Ontario

ONTARIO SECURITIES COMMISSION

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PERSPECTIVES

inside...

SUMMER 2000

FEATURE

New Economy.ca A Risk-Reward Trade-Off

While the changes associated with the web are in many ways unprecedented, they also present a classic risk-reward trade-off well documented in economic theory and market analysis. The shift to the web as a purveyor of information and execution is still in its infancy with many unexpected developments still to come, but the risk-reward profile for the economy, the capital markets and the regulators has begun to take shape.

The radical expansion in the economy can be traced to a significant extent to changes that have taken place as a result of web-based innovation. Historically, cost-based spirals in inflation have forced monetary authorities to tighten monetary policy, usually to the point where equity prices and the economy have contracted. Disintermediation impact of the web has delayed this development well beyond the norm. Estimates for potential saving have run over 10% of GDP. Increased productivity reduces inflationary pressure and allows the central banks to run relatively easy monetary policy.

Wage rate increases have been relatively low given extremely low rates of unemployment in Canada and the U.S. in recent years. The reason for this is part demographic (older boomers tend to have more stable income) and part measurement. The measurement factor represents both risk and reward.

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POLICY PROFILES

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

Alternative Trading System Proposal

The OSC has published a special supplement to the OSC Bulletin on the Alternative Trading System (ATS) Proposal. The Special Supplement contains the proposed National Instruments and OSC Rules relating to the proposal.

The ATS proposal sets out a scheme for regulating ATSs by giving them a choice of how they are to be regulated. An ATS can choose to be either an exchange, a member of an exchange or a dealer with additional requirements. The ATS proposal seeks to minimize fragmentation by setting out requirements for order and trade reporting, information consolidation and market integration. In addition, the ATS proposal is designed not only to maintain market integrity but to improve it through the Proposed Trading Rule.

In sum, the regulatory objective of the ATS proposal is to provide investors with choice, improved price discovery and less expensive execution costs.

"An ATS can choose to be either an exchange, a member of an exchange or a dealer with additional requirements."

As part of its overall proposal regarding ATSs, the Canadian Securities Administrators (CSA) is republishing for comment two proposed national instruments and related documents.

The documents are proposed National Instrument 21-101 Marketplace Operation and the related Companion Policy and forms, and proposed National Instrument 23-101 Trading Rules and the related Companion Policy.

The Commission is also publishing for the first time proposed Ontario Securities Commission Rule 23-502 The Reported Market.

The CSA is also distributing a request for proposal for the establishment of a data consolidator to receive and collect quotation and transaction information from each marketplace and to disseminate consolidated information to market data vendors, news services and other customers. The RFP can be viewed on the OSC website **www.osc.gov.on.ca**

For more information, please call **Randee Pavalow**, Manager, Market Regulation, (416) 593-8257, or **Tracey Stern**, Legal Counsel, Market Regulation, (416) 593-8167.

(2000) 23 OSC (Supp) July 28, 2000

Exemption From Certain Insider Reporting Obligations

The CSA have requested comment on proposed changes to National Instrument 55-101 regarding Exemption from Certain Insider Reporting Requirements.

The purpose of the proposed National Instrument is to provide certain exemptions from the obligation to file insider reports. In general, the Proposed National Instrument:

- Provides an exemption from the obligation to file insider reports for certain directors and senior officers of subsidiaries and affiliates of insiders who neither hold the securities of a reporting issuer in significant amounts, nor are in a position to acquire knowledge of undisclosed material information;
- Permits directors and senior officers of a reporting issuer or a subsidiary of the reporting issuer to report acquisitions of securities of the reporting issuer under automatic securities purchase plans on an annual basis in most circumstances;
- Permits issuers conducting normal course issuer bids to report acquisitions of securities under such bids on a monthly basis; and
- Permits insiders of a reporting issuer to report changes in direct or indirect beneficial ownership of, or control or direction over, securities by such insiders pursuant to certain issuer events, such as a stock dividend, stock split, consolidation, amalgamation, reorganization or merger, at the time of their next required insider report.

For more information, please call **Iva Vranic**, Manager, Corporate Finance Team 2, (416) 593-8115.

(2000) 23 OSCB June 16, 2000 p. 4212

Proposed Rule On Non-Resident Advisors

The rule on Non-Resident Advisors was delivered to the Minister of Finance on September 13, 2000. If the Minister does not approve the rule, reject the rule or return it to the Commission for further consideration, the rule will come into force on November 27, 2000. If the Minister approves the rule, the rule will come into force 15 days after it is approved.

The rule provides certain exemptions from section 25 of the *Act* for non-resident persons or companies in connection with their advisory activities in Ontario, where the nature of those activities is not such that the public interest requires registration. In addition, the rule provides those non-resident persons or companies with an exemption from certain requirements otherwise applicable to applicants for registration as, or registrants in the categories of, investment counsel or investment counsel and portfolio manager, who are prepared to accept conditions on their registration that limit the clients to whom advisory services may be provided.

For more information, please call **Randee Pavalow**, Manager, Market Regulation, (416) 593-8257, or **Barbara Fydell**, Legal Counsel, Market Regulation, (416) 593-8253.

(2000) 23 OSCB June 23, 2000 p. 4393/Sept. 22, 2000 p.6541

OSC REPORTS

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

Ontario Issues Discussion Paper On OSC, FSCO Merger

The Ontario government has issued a Discussion Paper on the proposed merger of the OSC and the Financial Services Commission of Ontario (FSCO), announced in the 2000 Ontario Budget. The new financial services regulator is to be called the Ontario Financial Services Commission (OFSC).

The government intends to introduce legislation in the fall to create the OFSC as a Crown Corporation with self-funding and rule-making authority for regulating financial services in the Province. The OFSC would administer, under the authority of a new Act, the statutes which are currently the responsibility of FSCO and the OSC.

Feedback on the Discussion Paper will form the basis for the legislation. It is proposed to introduce a single bill that would be proclaimed in two phases. In the first phase the OFSC would be established while the OSC and FSCO would continue to be separate. In the second phase, the OSC and FSCO would merge.

The discussion paper is available on the OSC website at **osc.gov.on.ca**

Presentation To Legislative Committee

Susan Wolburgh Jenah, OSC General Counsel, recently submitted a presentation to the Standing Committee on Banking, Trade and Commerce respecting Bill S-19, Amendments to the Canada Business Corporations Act (CBCA).

In her submission, Ms. Jenah noted that the Commission strongly supports the efforts made under the Bill to eliminate redundant and overlapping regulation in areas already regulated by provincial securities regulation. The Commission also supports the model of reform used to effect many of the changes under the bill. Ms. Jenah noted that "by moving a number of the technical and mechanical details that are currently part of the CBCA to the regulations, we believe that the Government will be better positioned to adapt to market changes and trends."

The submission also comments on several specific areas, including the proposed amendments to the CBCA relating to insider trading, take-over bids and going private transactions, shareholder communications and proxy rules, electronic communications, the introduction of proportionate liability, and auditor independence. The submission is reprinted in the June 2 edition of the OSC Bulletin.

For more information, please call **Susan Wolburgh Jenah**, General Counsel, (416) 593-8245.

(2000) 23 OSCB June 2, 2000 p. 3795

RCMP, OSC To Set Up Securities Fraud Unit

The OSC and the Royal Canadian Mounted Police (RCMP) have signed Terms of Reference to establish a joint Securities Fraud Unit. The unit will target criminal activity in the capital markets, and in particular, organized crime in the stock market.

The unit will develop information and intelligence from partnerships within securities industry. This intelligence will be used for proactive investigations of any fraudulent activity, including money laundering. The RCMP and the OSC believe that partnering to form a strong intelligence gathering and enforcement unit will best address the challenges to what are often long, complex and difficult investigations.

For more information, please call **Frank Switzer**, Director, Communications Branch (416) 593-8120, or **Michele Paradis**, Royal Canadian Mounted Police, (416) 952-4619.

DIALOGUE WITH THE OSC

October 31

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OSC Launches Full-Scale Continuous Disclosure Review Program

The OSC will regularly review the continuous disclosure of every Ontario-based company under the new Continuous Disclosure Review Program. The full-scale program began July 1, 2000.

The program is an initiative of the OSC's Continuous Disclosure Team created last year. Currently at 17 members, the team plans to expand to 23 members by March 2001.

"Companies with an Ontario head office will undergo a continuous disclosure review once every four years on average."

The OSC's goal is for companies with an Ontario head office to undergo a continuous disclosure review once every four years on average, according to Kathryn Soden, Director of Corporate Finance. Companies will be subject to a full, issue-oriented or limited review based on selective review criteria. These criteria are designed to select reporting issuers in a given year where there appears to be greater risks that disclosure issues may exist. The three levels of continuous disclosure review are similar to those used by Corporate Finance when reviewing prospectus filings.

In order to prepare companies, the OSC issued a Notice on the Review Program. This Notice also discusses the impact that the increased focus on continuous disclosure will have on prospectus and rights offering circular reviews. The Notice can be viewed on the OSC's website at **www.osc.gov.on.ca.**

For more information, please call **Kathryn Soden**, Director, Corporate Finance Branch, (416) 593-8149, or **John Hughes**, Manager, Continuous Disclosure, (416) 593-3695.

(2000) 23 OSCB June 30, 2000 p.4523

Staff Report on Corporate Disclosure Survey

Current corporate disclosure policies and practices generally do not sufficiently reduce the potential for selective disclosure, according to the OSC's final report on its corporate disclosure survey.

In October 1999 the Commission sent out a survey to 400 randomly selected public companies. One hundred and seventy companies responded, answering questions on their disclosure policies and practices.

The survey found:

- 71% of respondents do not have written corporate disclosure policies.
- 81% reported that they have one-on-one meetings with analysts;
- 98% reported that they typically comment in some form on draft analyst reports; and
- 27% indicated that they express a level of comfort on earnings projections.

"Twenty-seven percent indicated that they express a level of comfort on earnings projections."

The Commission plans to publish for comment this fall, a policy statement that will address best disclosure practices for issuers that provide investors with fair access to information and ways to avoid selective disclosure when dealing with analysts and institutional investors. In its report on the survey, OSC staff listed a number of good disclosure practices. These include:

- Have a written disclosure policy.
- Limit the number of authorized spokespersons.
- Open up access to conference calls.
- Disseminate information using advances in technology, such as the Internet.

OSC staff also reminds market participants that the *Securities Act* has existing provisions that prohibit selective disclosure of material changes and material facts.

In a related development the Toronto Stock Exchange, the Vancouver Stock Exchange, the Alberta Stock Exchange and the Investment Dealers Association established the Securities Industry Committee on Analyst Standards. The Committee will review analysts' practices and standards of conduct and supervision, and will make recommendations in order to preserve the integrity of the capital markets.

For more information, please call **John Hughes**, Manager, Continuous Disclosure, (416) 593-3695, **Rossana DiLieto**, Legal Counsel, General Counsel's Office (416) 593-8106, or **Lisa Enright**, Senior Accountant, Continuous Disclosure (416) 593-3686.

(2000) 23 OSCB July 28, 2000 p. 5098

OSC Recommends Mutual Fund Dealers Stop Using Unlimited Powers of Attorney

To reduce the potential for unauthorized discretionary trading, OSC staff have recommended that mutual fund dealers stop using powers of attorney that confer unlimited authority and discretion over their clients' accounts. Unlimited powers of attorney, letters of authorization or trading authorizations (collectively "powers of attorney") are commonly used in the mutual fund industry because of the impracticality of obtaining a client's signature for every trade.

In order to ensure powers of attorney are used appropriately, the OSC staff recommends that dealers develop a standard document or form of power of attorney. Among other features, this document would clearly state that the dealer's representative must obtain prior specific consent from the client for each trade, and that he or she may not make any decision to buy or sell mutual fund securities on behalf of the client.

"Staff also recommends that dealers set up control procedures to monitor the use of powers of attorney."

Staff also recommends that dealers set up control procedures to monitor the use of powers of attorney. Recommended procedures include attaching a copy of the power of attorney to each trade order form; maintaining a copy of the power of attorney on file with the dealer at head office; appropriate supervision to ensure all transactions are performed according to the clients' specific instructions; plus other appropriate internal controls and written procedures to monitor the use of powers of attorney.

For more information, please call **Elle S. Koor**, Senior Accountant, Compliance, (416) 593-8077, **Christina Forster**, Senior Accountant, Compliance, (416) 593-8061, **Felicia Tedesco**, Senior Accountant, Compliance, (416) 593-8273, or **Antoinette Leung**, Senior Accountant, Compliance, (416) 595-8901.

(2000) 23 OSCB August 4, 2000 p 5269

Calculator Shows Impact of Mutual Fund Fees

The OSC and Industry Canada's Office of Consumer Affairs have unveiled an interactive Mutual Fund Fee Impact Calculator. The Calculator will enable consumers to find out how much their mutual fund fees affect their investment returns over time. Wrap around educational content is also featured along with helpful links.

The Calculator was launched in June. It is available on the websites of both the OSC **www.osc.gov.on.ca** (Investor Resources, Tools) and Industry Canada **ConsumerConnection.ic.gc.ca**

For more information, please call **Nancy Stow**, Manager, Investor Education, (416) 593-8297.

(2000) 23 OSCB June 23, 2000 p. 4342

IOSCO Recent Publications

A Working Party of the Technical Committee of the International Organization of Securities Commissions (IOSCO) has published two new reports on the management of mutual funds. They are: *"Summary of Responses to the Questionnaire on Principles and Best Practices Standards on Infrastructure for Decision Making for CIS Operations"* Report of the Technical Committee, May 2000.

"Conflicts of Interest of CIS Operators" Report of the Technical Committee, May 2000

OSC staff participates in Working Party No. 5 on Investment Management, which prepared the reports. Both reports are available on the IOSCO website **www.iosco.org**

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

(2000) 23 OSCB July 7, 2000 p. 4692

SRO Membership – Mutual Fund Dealers

The Mutual Fund Dealers Association (MFDA) is moving closer to becoming a Self-Regulatory Organization (SRO) for mutual fund dealers.

The OSC has published proposed changes to proposed Rule 31-506, which requires all mutual fund dealers to be members of the Mutual Fund Dealers Association once the MFDA is recognized by the Commission as a SRO for mutual fund dealers. The Commission has also published for comment its proposed criteria for determining whether to recognize the MFDA as a SRO for mutual fund dealers, and the MFDA's response. Along with these documents, the Commission published the draft rules and by-laws of the MFDA for comment.

In addition, the Commission has responded to comments on the version of the Rule published earlier. The OSC noted that many of the comments on the proposed Rule were in fact comments on the perceived drawbacks of the MFDA, not the Rule per se. The Commission suggests that commentators review the MFDA Recognition Package and provide their comments on these documents, if they continue to have concerns about the MFDA.

The Commission is working towards having the proposed Rule become effective and the MFDA recognized on January 1, 2001.

For more information, please call **Rebecca Cowdery**, Manager, Investment Funds, (416) 593-8129, or **Tamara Hauerstock**, Legal Counsel, Investment Funds, (416) 593-8915.

(2000) 23 OSCB (Supp.) June 16, 2000

CANADIAN SECURITIES ADMINISTRATORS

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.

Amendments Would Ease 10% Rule For Index Funds

In order to enable index mutual funds to replicate the performance of their target indices, the CSA has published for comment proposed amendments to National Instrument 81-102 Mutual Funds and National Instrument 81-101 Mutual Fund Prospectus Disclosure. The amendments allow an index mutual fund to invest more than 10 percent of its net assets in one issuer provided certain restrictions are met and disclosure made. The proposal would also require an index mutual fund to include specific disclosure in its simplified prospectus about the risks inherent in the fund investing based on an index that is not widely diversified.

"The amendments would allow an index mutual fund to invest more than 10 percent of its net assets in one issuer provided certain restrictions are met and disclosure made."

The CSA proposed other amendments relating to management expense ratio disclosure and the appropriate disclosure for mutual funds offering multiple classes of securities.

For more information, please call **Chantal Mainville**, Legal Counsel, Investment Funds, (416) 593-8168 or **Anne Ramsay**, Senior Accountant, Investment Funds, (416) 593-8243.

(2000) 23 OSCB June 16, 2000 p. 4195

New Software Tracks Illicit Trading Activity

Canadian securities regulators have teamed up with Canada's stock exchanges and the RCMP to develop and launch a new computer program that will help detect securities fraud and suspect trading practices.

MICA, the Market Integrity Computer Analysis System, recreates the purchase and sale of securities. A key feature is MICA's ability to identify which purchaser bought shares from a particular seller. This ability to link trading activity with purchasers and sellers will assist in the investigation of suspected cases of market manipulation by reducing the time needed for analysis from months to weeks.

For more information, please call **George Gunn, (416) 593-8288**, Manager, Surveillance, Enforcement Branch.

(2000) 23 OSCB June 16, 2000 p. 4148

CSA Issues Report On Fund Governance

In a move that OSC Chairman David Brown called "a leap forward in our thinking about the regulatory framework for mutual funds and other investment funds," the CSA has released a report on fund governance. The report is called *"Making It Mutual: Aligning the Interests of Investors and Managers – Recommendations for a Mutual Fund Governance Regime for Canada."*

The report is expected to serve as a guide for Canadian regulators as they prepare to design and implement a governance regime for mutual funds. The report was written for the CSA by Stephen Erlichman, a Senior Partner with the law firm of Fasken Martineau DuMoulin LLP.

The report is available on the OSC website at **www.osc.gov.on.ca** or by calling the OSC publications line (416) 593-8314.

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

(2000) 23 OSCB July 28, 2000 p.. 5115

Revised SEDAR System

CSA staff have requested comment on changes, additions or improvements for a revised SEDAR system to be known as SEDAR II. It is proposed that SEDAR II be operational in the fall of 2002.

Based on preliminary analysis and discussions, SEDAR II is likely to be an Internet-based system that will combine the current SEDAR and SEDAR.com, the website through which documents filed on SEDAR are available.

For more information, please call **Marrianne Bridge**, Senior Accountant, Advisory Services, Corporate Finance, (416) 593-8907.

(2000) 23 OSCB June 30, 2000 p 4501

Registrant Dealings With Clients

The CSA have requested comment on proposed National Instrument 33-102 Registrant Dealings with Clients and Companion Policy 33-102CP.

The proposed National Instrument replaces:

- Proposed National Instrument 33-102 Distribution of Securities at Financial Institutions
- Companion Policy 33-102CP
- Proposed National Instrument 33-103 Distribution Networks
- Proposed National Policy 33-201 Networking and Selling Arrangement Notices

- Proposed National Instrument 33-104 Selling Arrangements and Companion Policy 33-104CP.

The purpose of the Proposed National Instrument and Policy is to ensure that clients dealing with registrants are fully informed about the products they are trading or purchasing and the risks they face.

For more information, please call **Tracey Stern**, Legal Counsel, Market Regulation, (416) 593-8167.

(2000) 23 OSCB July 21, 2000 p.4983

MRRS For Exemptive Relief – Frequent Issues

CSA staff has issued a notice designed to improve current filing practices for Exemptive Relief Applications filed under the Mutual Reliance Review System (MRRS).

The Notice covers issues such as: requests for expedited treatment; the timeliness of applications; relief from the Financial Statement Filing Requirements; prefiling discussions; situations requiring more than one principal regulator; requests for confidentiality and applications for relief from the fee requirement.

For more information, please call **Margo Paul**, Manager, Corporate Finance, (416) 593-8136.

Any questions or comments from investment fund filers whose principal jurisdiction is the Ontario Securities Commission should contact **Paul Dempsey**, (416) 593-8118.

(2000) 23 OSCB August 11, 2000 p. 5508

ENFORCEMENT

The following are summaries of recent enforcement proceedings and hearings before the Commission. For more information, please call the OSC at (416) 593-8314.

Commission approves significant sanctions in RT Capital high closing case

At a hearing on July 20, 2000, the Ontario Securities Commission approved a settlement agreement entered between staff of the Commission and RT Capital Management Inc., K. Michael Edwards, Timothy K. Griffin, Donald E. Webster, Jennifer I. Lederman, Peter B. Larkin, Peter A. Rodrigues, Gary N. Baker, Patrick Shea and Marion Gillespie.

The respondents admitted that they acted in a manner contrary to the public interest. Specifically, RT Capital also admitted that it failed to establish written procedures for dealing with clients with respect to high-closings that conformed with prudent business practice and enabled RT Capital to serve its clients adequately.

The settlement approved by the Commission includes the following sanctions:

- RT Capital will make a payment of $3,000,000 to the Commission, to be allocated to such third parties as the Commission may determine for purposes that will benefit investors in Ontario;
- Edwards, Lederman, Rodrigues, Baker and Griffin agreed not to be, or act as, a director or officer of any market participant for varying periods of time ranging from one month to three years and in the case of Larkin permanently;
- Larkin's registration is terminated permanently;
- Baker's registration is suspended for a period of three years;
- Gillespie, Shea, and Baker cease trading in all securities, with limited exceptions, for varying periods of time ranging from one year to three years and in the case of Larkin permanently, again with limited exceptions;
- RT Capital, Edwards, Griffin, Webster, Lederman and Rodrigues are reprimanded;
- RT Capital is submitting to a review of its practices and procedures and will institute such changes as may be required;
- Baker, Shea and Gillespie are required to take courses prior to their registration being reinstated;
- Shea and Gillespie are required to work under close supervision for a period of two years upon their reinstatement;
- The respondents were to pay in total, a sum of $143,000 towards the Commission's cost of the investigation;
- RT Capital also agreed to re-configure its telephone taping system so that all calls between an RT Capital portfolio manager and an RT Capital order executioner are recorded.

Gordon-Daly Grenadier Securities

At a hearing on July 27, 2000, the Ontario Securities Commission approved a settlement agreement between Staff of the Commission and Gordon-Daly Grenadier Securities, David Bregman, Alan Greenberg, Oron Sternhill and Wangyal Tulotsang.

The Commission made an order:

i) that the registration of Gordon-Daly Grenadier Securities, David Bregman, Alan Greemberg, Oron Sternhill and Wangyal Tulotsang, the Respondents, be suspended or restricted for such time as the Commission may direct, or be terminated, or be subject to such terms and conditions as the Commission may order;

ii) that trading in securities by Gordon-Daly and the Respondents cease permanently or for such other period as specified by the Commission;

iii) the Respondents be prohibited from becoming or acting as a director or officer of any issuer;

iv) the Respondents be reprimanded;

v) the Respondents pay costs to the Commission; and/or

vi) such other order as the Commission considers appropriate.

Commission approves settlement with significant sanctions against Price Warner Securities Ltd., Ian Rolin and Lorne Rolin

On August 3, 2000, the Ontario Securities Commission approved a settlement between Staff of the Commission, Price Warner Securities, Ian Rolin and Lorne Rolin.

In the settlement the respondents admitted that during the period from 1996 to 1999, Price Warner acquired stock for its own account in "Thirteen Issuers" trading on the Canadian Dealing Network, Inc., and re-sold that same stock to its clients at excessive mark-ups. In excess of 90% of Price Warner's revenue was earned from principal trading and derived from trading stock of the Thirteen Issuers. Price Warner's gross revenue (i.e., revenue from the sale of stock less acquisition costs) earned from principal trading with stock of the Thirteen Issuers was approximately $26.4 million.

In approving the settlement, the Commission noted Price Warner may have placed itself in a conflict of interest and that the firm's conduct was contrary to the public interest. The Commission also noted admissions by Ian Rolin and Lorne Rolin that by allowing Price Warner to engage in this conduct, each of these officers acted contrary to the public interest. The Commission further stated that it can be inferred on the basis of the facts admitted to in the settlement, that Price Warner may have breached Rule 31-505 of the *Securities Act* to deal fairly, honestly and in good faith with its clients.

The Commission reprimanded Price Warner, Ian Rolin and Lorne Rolin. Price Warner's registration was suspended effective 5:00 p.m. August 11, 2000 and was ordered to wind up its business. The Commission also imposed terms and conditions on Price Warner's registration, to ensure that the firm's affairs are wound up in an orderly manner, and in a way that will offer the best possible protection to clients of the firm. Prior to the close of business on August 11, 2000, Price Warner is required to return to clients cash and/or securities or transfer clients' securities and cash to a firm that is a member of the Investment Dealers Association of Canada.

By the terms of the Order, the registration of Ian Rolin is suspended for a period of fifteen years, and he is prohibited, for a period of fifteen years, from applying for registration in any capacity with the Commission, or for acting as an officer, director or promoter, or owning greater than 20% of a reporting issuer. Ian Rolin is prohibited for the rest of his life from being involved directly in the management of a registrant, and is prohibited for the rest of his life from owning, directly or indirectly, more than a 20% interest in any registered firm.

By the terms of the Order, the registration of Lorne Rolin is suspended for a period of seven years, and he is prohibited, for a period of seven years, from applying for registration in any capacity with the Commission, or for acting as an officer, director or promoter, or owning greater than 20% of a reporting issuer. Lorne Rolin is prohibited for a period of seven years from being involved directly in the management of a registrant, and from owning, directly or indirectly, more than a 20% interest in any registered firm.

The respondents were ordered to pay the sum of $25,000 to the Commission in respect of a portion of the Commission's costs of investigating the matter.

OSC commences proceedings against Philip Services Corp.

On August 30, 2000, the Ontario Securities Commission commenced proceedings against Philip Services Corp. and seven individuals, all former officers and/or directors of Philip. The individual respondents are: Allen Fracassi, Philip Fracassi, Marvin Bouhgton, Graham Hoey, Colin Soule, Robert Waxman and John Woodcroft.

Staff of the Commission alleged that with the individual respondents' authorization, Philip filed a prospectus in November 1997 that failed to provide full, true and plain disclosure of all material facts relating to the securities offered. It is also alleged that Philip and the individual respondents failed to disclose material facts relating to a restructuring charge, various financial transactions and issues relating to Robert Waxman, a former officer and director of Philip.

Patrick Joseph Kinlin

On September 20, 2000 the Commission ordered that trading in any securities by Patrick Joseph Kinlin cease permanently.

On July 4, 2000 the Staff of the Ontario Securities Commission issued a Notice of Hearing and Statement of Allegations against Patrick Joseph Kinlin. Staff alleged that Patrick Joseph Kinlin was the sole director of Kinlin Financial Services Incorporated. He was licensed in the Province of Ontario to sell life insurance, mutual funds and guaranteed investment certificates. He was not licensed to broker stocks or bonds.

Through an extensive network of social contacts and personal friends, he actively sought funds from private individuals to invest in the markets described, including those for which he was not licensed. He offered a wide range of financial services to his clients, including retirement planning, investment counselling, personal and business insurance, estate planning, and estate administration. Annual information statements were provided, purporting to provide his clients with a concise picture of their financial progress, and were statements upon which his clients relied to access their investment progress, and to assess it as well. Patrick Joseph Kinlin used his familiarity and access to his clients' affairs by preparing and filing their personal income tax returns, preparing wills that named him as the executor and often trustee of the estate, and by acquiring power of attorney. In this role, he often directly received cash funds from his clients, with the understanding that they would be invested in the clients' name and to their benefit.

A Provincial Warrant was obtained for the arrest of Patrick Joseph Kinlin in June of 1999. In August of 1999, the Canadian government commenced extradition proceedings for the return of Kinlin to face criminal charges. On September 9, 1999, he returned to Canada, and on September 10 he appeared in a Toronto court to face criminal charges.

On January 10, 2000, before the Honourable Mr. Justice Porter of the Ontario Court of Justice, Patrick Joseph Kinlin entered a plea of guilty to 28 counts of fraud over $5,000.00 contrary to the Criminal Code. Mr. Justice Porter accepted that plea, entered convictions and sentenced him to 5 years in prison. He was also ordered to make compensation in the amount of $12,582,820.75 to 63 separate individuals or couples, Kinlin's victims of frauds.

OSC applies sanctions against Clifford Paul Tindall
On August 30, 2000, the Ontario Securities Commission terminated the registration of Clifford Paul Tindall, former vice-president, and salesperson of the now defunct Fortune Financial. The Commission further ordered that Mr. Tindall cease trading in securities in Ontario for a period of seven years, except for trading in certain specified securities for his own account.

Commission Approves Settlement with respect to David Singh
On July 31, 2000 the Ontario Securities Commission approved a settlement agreement with respect to the allegations to David Singh, the former President of Fortune Financial Corporation. The proposed Settlement Agreement is as follows:

i) pursuant to clause 6 of subsection 127(1) of the Act, Singh will be reprimanded by the Commission;
ii) pursuant to clause 2 of subsection 127(1) of the Act, Singh will cease trading in securities for a period of five years from the date of approval of this settlement agreement with the exception of trading in personal accounts held in his name only;
iii) pursuant to clause 8 of subsection 127(1) of the Act, Singh is prohibited from becoming or acting as a director or officer of any issuer for a period of four years effective the date of the Order of the Commission approving the proposed settlement agreement herein, resigning from any such position within sixty days of the making of this order; and
iv) Singh will make a payment, within sixty days, of $25,000 to the Commission in respect of a portion of the Commission's costs with respect to this matter forthwith.

Otis-Winston Ltd.
The Ontario Securities Commission issued a Notice of Hearing on June 7, 2000 to consider whether Otis-Winston Ltd. breached s. 25 of the Securities Act.

Staff of the Commission stated on the Statement of Allegations that:

- On May 3, 2000, Otis-Winston filed with SEDAR a Form 42 and an offer to purchase shares (the "Offering Document") announcing its intention to acquire up to 590,000 Xillix shares. This represents only 1.85% of the outstanding Xillix shares and is therefore not a take-over bid pursuant to the Act.
- The Offering Document states that Otis-Winston will deliver two Digital Cybernet shares for one Xillix Share. The Offering Document was not mailed to all Xillix shareholders. The Offering Document was delivered to the offices of the Canadian Depository for Securities ("CDS"), which prepared a Depository Bulletin describing the Offer and delivered the Bulletin to all Xillix shareholders.
- The Offering Document does not contain meaningful disclosure concerning Digital Cybernet shares. Accordingly, offering the Digital Cybernet common shares as consideration for tendering the Xillix common shares is contrary to the public interest.
- The valuation in respect of the Xillix shares, as described in the Offering Document, was prepared by De Rosa Accounting in Niagara Falls. Americo and Anita De Rosa are principal shareholders or former principal shareholders of Digital Cybernet or a related company. The valuation is not included in any material filed.
- The value of Digital Cybernet shares is not properly disclosed in the Offering Document.
- Digital Cybernet purported to become a reporting issuer on October 6, 1999. According to section 72(5) of the Act, the first trade in previously issued securities of a company that has ceased to be a private company, other then a further trade exempted under 72(1) of the Act, is a distribution except where, among other things, the issuer has been reporting issuer for at least twelve months. There has been no trades in the common shares of Digital Cybernet since October 6, 1999, which satisfy the provisions of section 72.
- Otis-Winston is not registered to trade in securities in Ontario, and therefore any transfer of Digital Cybernet common shares to Xillix shareholders, without the appropriate registration or exemption, has been or will be in breach of s.25 of the Act.

Koman Info-Link Inc., Koman Investment Inc., Simon Ko and Jose Castaneda
On June 7, 2000, the Ontario Securities Commission approved a settlement agreement entered between Staff of the Commission and Koman Info-Link Inc., Koman Investment Inc., and Simon Ko. The Commission also approved a settlement between Staff of the Commission and Jose Castaneda.

The Commission ordered that Koman, Koman Investments Inc., and Ko be prohibited from trading in securities permanently, and that Castaneda be prohibited from trading in securities for a period of five years. The Commission further ordered that Ko resign his position as the sole officer and director of Koman, and that he be prohibited from becoming or acting as a director or officer of any issuer for a period of fifteen years, except for any position he may hold as an officer of the issuer in his capacity as an individual providing architectural services. Under the terms of the settlement, Castaneda agreed not to apply for registration in any capacity under the Act for a period of fifteen years. The Commission also reprimanded Koman, Koman Investment Inc., Ko and Castaneda.

The Commission made an application before the Superior Court of Justice for an order appointing a receiver of all the property held in the name of Koman. On May 18, 2000, KPMG Inc. was appointed receiver of the property of Koman.

Noram Capital Management, Inc. and Andrew Willman
The Staff of the Ontario Securities Commission has issued a Notice of Hearing and Statement of Allegations against investment counsel portfolio manager Noram Capital Management, Inc. and Andrew Willman, Noram's President, Chief Executive Officer and Supervisory Procedures Officer. Currently, Noram's registration is suspended by Order of the Commission dated September 29, 1999.

Willman and Noram are alleged to have contravened the *Ontario Securities Act* by failing to deal fairly, honestly and in good faith with clients of Noram, over more than a seven year period. The conduct alleged includes 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, it is alleged that Noram, breached an Order of the Commission dated September 29, 1999, which suspended its registration effective October 7, 1999, by failing to provide the Commission with certain financial reporting documentation. Noram is currently suspended pursuant to this Order as it has not provided the Commission with documentation establishing that it has rectified its working capital deficiency. According to the Statement of Allegations, Willman, as Noram's Supervisory Procedures Officer, is responsible for ensuring that Noram fulfill its obligations as a registered advisor under the Ontario Securities law.

RECENT SPEECHES

David Brown, OSC Chair, Canadian Investor Relations Conference, Toronto, May 29, 2000

"There are many forces driving change (in the markets). Regulators and IR professionals both have responsibility for managing it. There are many steps to take to ensure that our regulatory structure, corporate governance policies, and accounting practices adjust to a market that is bigger, faster, more inclusive and more globalized. Let me suggest a few.

- **Managing change includes recognizing that mass participation in the market demands mass education in the nature of investment.**

When it comes to steering their portfolio, millions of people are moving from the passenger's seat to the driver's seat. They are entitled to some driver's ed. This means that today's regulator must also be an educator. The best-protected investor is a well-informed investor.

For this reason, the Ontario Securities Commission is creating a Fund for Investor Learning. It will have a clear mandate: To assist in raising the level of awareness of Canadians about financial matters, about saving, about debt and planning for retirement, and to raise awareness starting at a very early age. It will pursue these goals through research, community partnerships, symposia, and educational products and support.

Funding will come from monies collected through settlements in OSC enforcement proceedings. The Fund will be managed by a Board composed of representatives from the OSC, the financial services sector, and educational experts.

This is not going to be a top-down effort. The Fund will work through community partners, to ensure that the information is tailored to make the most direct impact on people.

- **Managing change includes reshaping our regulatory structure to reflect the changes in the financial services sector.**

When the regulated sectors are becoming increasingly intertwined, how long can the regulators remain separated? Ontario moved to address this question earlier this month, when the Minister of Finance announced in his budget that he would create a comprehensive financial services regulator, combining the Ontario Securities Commission with the insurance and pension regulator, the Financial Services Commission of Ontario.

The new entity will eliminate the mismatch between regulation and reality. A comprehensive financial services authority can ensure a consistent regulatory approach, eliminate public confusion as to who regulates what, offer one-window service for both consumers and providers, enhance the competitiveness of the financial services sector, and improve the overall investment climate.

Securities, insurance and pension regulators will no longer travel on different paths – no longer duplicating each other, no longer contradicting each other.

- **Managing change includes addressing the needs prompted by the growth of a large secondary market. In fact, this fundamental reorientation of market dynamics demands a number of changes to the way we regulate.**

First, it makes it increasingly important to mandate and monitor disclosure beyond the initial public offering. We have to ensure that all investors are included in the circle of disclosure.

You are in the business of ensuring close and positive relations between your companies and its shareholders. You know how important it is for investors to have confidence in your corporate decision-making process. You are intimately familiar with the growing demand for timely information.

"The Ontario Securities Commission is creating a Fund for Investor Learning. It will have a clear mandate: To assist in raising the level of awareness of Canadians about financial matters."

For these reasons, the Canadian Securities Administrators are finalizing the introduction of a national system of integrated disclosure. A concept proposal was published for comment in January.

Under a system of integrated disclosure, reporting issuers will be able to access the capital markets quickly, and at any time, by issuing a simple term sheet. There will be no restrictions on pre-marketing, and no expensive, time-consuming prerequisite to file a prospectus.

In return, issuers will be required to maintain a record of continuous disclosure to the market of prospectus-quality information about the company.

This will benefit both investors and issuers. Investors would be guaranteed a continuous flow of timely, high-quality information. Issuers would obtain faster, more flexible access to capital markets on the basis of a term sheet setting out only the details of the securities offered."

(New Economy.ca – A Risk-Reward Trade-off)

The creative destruction of jobs in the changing economy is a risk for workers employed in shrinking industries where measurement is established and accurate. In growing areas, it is much more difficult to track job growth, wage rates and the impact of stock options which may not be exercised for years and where benefit won't be known until execution.

While the apparent puzzle of strong spending growth and modest wage gains may be largely illusory, the productivity improvements are not. This creates substantial risks and uncertainty for policy. Are there hidden inflationary pressures that could generate a substantial acceleration in inflation? With the long lags involved in the impact of a policy change, current policy may be too easy. At the same time, reduced inflationary pressure from productivity improvement could extend this cycle for a number of years yet.

The changes in the capital markets are similarly dramatic and also still in their infancy. Will the explosion in volumes traded be sufficient to offset the drop in commissions and margins to allow current market structures to be maintained? Will global markets going forward more closely reflect the widely distributed model typified by the Electronic Communication Networks (ECNs) (and ECNs of ECNs) in the US, or the amalgamation of exchanges into mega-exchanges as is taking place in Europe and in the GEM project?

"Are there hidden inflationary pressures that could generate a substantial acceleration in inflation?"

Are discount brokers the wave of the future? Investors who require full brokerage services and advice (including, likely, a number of the people now using discount brokers) are still searching for a new model of most beneficial to them. The best way for investors to pay for this advice still isn't clear. Fee-based investment services have grown as rapidly, or more rapidly as discount broking at times.

Distribution structures may be entering into an era of unprecedented change with direct issuance of equities and debt competing with new intermediaries. How does this impact the traditional analytical function, both in terms of compensation and delivery?

The mutual fund industry is changing just as rapidly with new fund structures (pick your own stocks, vote for the fund instruments, passive sub-index trackers, etc.) emerging almost daily, putting pressure on margins and challenging investors. With information flow and opportunities for investing multiplying, both institutional and individual investors are facing the opportunities of improving their returns and the risks of moving out of established comfort zones.

Regulators face a similar ramp-up in both risk and reward. The increase in trading volume, transparency and new financial instruments is a strong net positive for market efficiency. That represents a challenge to rule-makers to ensure that market regulation is up-to-date and appropriate for changes that may not be visible yet. While the rise in ecommerce generates opportunities for the unscrupulous to prey on investors, frequently from offshore locations, it also provides new tools to detect market manipulation, fraud and other offences, limiting the damage in a way that hasn't been possible previously.

The increase in trading volume, transparency and new financial instruments is a strong net positive for market efficiency.

The successful introduction of the web marks the true beginning of the global information revolution and no sector is more dependent on information flow than the financial services, except perhaps the regulation of financial services. The central tenet of the risk-reward trade-off is more risk, more reward. This has certainly been revealed in the trading pattern of new economy stocks and will likely play out in the same way in the financial services industry. Our approach to setting rules for those services will have to be similarly dynamic.

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