as underwriter raises the possibility that the registrant will be in an actual or perceived conflict between its own interests and those of investors.

"The Instrument would increase the independent underwriter's role where serious potential conflicts of interest are identified."

At present the participation of an independent underwriter is required in such offerings. However, there is no requirement to specify the independent's duties or disclose its name. Proposed Multi-Jurisdictional Instrument 33-105 and Companion Policy 33-105CP would restrict the circumstances in which independent underwriters are required to those where there are significant regulatory concerns. In circumstances where a potential conflict is identified, it would require that the independent's name and its role in due diligence be disclosed and pricing be set out in the prospectus. In addition, the independent would be required to be responsible for a substantial portion of the offering — the lesser of 20% or the largest portion controlled by a non-independent underwriter.

The Instrument and Companion Policy have been proposed for implementation in all jurisdictions except Quebec.

For more information, please call **Tanis MacLaren**, Associate General Counsel, (416) 593-8259.

OSCB Feb. 6, page 781

POLICY UPDATE

Further information on OSC policy initiatives.

Prompt Offering (POP) System Updates

As part of its rule reformulation following the Ainsley decision (see OSC Perspectives, Winter, 1998), the CSA has proposed a National Instrument and Companion Policy to replace National Policy No. 47 on the Prompt Offering Qualification System (the POP system). The new National Instrument would also update a number of key areas of the POP system.

The POP system, outlined in NP 47, allows senior issuers to access Canadian capital markets rapidly and with a minimum of regulatory impediments, while maintaining investor protection and public disclosure. Key changes from NP 47 in the new National Instrument and Companion Policy would include:

- a change in the timing of the application of the public float test to within 60 days before the filing of the preliminary short form prospectus;
- the expansion of the POP eligibility criteria in a number of areas, including the addition of criteria and disclosure standards specifically for asset-backed securities and cash settled derivatives; and
- greater harmonization in the treatment of reorganizations and take-over bids.

The Request for Comment period ends May 22, 1998. For more information, please call **Susan Wolburgh Jenah**, Manager, Market Operations, (416) 593-8245.

OSCB Feb. 20, page 1138

Mutual Fund Sales Practices Rule Approved

As the mutual fund industry moves forward on the development of the new Self-Regulatory Organization (SRO), a new Rule came into force in Ontario on May 1, 1998 that restricts certain sales practices between fund management companies and distributors. The Rule is based to a great extent on the current Code of Sales Practices of the Investment Funds Institute of Canada.

The Rule:

- prohibits the payment of money or the provision of non-monetary benefits to a representative of a participating dealer (including cash marketing allowances or other marketing incentives)
- prohibits the payment of money or the provision of non-monetary benefits to a participating dealer; other than as permitted by the Rule
- prohibits the payment of bonus commissions to dealers
- requires that the prospectus of a mutual fund contain complete disclosure of commissions paid and other permitted incentives given to dealers
- requires prospectus disclosure and separate written point of sale disclosure of any equity interests that may exist between a member of the mutual fund organization and a participating dealer
- prescribes parameters for the payment of up front and trailing sales commissions
- does not permit fund companies to establish minimum asset or sales thresholds in respect of the payment of trailing sales commissions
- permits certain limited marketing costs of participating dealers to be paid by fund organizations on a cooperative basis
- permits members of fund organizations to organize educational conferences and seminars and to invite participating dealers to send representatives, provided that fund organizations may not pay the travel and accommodations expenses of attending representatives of participating dealers and the conferences or seminars are held in Canada and the continental United States or in other locations where a portfolio manager of the fund is located
- permits fund organizations to contribute towards the costs incurred by participating dealers in respect of educational conferences or seminars organized and presented by participating dealers for their representatives, on certain conditions, including no payment of the travel and accommodations costs or representatives and a requirement that the conference or seminar be held in Canada or the United States or in other locations where a portfolio manager of an applicable fund is located.

POLICY UPDATE

For copies of the Mutual Funds Sales Practices Rule, call the OSC Publication line at (416) 593-3699.

For more information, please call **Rebecca Cowdery**, (416) 593-8129.

OSCB Feb. 6, page 747; May 1

CANADIAN SECURITIES ADMINISTRATORS HIGHLIGHTS

*A summary of recent national initiatives from the Canadian Securities Administrators (CSA). The CSA is the organization of the securities regulators of the provinces and territories of Canada. The principal current initiative of the CSA is the establishment of the mutual reliance system. For more information, please see **National Application System Proposed** on this page.*

CSA Announces Strategic Plan for 1998/99

At the January 1998 quarterly meeting, the CSA Chairs agreed upon a basic strategic plan for the CSA for the coming year. The purpose of the plan is to set out what the CSA should be trying to achieve and how the CSA should be organized and supported so that it can make progress toward its goals.

Purpose and Goals of the CSA

The Chairs agreed on the following statement of purpose for the CSA:

> The purpose of the CSA is to provide a forum for cooperation among provincial securities regulatory authorities in order to give Canada an efficient and effective securities regulatory system to protect investors and foster a fair, efficient and vibrant securities market.

The Chairs agreed upon the following general goals to guide the CSA in achieving its purpose:

- To protect investors from fraudulent, abusive and unfair practices in the securities market.
- To foster the development of a fair, efficient, dynamic and competitive securities market that will provide investment opportunities and access to capital for the benefit of Canadians in all regions and sectors.
- To develop an efficient, effective, responsive and enforceable national regulatory framework that serves and protects market participants in all regions of Canada and balances national harmonization with regional flexibility.
- To ensure that Canada participates actively and effectively in international regulatory arrangements and organizations.

Proposed Initiatives

The Chairs agreed upon two types of initiatives for the CSA to pursue in furthering its purpose and goals. First, the Chairs identified the substantive policy and administrative matters needed to regulate the markets better. Second, the Chairs identified the steps necessary for the CSA to be able to develop and implement the substantive initiatives.

Regulatory Policy and Administration:

1. Mutual funds - update rules and policies and expand regulatory presence;
2. Integrated Disclosure System - revamp existing disclosure system;
3. Civil Remedies - put forward recommendations on civil remedies to provincial governments;
4. Mutual Reliance - streamline the regulatory review process for prospectuses, registration of dealers and advisers and review of exemption applications (see “Virtual National Commission,” OSC Perspectives, Winter, 1998);
5. Self-regulatory organization for all mutual fund distributors - create the self-regulatory organization and mandate membership;
6. Investor & industry education - produce new investor education materials and participate in the Saving and Investing Education Week;
7. Electronic trading systems - develop a regulatory approach.

CSA Effectiveness

1. Resources - obtain commitment from all jurisdictions;
2. Consultation - commit to effective consultation and consensus building;
3. Systems - fund and develop additional systems to support CSA work;
4. International Relations - Coordinate international relations through the International Organization of Securities Commissions and the negotiation of Memorandum of Understanding between the CSA jurisdictions and securities regulatory authorities in foreign jurisdictions (see page 7).

For more information, please call **Kathy Soden**, Manager, Market Operations, (416) 593-8149.

National Application System Proposed

The CSA has proposed a National Application System for the treatment of applications for discretionary relief. The System will be used on a test basis during the comment period.

The System is based on mutual reliance, meaning that a regulator in one jurisdiction will rely primarily on the analysis, review and recommendations of another jurisdiction for certain filings made in more than one jurisdiction in Canada (see OSC Perspectives, Winter, 1998). A mutual reliance system does not involve any surrender of jurisdiction or discretion by a participating jurisdiction.

The National Application System would work essentially as follows:

- An application will be drafted based on the legislative requirements of the principal jurisdiction. The application, with applicable fees, will be sent to the principal jurisdic-

CANADIAN SECURITIES ADMINISTRATORS HIGHLIGHTS

tion as well as other jurisdictions where relief is required.

- The principal jurisdiction will review the application, communicate with the applicant and take comments from participating jurisdictions.
- The staff memorandum, recommendations and determination of the principal jurisdiction will be forwarded to all participating jurisdictions. They will decide whether to act in accordance with the principal jurisdiction or to opt out of the System for that application.
- The principal jurisdiction will issue a decision document on behalf of itself and all jurisdictions that have "opted into" the decision.

The Request for Comment period will close June 1, 1998. For more information, please call **Margo Paul**, (416) 593-8136.

OSCB Jan. 30, 1998, page 621

National Escrow Requirements

At its January meeting, the CSA reviewed the progress made in developing new national escrow requirements for initial public offerings, based on the premise that key management and related parties of an issuer should be tied to the issuer during its development and be rewarded for their accomplishments. The CSA's objective is to simplify the existing escrow requirements and eliminate the inconsistencies that currently exist across jurisdictions.

The CSA expects to release the new national escrow requirements for comment in the first half of 1998.

For more information, please call **Rick Whiler**, (416) 593-8127.

CSA Notice on Non-Payment of SEDAR Annual Filing Service Charges

Over the past year, thousands of reporting issuers have filed issuer profiles with SEDAR (System for Electronic Document Archiving and Retrieval). However, a significant number of reporting issuers have not paid the required SEDAR annual filing service charges.

"A significant number of reporting issuers have not paid the required SEDAR charges."

In order to treat all reporting issuers equitably, the Canadian Securities Administrators are taking steps to enforce payment of SEDAR annual filing service charges.

The CSA has identified two distinct situations in which there is a payment deficiency, the first being those in which:

1. an issuer profile has been filed in SEDAR;
2. no other filings have been made against the issuer profile; and
3. payment of the issuer's SEDAR annual filing service charges is delinquent by more than 90 days.

In these circumstances the issuer profiles will be removed from SEDAR without further notice. It is believed that most of these profiles are duplicates or are otherwise not intended for use by the issuer.

The second situation is one in which:

1. an issuer profile has been filed in SEDAR;
2. other filings have been made against the issuer profile; and
3. payment of the issuer's SEDAR annual filing service charges is delinquent by more than 90 days.

Issuers in this category will be placed on the list of defaulting issuers in those jurisdictions in which the issuer is a reporting issuer, provided the jurisdictions in question have mandated SEDAR.

For more information, please call **Karen Eby**, (416) 593-8242.

OSCB Dec. 12, 1997, page 6731

ENFORCEMENT

The following are summaries of recent enforcement proceedings. For more information, please call Larry Waite, Director of Enforcement, (416) 593-8156.

Dino P. DeLellis, William R. Kennedy and The Height of Excellence Financial Planning Group Inc. *Undisclosed commissions, misrepresentation, inappropriate financial advice and failure to insure compliance with terms and conditions of registration. (Public Interest (s.127))*

From 1992 to 1995, as an employee of AIC Investment Planning Ltd., Dino DeLellis sold units in a series of limited partnerships for which he received approximately $280,000 in undisclosed marketing commissions. These commissions were not permitted under the seed capital exemption in the Securities Act and the sales of the units contravened section 53 of the Act. DeLellis also misrepresented the tax implications, the risk and the future value of the units and sold units to clients for whom such investments were unsuitable. DeLellis' employment with AIC was terminated on October 17, 1995.

On February 29, 1996, DeLellis' registration as a mutual fund salesperson was transferred to The Height of Excellence Financial Planning Group Inc. ("FPG"), subject to certain conditions designed to ensure DeLellis' proper supervision. From February 17 to 19, 1997, a staff review of DeLellis' practices indicated a lack of supervision by FPG.

As a result of a staff investigation, it was alleged that DeLellis accepted secret commissions and made misrepresentations to his clients and generally failed to act honestly and in good faith with his clients.

On August 15, 1997, the Commission approved a Settlement Agreement in which FPG agreed that its conduct was contrary to the public interest in that FPG failed to: (a) adequately supervise DeLellis; (b) insure compliance with the

ENFORCEMENT

terms and conditions of his registration; and (c) insure that correct quarterly supervision reports were filed with the Commission. Under the terms of the agreement, FPG agreed to: (a) implement changes to its compliance procedures recommended after a review by Arthur Andersen & Co.; (b) provide a further report to Staff of the Commission detailing the implementation of the recommendations; (c) a reprimand from the Commission; and (d) pay $20,000 towards the costs of Staff's investigation.

On January 13, 1998, the Commission issued a decision terminating DeLellis' registration and removing the trading exemptions of DeLellis and William Kennedy permanently. The Commission found that, while with FPG, DeLellis: (a) was not properly supervised; (b) provided investment advice for the purchase and sale of securities for which he was not registered to trade; (c) provided inappropriate investment advice; (d) received split commissions for the sale of securities he was not registered to sell; and (e) allowed an assistant, who was not a registrant, to sign transaction records as the registered salesperson.

Roch Beaulieu, James Schofield, David Barnsdale, Ashton So and Ian Yeo. *Misleading advertising and marketing materials. (Public Interest (s.127))*

Between November 25, 1997 and January 19, 1998, the Commission approved Settlement Agreements between staff of the Commission and Roch Beaulieu, James Schofield, David Barnsdale, Ashton So and Ian Yeo.

Beaulieu, Barnsdale and Yeo agreed that their conduct was contrary to the public interest in that they distributed to clients a copy of a book on financial planning which could have misrepresented their role as the sole co-author along with Dean Albrecht, a financial marketing consultant who resides in the state of Florida. Schofield and So agreed that their conduct was contrary to the public interest in that they distributed to clients a copy of a book on financial planning which could have been misleading and named them as the sole co-author along with Dean Albrecht, when they were aware that others were named as co-authors in other versions of the same book.

Under the terms of the various Settlement Agreements, they agreed to orders suspending their registrations: Beaulieu, for ten days commencing December 8, 1997, Schofield for ten days commencing December 10, 1997, Barnsdale for fifteen days commencing January 8, 1998, So for twenty-four days commencing January 9, 1998, and Yeo for five days commencing January 19, 1998. Barnsdale, So and Yeo each agreed to contribute the amount of $1,000 towards the costs of Staff's investigation.

TD Securities Inc. *Proper attribution to authors of internally and externally prepared materials. (Public Interest (s.127))*

In a related case, the Commission approved a Settlement Agreement on March 16, 1998 between Staff of the Commission and TD Securities Inc. ("TDSI").

Pursuant to the terms of the Settlement Agreement, TDSI developed and implemented a comprehensive compliance policy in respect of authorship by its sales representatives to ensure that proper attribution is given to all authors for both internally and externally prepared materials. In approving the Settlement Agreement, the Commission noted that the policy was reviewed by the Investment Dealers' Association of Canada ("IDA") and approved as an appropriate policy to be implemented by its members. The Commission further noted that the policy is a positive step in endeavouring to ensure that the public is not misled by false claims of authorship by investment advisors. The Commission recommended the adoption of comparable procedures by other registrants which are not members of the IDA.

TDSI agreed to contribute the amount of $1,000 towards the costs of staff's investigation.

David Conforzi. *Misleading financial statements. (Misleading Statements (s.122(1)(b))*

David Conforzi, formerly President of Megalode Corporation, was sentenced on his conviction for filing with the Commission misleading financial statements for the year ended May 31, 1993 and the nine month period ended February 28, 1994. His Honour Judge Cavion imposed a one day term of imprisonment concurrent on each count, a probation order for 12 months, and a fine of $5,000 to be paid to a charity of Mr. Conforzi's choice which benefits the victims of crime.

PrimeNet Communications Inc., Raymond Homer, Robert Bleasby and James Laks. *Non-disclosure of information in regulatory filings. (Public Interest (s.127))*

On December 3, 1997, the Commission approved a Settlement Agreement with the above-noted respondents relating to breaches of the continuous disclosure obligations of the Securities Act and relating to the non-disclosure of information in documents filed with the Commission by PrimeNet Communications Inc. ("PrimeNet").

PrimeNet failed to disclose a $450,000 payment to a company controlled by David Austin, the former president and chief executive officer of PrimeNet. The respondents agreed that the payment was a material change in the affairs of PrimeNet and that their actions were contrary to the public interest.

Under the terms of the Settlement Agreement: (a) Raymond Homer, James Laks and Robert Bleasby agreed not to serve as a director or officer of a reporting issuer for a period of eighteen months; (b) PrimeNet received a reprimand from the Commission; (c) PrimeNet agreed to provide its shareholders and special warrant holders with an accounting of monies received by PrimeNet from the Special Warrant Financing; (d) Raymond Homer, James Laks and Robert Bleasby agreed to complete the Ivey Directors program offered by the University of Western Ontario by May 4, 1999 or such other directors' educational course approved by the Director of Enforcement of the Commission; and (e) the Respondents contributed $20,000 towards the costs of staff's investigation.

R.D.G. Minerals Inc. *Misleading disclosure to public. (Public Interest (s.127))*

On February 11, 1998, the Commission announced that trading in shares of R.D.G. Minerals Inc. was to cease.

The order noted that two corporations had issued news releases announcing takeover bids for R.D.G. Minerals Inc.

but that no bid circular had been filed in respect of either bid. The order also noted that R.D.G. Minerals Inc. had made disclosure concerning its ownership of, or its rights to acquire, substantial mineral deposits, which disclosure may have been misleading.

On February 25, 1998, the Commission revoked the order. In ordering that the shares of R.D.G. Minerals Inc. resume trading, the Commission noted that the two bidder corporations had withdrawn their bids and that R.D.G. Minerals Inc. had issued a news release clarifying the issues referred to in the original order.

OSC REPORTS

An inside look at Commission developments and projects that will have an impact on the investment community.

David A. Brown Appointed New OSC Chair

David A. Brown, Q.C., has been appointed as the Chair of the Ontario Securities Commission. The term of appointment is five years.

Mr. Brown was a senior corporate law partner of Davies, Ward & Beck, where he had been a partner for 28 years. His practice included mergers and acquisitions, banking, project finance and securitization, corporate and commercial, corporate finance and securities, alliances, reorganizations, restructurings and workouts.

He received his Bachelor's degree in Civil Engineering from Carleton University in 1963 and an LL.B. from the University of Toronto in 1966. He was appointed Queen's Counsel in 1984.

OSCB March 20, page 1835

New Members Appointed to Commission

The Ontario Securities Commission announced the appointments of **Derek Brown** and **Stephen Paddon** as Members of the Ontario Securities Commission. Mr. Brown was appointed on October 22, 1997 and Mr. Paddon was appointed on January 29, 1998.

Derek Brown served as a Vice-President and Director of RBC Dominion Securities Inc., in investment banking from 1971 until his retirement from the firm in 1996. He is presently Adjunct Professor of Finance at the Joseph L. Rotman Centre for Management, University of Toronto.

R. Stephen Paddon, Q.C. has had extensive experience in corporate, securities and insurance law, as well as litigation, during his 37 years at the bar. He is currently associated with the Bennett Jones Verchere law firm as counsel.

OSCB Feb. 20, page 1070

OSC Statement of Priorities

The Securities Act requires the Commission to deliver a statement of the Chairman to the Minister of Finance each year, setting out proposed priorities for the coming year.

In the April 3 edition of the OSC Bulletin, the OSC published a draft of its Statement of Priorities for the fiscal year ending March 31, 1999. After approval by the Minister, the final statement will serve as the guide for the Commission's operations business plan over the next year. Interested parties should comment by June 1, 1998.

For more information, please call **Robert Day**, Manager, Business Planning, (416) 593-8179.

OSCB April 3, page 2157

International Organization Issues Paper on Securities Regulation

The Technical Committee of the International Organization of Securities Commissions (IOSCO) has approved the limited release of a draft paper entitled "Objectives and Principles for Securities Regulation."

"The OSC has been asked to consult with relevant experts to provide additional comments."

The draft paper sets out the principles which should govern in securities regulation and is intended to encourage the adoption of high regulatory standards. The three core objectives of securities regulation are: (1) the protection of investors; (2) ensuring that markets are fair, efficient and transparent; and (3) the reduction of systemic risk. The draft paper sets out 30 principles of securities regulation on such topics as: Principles for Self-Regulation, Principles for Compliance Programs and the Enforcement of Securities Regulation, and Principles for the Secondary Market.

The Ontario Securities Commission has been asked to consult with relevant experts to provide additional comments before the paper is finalized. In particular, it is noted that the following statement from the draft paper could be expanded to reflect in detail the regulatory implications of the globalization of financial markets: "The increasing internationalization of financial activities and integration of global financial markets provide significant challenges to securities regulators."

Interested parties are invited to provide comments and suggestions to the Ontario Securities Commission directly by

OSC REPORTS

May 15, 1998, if possible. Interested parties should contact **Randee Pavalow** at (416) 593-8257 or **Susan Greenglass** at (416) 593-8140 to obtain a copy of the draft paper.

A Poison Pill Update

On April 8, 1998, the Ontario Securities Commission, jointly with the Alberta and British Columbia Securities Commissions, heard an application by CW Shareholdings Inc. to cease trade the shareholder rights plan of WIC Western International Communications Ltd. The rights plan had been adopted by the board of directors of WIC on March 28th, in response to the take over bid made by CW Shareholdings, a subsidiary of CanWest Global Communications Corp., on March 24, 1998 for all of the Class A and B shares of WIC. In their joint decision, the Commissions ordered the rights plan be cease traded on April 21, 1998 if not waived by the directors of WIC by 4:00pm Toronto time, on April 20, 1998. For more information contact **Cathy Singer**, General Counsel, (416) 593-8082.

Notice — Accounting Guidance on Closed-end Investment Funds

A Staff Notice was recently published setting out staff's view on the application of generally accepted accounting principles in accounting for initial offering costs incurred, directly or indirectly, by closed-end investment funds. The Notice also provides staff's views with respect to the treatment of initial offering costs for purposes of determining published net asset value per unit for such funds.

For more information, please call **Ram Ramachandran**, Associate Chief Accountant, (416) 593-8253.

OSCB Dec. 5, page 6414

Reminder on Compliance Report on Commingling of Money

The OSC recently sent letters to all principal distributors of mutual funds and participating dealers registered with the OSC to remind them of their obligation to file a Compliance Report on commingling of money, in accordance with Section 12.04 of National Policy Statement No. 39. The report is required to be accompanied by an audit opinion given by the registrant's external auditors in accordance with Section 5815 of the Canadian Institute of Chartered Accountants (CICA) Handbook. The report has to be filed within 120 days after the fiscal year end. This is not a new filing requirement.

For more information, please call **Carlin Fung**, Compliance, (416) 593-8226, or **Toni Ferrari**, Manager, Compliance, (416) 593-3692.

OSCB Dec. 19, page 6888

Fee Payment Rule

In keeping with the OSC's transition to self-funding status, there is a new Rule requiring that all fees payable under Ontario securities law be paid to the Ontario Securities Commission. Formerly, the regulation required that all fees be paid to the Minister of Finance.

The new rule is effective as of May 4, 1998. For more information, please call **Tanis MacLaren**, Associate General Counsel, (416) 593-8259.

OSCB Nov. 21, 1997, page 6117

Rule Reformulation Quarterly Summary

The OSC publishes a Quarterly Summary of Publications to provide information to the public regarding OSC rules, policies and notices, including the status of the various instruments being reformulated. The first summary was published in the Ontario Securities Commission Bulletin for reformulated instruments only. It has been expanded as of February 14, 1997 to cover all rules and policies being considered by the Commission as well as notices. The Quarterly Summary is published on the first Friday after the last day of the last month of each quarter. To assist the reader, two lists are included: one of all publications by date of publication, and one of all publications by subject area.

The Quarterly Summary was cumulative until the end of 1997. The 1997 Year End Quarterly Summary of Publications is published in the Ontario Securities Commission Bulletin on January 2, 1998. At that time, a table of concordance was also published which sets out the old titles of instruments, new instrument numbers and status as at December 31, 1997.

The Quarterly Summaries published in 1998 will only contain information regarding publications in 1998. The Quarterly Summary for the first quarter of 1998 was published in the April 3, 1998 OSC Bulletin.

For more information, please call **Susan Greenglass** at (416) 593-8140.

Fax Filing of Insider Reports

On April 10, 1998, the Commission made a Rule allowing for the signing, filing and delivery of insider reports by facsimile. It is anticipated that the Minister will approve the Rule by June 22. A Notice will appear in the Ontario Securities Commission Bulletin when the Rule comes into force.

Under the Rule, if an insider report is filed by fax, another copy does not have to be mailed or delivered to the Commission. The Commission has specified (416) 593-3666 as the fax number to which fax filings should be sent.

For more information, please call **Susan Greenglass**, Policy Coordinator, (416) 593-8140.

OSCB April 10, page 2285

Survey: Public Knowledge of Investing, OSC

Commissioned by the OSC, an Angus Reid survey indicates that many Ontarians have limited understanding of the basics of investing. Similarly, many do not have a clear understanding of the Commission's role in the marketplace.

"Twenty-six percent do not understand the basic relationship between risk and return."

While 67% of Ontarians report having personal financial investments, only 18% consider themselves to be highly knowledgeable about investing. Moreover, 26% do not understand the basic relationship between risk and return.

The survey showed 48% of respondents are aware of the Ontario Securities Commission, largely through coverage in print and broadcast media. Although 41% regard the OSC as a "watchdog," 19% say they don't know what the Commission's role is. However, no negative impressions of the OSC were noted.

For more information about the survey, please call **Nancy Stow** at (416) 593-8297, or **Monica Zeller**, Communications Officer, at (416) 593-8120.

(Year 2000, continued from cover)

In view of the issue's importance, staff will review the 1997 MD&A for a sample of companies to evaluate the adequacy of Year 2000 related disclosure. Because of the short time frame to address Year 2000 issues, the CSA staff believe reporting issuers should consider updating annual MD&A disclosure in interim financial reports.

The Staff Notice also suggests that reporting issuers carefully assess the Year 2000 information that should be disclosed in a prospectus in order to meet securities legislation requirements. It is expected that this disclosure be comparable to the disclosure in the annual MD&A.

Currently, staff is including a review of Year 2000 issues during full reviews of prospectuses. In addition, if staff identifies companies as having particularly significant requirements for Year 2000 disclosure, perhaps because of their nature of business, they may be subject to an issue-oriented review.

Registrants Also Affected By Year 2000 Issues

Earlier this year, the OSC Chair wrote to all registrants, including mutual fund dealers, securities dealers, scholarship fund dealers and limited market dealers. The letter outlined registrants' obligations on Year 2000 compliance issues, and asked them to assess the risks and implement a plan to become compliant.

In particular, the letter urged mutual fund managers to review their disclosure obligations in light of the Staff Notice, and consider what they should disclose both in their financial statements and in their prospectus documents. The Chair sent a similar letter to mutual fund managers that are not registered with the Commission.

The OSC and the Year 2000

The Commission itself does not have major internal problems related to the Year 2000 issue. It has evaluated its current systems in order to identify potential problem areas and is now taking remedial actions.

For more information, please call **Barbara Hendrickson**, Legal Counsel, Market Operations, (416) 593-8084.

OSCB Jan. 30, page 582

Perspectives•Spring/98•3 5/28/98 7:32 AM Page 9 (PANTONE 457 CV plate)

FAST FACTS:

A recent Statistics Canada survey of 2,000 Canadian companies indicated that less than half have taken action to prepare for "Year 2000" computer problems.

John A. Geller Addresses Board of Trade on Mutual Funds and Investor Education

Following are excerpts from the remarks of John A. Geller, Acting OSC Chair, to the membership of the Investment Funds Institute of Canada and the Toronto Board of Trade on April 1, 1998. The speech was given as the OSC marked Investor Education Week.

The OSC and the Mutual Fund Industry: Our Common Interest in Investor Protection.

"For the mutual fund industry in particular, the time is right, perhaps overdue, for a new and heightened focus on investor education. I think it is fair to say that mutual fund education — for both investors and professionals — has not kept pace with the industry's growth in size and complexity...

Understandably, there is confusion out there. Sometimes this confusion leads to situations where investors inadvertently get in over their heads. Or worse, where unscrupulous people take advantage of investor confusion to sell unsuitable products...

...(In one case), a mutual fund salesperson sold partnership units in limited partnerships established purportedly to deal in cattle produced from frozen embryos. His main method of obtaining new clients was so-called educational seminars paid for in part by mutual fund management companies, at which well-known speakers were used to attract a large audience...

Consequently, the OSC recently embarked on a policy project to explore new rules and standards for investor education activities by industry professionals, including seminars. We will, of course, be consulting broadly on any Rules which may be proposed.

Obviously, we want to encourage the industry to devote resources to investor education. But at the same time, there are issues of potential conflict of interest and of ulterior motives. There must be a way to balance the industry's legitimate right to promotion of their products with investors' need for protection and their right to be dealt with fairly and honestly.

"The OSC recently embarked on a policy project regarding investor education activities by industry professionals."

As participants in the self-regulatory process, mutual fund dealers will share with the government regulators the responsibility to ensure that investors are properly protected, and that the securities markets do not fall into disrepute because investors have cause to believe that their interests are disregarded by those whom they should and must be able to trust, the people on whom they rely for investment advice.

I am sure that you will share our view that investor education is an essential component in achieving this result. We look forward to our co-operative efforts to achieve these goals."

OSCB April 3, page 2105

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