

Another Made-in-Canada Defective Investment Product

Vendor Group for Defective Commercial Paper Should Be Offering Make Whole Settlements to Pensioners, Taxpayers and Shareowners

Prepared By: Diane Urquhart, Independent Analyst
Updated December 17, 2007

Summary

\$7 billion to \$13 billion is the expected loss on another Made-In-Canada defective investment product - Non Bank Asset Backed Commercial Paper (ABCP). Pension beneficiaries, taxpayers and shareowners will bear this loss on the defective commercial paper held primarily by government and corporation pension funds and treasuries. The vendor group should voluntarily make these Canadians whole due to its role in the negligence or deceit in manufacturing, distributing and providing top credit ratings for this defective money market product. Non bank ABCP owners with ownership stakes in the trust sponsors may not deserve a make whole settlement from the vendor group.

This time it is the investment banks' preferred pension fund, government and corporation customers that are losing money on what they understood to be a very low risk place to park cash. Retail investors, still reeling from the capital losses caused by financial reporting deceptions in income trusts, are largely spared from the damages in Non Bank ABCP as this was not the target market. Many retail investors are in the victim group, however.

The \$33 billion Non Bank ABCP is a Made-in-Canada defective investment product, mainly because it has Made-in-Canada weak liquidity agreements. Canadian liquidity agreements were below international standard and contained a general market disruption clause allowing banks to walk away from calls for cash to repay the Canadian Non Bank ABCP owners.

Dominion Bond Rating Services (DBRS) bears significant responsibility for giving false top credit ratings on the ABCP that did not meet the international standard for liquidity agreements. Standard & Poor's Canada reported that the Non Bank ABCP was below investment grade in 2002. On September 12, 2007, DBRS announced it was moving to the international standard for liquidity agreements.

The Federal Office of the Superintendent of Financial Institutions (OSFI) Regulation B-5 permitted the banks to sign the "Made-in-Canada" defective liquidity agreements for the Non Bank ABCP. The banks did not need to assign capital for their obligations under the Canadian standard liquidity agreements, because these liquidity agreements were of no use and would almost never lead to bank back-up payments to the ABCP owners. Standard & Poor's wrote a critical research report on the impact of Regulation B-5 called, "Leap of Faith," in August 2002.

The provincial securities commissions exempted the Non Bank ABCP from being sold by a registered dealer and by prospectus, if it has an approved credit rating from an approved credit rating organization as defined in National Instrument 45-106. The

provincial securities commissions were enablers of DBRS being the only credit rating organization providing top credit ratings for the Non Bank ABCP. The provincial securities commissions could have forced the Non Bank ABCP sponsors to prepare prospectuses for their commercial paper when Standard & Poor's reported that the Non Bank ABCP was below investment grade in 2002.

The Non Bank ABCP market effectively froze in August 2007, when Canadian investors were no longer willing to buy the ABCP, due to their increased awareness of its potential for loss. If banks walking away from liquidity agreements were not enough of a problem, there is widespread ownership of credit default swaps (CDS) within the trusts, where counterparties have the right to make margin calls for more cash to be added to the trusts, and to lay claim to the collateral of quality assets in the trust. DBRS estimates that 78% of the Non Bank ABCP assets are Collateralized Debt Obligations (CDO), of which 61% are leveraged. Credit default swaps are not covered in the Canadian Companies' Creditor Arrangement Act, so the restructuring proposals are not subject to court management.

The bank counterparties to the credit default swaps are the same banks who signed the defective liquidity agreements in most of the problem trusts. These banks put themselves into the powerful position of being able to make a call for cash to pay for default damages under their swap, knowing that they would walk from their liquidity agreements and gain access to the trust's collateral of top rated assets held in trust. These bank counterparties held the control to trigger the crisis for the Canadian-based Non Bank ABCP funded trusts.

There were substantial risk premium dollars within the Non Bank ABCP structures to cover the liquidity, default and leverage risks. However, the Non Bank ABCP sponsors, bank credit default swap counterparties and liquidity agreement signatories, investment bank distributors and DBRS took most of the risk premium for themselves in fees and profits, while the owners of the Non Bank ABCP only got 5 to 10 basis points. The vendor group took most of the risk premium, even though they must have known they shifted all of the risk to the ABCP owners through limited use liquidation agreements and credit default swaps making the ABCP owners pay for leveraged default damages.

The Montreal Accord Group and Purdy Crawford's Pan Canadian Committee of Investors in Non Bank ABCP cannot make the pension funds, government and corporation treasuries whole, unless the vendor group makes full accommodating settlement offers. The members of the Montreal Accord Group are primarily the banks/investment banks who are the credit default swap counterparties, liquidity agreements signatories or distributors of the defective investment product. The members of the Pan Canadian Committee include senior management of the government pension funds and crown corporation treasuries who bought the defective paper. There is one corporation owner represented on the Group or Committee.

The decision of Purdy Crawford, Ernst & Young and JP Morgan to deny transparency on the Non Bank ABCP trusts' specific CDS liabilities and collateral assets and selling agreements is inappropriate from many perspectives. Denying the information to new willing buyers of the Non Bank ABCP trusts now (and the restructured long term notes subsequently) effectively closes the public market. The consequence of effectively closing the public market is that there is no opportunity for owners to mitigate damages on securities that are continuing to fall in marked to market valuations. Also, the owners' accountants are denied a

market mechanism to estimate the writedown necessary in their financial statements. Of further deep concern is that this decision to close the public market appears to violate S. 45 and S. 79 of the Federal Competition Act since this action unduly limits the dealing of Non Bank ABCP and lessens competition substantially in the market.

The Federal Parliament, through the Federal Minister of Finance, must appoint a qualified independent monitor to ensure that the interests of the pension beneficiaries, taxpayers and shareowners are met. It is not suffice that Purdy Crawford will be guided by his own views as to fairness, since he is employed by the Pan Canadian Committee, whose members are more concerned about their personal reputations and jobs than the loss to be borne by the pension beneficiaries, taxpayers and shareowners.

Non Bank ABCP is another Made-in-Canada defective investment product that demonstrates there is no investor protection for investors and pensioners in Canada. Craig Hannaford and Bill Majher, former RCMP white collar crime investigators, say in Canadian Business on September 24, 2007, "The system is pretty much non-existent." No one stops defective investment products in Canada; no one answers 911 calls from Canadians suffering losses on defective investment products; and those responsible for the defects are allowed to create closed shop restructuring solutions at the expense of average Canadians.

Another Made-in-Canada Defective Investment Product.....	1
Vendor Group for Defective Commercial Paper Should Be Offering Make Whole Settlements to Pensioners, Taxpayers and Shareowners	1
Summary	1
Investment Axioms Not Followed in Canada's Non Bank ABCP	5
Banks Have Different Treatments for Different ABCP Owners	6
Who are the Vendors of Non Bank ABCP?.....	7
The Caisse de dépôt, National Bank and Deutsche Bank Own Sponsors	12
Who Owns the Made-in-Canada Defective Commercial Paper?	13
The Workout Process.....	15
Denial of Access to Material Contracts & Closure of Market is Anti-Competitive.....	17
The Need for Owners to Take Legal Steps to Assure Full Public Market Transparency.	18
Leveraged Credit Default Swaps Impose Liabilities with First Priority to Collateral Assets	18
Office of Superintendent of Financial Institutions Permitted Defective Liquidity Agreements	21
Provincial Securities Commissions Ignored Need for Prospectus When Standard and Poor's Rated Non Bank ABCP Below Investment Grade.....	23
Example of MRRS Exemptive Relief Decision on the Approved Credit Rating for Commercial Paper.....	28
OSC Has Non Bank ABCP Experts on Commodity Futures Advisory Board.....	30
The Pan Canadian Committee Cannot Make the Pension Beneficiaries, Taxpayers and Shareowners Whole, Only the Vendor Group Can.....	30
The Need for Government to Appoint an Independent Expert Monitor.....	35
Fix Canada's Malfunctioning Securities Regulation and White Collar Crime Policing...	37

Figure 1: Canada's Money Market By Type of Security	6
Figure 2: Distribution of Gross Assets By Sponsor.....	8
Figure 3: Names of the 22 Frozen Trusts.....	8
Figure 4: Non Bank ABCP Sponsors & Distributors	10
Figure 5: Date of Non Bank ABCP Initial Issuance	11
Figure 6: Non Bank ABCP Publicly Disclosed Owners.....	14
Figure 7: Pan Canadian Committee for Investors in Non Bank ABCP & Montreal Accord Signatories.....	15
Figure 8: Affected Trusts Asset Mix	19
Figure 9: ABCP Investor Second Priority Claim to Collateral Assets.....	19
Figure 10: Impact of Make Whole Settlement on Banks' Shareholders' Equity.....	33
Figure 11: Banks Buy the Long Term Notes and Take Assets Onto Own Balance Sheet	34
Figure 12: Organization Structure for Securities Enforcement	40

Investment Axioms Not Followed in Canada's Non Bank ABCP

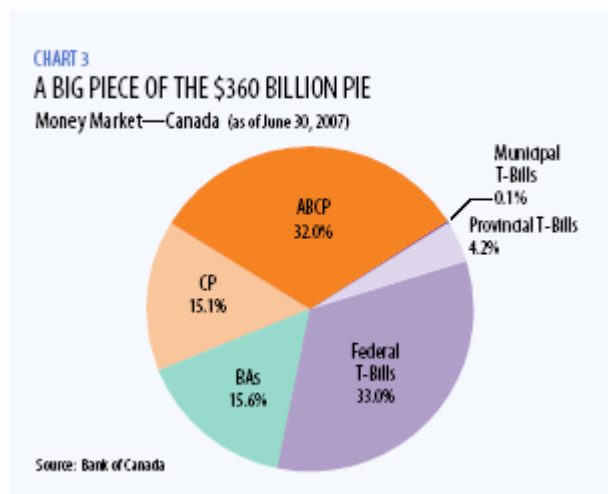
1. ABCP bank liquidity agreements cannot have a general ABCP market disruption exception, if liquidity risk is to be eliminated. This is the international standard for liquidity agreements, before ABCP receives a top investment rating from international credit rating agencies.
2. Funding long term assets with short term commercial paper causes high liquidity risk.
3. ABCP owning sub prime mortgages has default risk since sub prime mortgage borrowers having a high probability of not being able to meet their interest payments.
4. ABCP containing derivatives, that are untested in different economic environments, is risky. Derivatives not used for hedging do not belong in commercial paper, which owners regard to be almost risk free.
5. Not knowing how the investment product vendors share the investment returns and risks usually puts you at the short end of the bargain. Credit default swaps are said by insiders to have been added to the ABCP to boost the yields above the no risk return of T-bills. But, the trust owners and bank suppliers and distributors took the lion's share of the boosted yield, even though they knew the owners were ultimately responsible for all of the liquidity and default losses, and not them.
 - a) In a credit default swap, the seller is obliged to pay for the default losses on credit he does not own. The buyer of the credit default swap pays premiums to the seller, which the seller uses to fund his future obligation to pay for credit losses. But these premiums prove to be insufficient if the default damages are higher than expected. Consequently, the marked to market valuations of credit default swaps can be volatile, even when the risk of default at the levels defined in the contract seem remote at the time the contract was entered into. Credit default swap counterparties have right to call for additional margin and to lay claims to collateral.
 - b) Even if there is just 5 to 10 basis points higher return over risk free alternatives, ask questions about the risk and what's in it for the vendors.
6. Adding leverage to boost investment returns always adds risk, when conditions deteriorate. In the ABCP, the credit default swaps were in dollar amounts that were 10 to 20 times more than the amount invested in the ABCP, so that even a modest adverse change in marked to market credit default swap prices leads to serious % capital loss on the ABCP investment.

Banks Have Different Treatments for Different ABCP Owners

Figure 1 shows that Canada's total money market is \$360 billion, of which 37% is risk free government treasury bills. The ABCP component of the money market is 32% or \$115 billion. ABCP has two types: Bank ABCP and Non Bank ABCP. Bank ABCP is sponsored by banks in the form of trusts that are manufactured and distributed by the banks or their wholly owned investment banks. Non Bank ABCP, on the other hand, is sponsored by non bank financial corporations, in the form of trusts manufactured by the non bank financial corporations named in Figure 2. Three trusts sponsored by the National Bank are under the Montreal Accord and still referred to as Non Bank ABCP, because the liquidity agreement signatories for these trusts are a bank other than the National Bank sponsor. All Non Bank ABCP trusts under the Montreal Accord were initially issued into the Canadian market at dates equal to or later than January 25, 2002.

It was the \$33 billion Non Bank ABCP that effectively froze in August 2007, when owners of the Non Bank ABCP asked for their money back and the banks, who were the signatories to the liquidity agreements backing this paper refused a call for funds because conditions for the call were not met.

Figure 1: Canada's Money Market By Type of Security



On November 19, 2007, the National Bank announced a writedown of \$575 million on its total exposure of \$2,250 million in Third Party ABCP. This is a writedown of -25%.

During the fourth quarter of 2007, National Bank purchased \$2.1 billion of ABCP, principally from its own sponsored mutual funds and pooled funds as well as ABCP held by its retail clients, in addition to approximately \$150 million of ABCP the Bank already had on balance sheet.

On August 20, 2007, four days after signing the Montreal Accord, the National Bank of Canada announced it would purchase ABCP held in National Bank and affiliate mutual funds, pooled funds or direct brokerage accounts of its retail clients and of any corporations clients, who hold \$2 million or less of ABCP in their accounts, and who do not qualify as accredited investors under securities regulations. Government and corporation pension funds and treasuries fall under the definition of accredited investors under provincial securities laws, so these are not being reimbursed by National Bank for expected damages.

National Bank's ABCP charge is based upon its valuation estimate of its ABCP holdings which considers the current market conditions affecting the underlying assets of the trusts and National Bank's expectation that it may be a long term owner of this ABCP or the instruments which could replace these notes following the proposed restructuring contemplated by the Montreal Accord.

On November 15, 2007, Desjardins Group announced it had assumed the Non Bank ABCP held in its mutual funds and in connection with the securities custody and lending activities undertaken by Desjardins Trust on behalf of institutional clients. The voluntary make whole offer for the \$1.2-billion of ABCP held by clients, was on top of a further \$700-million held by Desjardins Group for its own investment purposes. Desjardins took a \$160-million writedown on the \$1.9-billion of ABCP.

Alban D'Amours, CEO of Desjardins Group, said in the third quarter 2007 statement:

"It was in the best interest of our members and clients that we assumed these securities held on their behalf. Given the complexity of this issue, we felt that it was more appropriate under the circumstances to manage the overall situation from the perspective of the entire Desjardins Group so that our members and clients would not have to be concerned about the situation."

"It should also be noted that Desjardins Group was not a sponsor nor a distributor of non-bank sponsored ABCP."

The other five major domestic banks have announced their intent to guarantee the buyback of their own Bank ABCP. These other major banks have also volunteered to indemnify losses for Non Bank ABCP held in their own mutual funds. However, retail brokerage clients who purchased Non Bank ABCP directly or in pooled securities, like the Global Diversified Investment Grade Trusts I and II, have not received voluntary offers to cover their damages. The government and corporation pension funds and treasuries, who bought the Non Bank ABCP from the institutional money market desks of the major investment banks, are to date not being offered compensation by these distributors.

Who are the Vendors of Non Bank ABCP?

Figure 3 provides a list of the sponsors and names of the 22 conduit trusts under the Montreal Accord. Information Memorandum for the trusts can be obtained at http://research.cibcwm.com/commercialpaper/private/cp_i.shtml. The distribution of gross assets by sponsor is in Figure 2. The sponsors in order of their % of the Non Bank ABCP market are: Coventree Capital Group, Nereus Financial (a wholly owned subsidiary of Coventree Capital Group), Newshore Financial Service, Metcalfe & Mansfield Alternative Investments, National Bank of Canada, Dundee Securities & Edenbrook Hill Capital, and Securitus Capital.

One of the Non Bank ABCP trusts listed on the August 16, 2007 Montreal Accord media release has dropped out of the Montreal Accord, Foundation Trust sponsored by Metcalfe & Manfield Alternative Investments,. A DBRS Media Release on August 23, 2007 said that Société Générale Securities was the signatory of the liquidity agreement within the Foundation Trust.

Figure 2: Distribution of Gross Assets By Sponsor

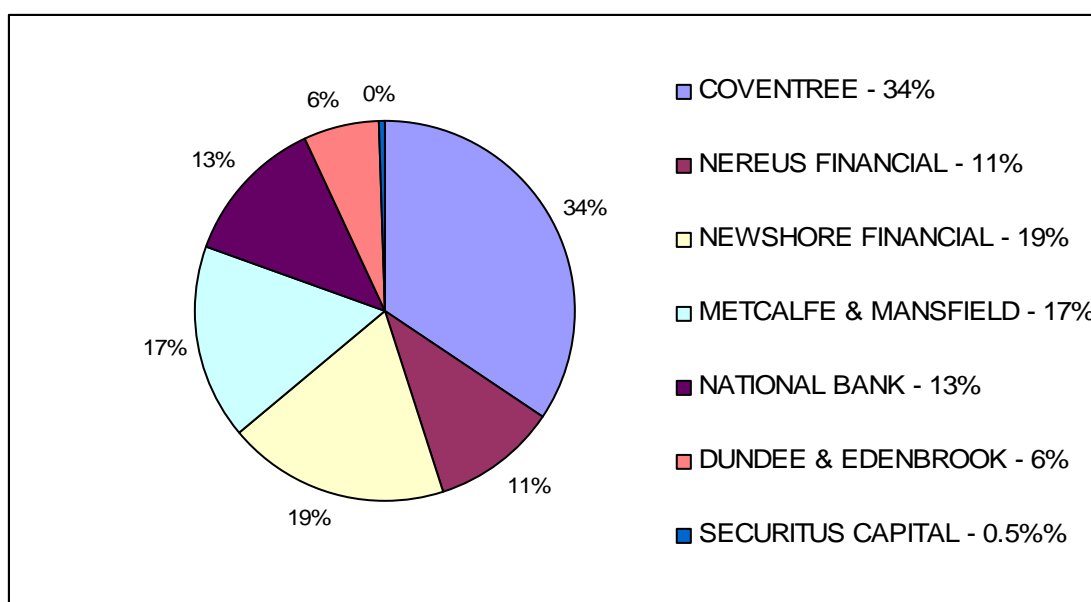


Figure 3: Names of the 22 Frozen Trusts

\$ Millions		
COVENTREE	Apollo Trust	\$196
COVENTREE	Aurora Trust	\$2,673
COVENTREE	Comet Trust	\$1,754
COVENTREE	Gemini Trust	\$1,361
COVENTREE	Planet Trust	\$1,685
COVENTREE	Rocket Trust	\$3,187
COVENTREE	Slate Trust	\$540
NATIONAL BANK	Ironstone Trust	\$757
NATIONAL BANK	MMAI Trust	\$1,400
NATIONAL BANK	Silverstone Trust	\$2,000
NEREUS FINANCIAL	Structured Asset Trust	\$1,312
NEREUS FINANCIAL	Structured Investment Trust III	\$2,165
NEWSHORE FINANCIAL	Aria Trust	\$1,395
NEWSHORE FINANCIAL	Encore Trust	\$1,303
NEWSHORE FINANCIAL	Newshore Canadian Trust	\$412
NEWSHORE FINANCIAL	Opus Trust	\$1,534
NEWSHORE FINANCIAL	Symphony Trust	\$1,636
METCALFE & MANSFIELD	Apsley Trust	\$2,400
METCALFE & MANSFIELD	Devonshire Trust	\$600
METCALFE & MANSFIELD	Whitehall Trust	\$2,500
SECURITUS CAPITAL	Selkirk Funding Trust	\$150
DUNDEE & EDENBROOK	Skeena Trust	\$2,100
GRAND TOTAL		\$33,060
METCALFE & MANSFIELD	Foundation Trust (Dropped Out of MA)	?

The original distribution agents shown in Figure 4 are BMO, CIBC World Markets, Desjardins Bank Securities, Deutsche Bank Securities, HSBC Securities, Laurentian Bank Securities, National Bank of Canada, RBC Dominion, Scotia Capital and Société Générale Securities. The underlined distribution agents are not on the Montreal Accord Group and Pan Canadian Committee.

Investment banks operating an institutional money market desk and who had selling agreements with the Non Bank ABCP sponsors executed trades in the 22 problem trusts with their pension fund, corporation and government clients. Ed Clarke, CEO of the TD Bank, has publicly stated that his bank was not involved in Non Bank ABCP, but the material contracts, such as selling agreements, have not been made available to the public.

According to the Globe and Mail, "The Black Box Explodes," dated November 16, 2007, "On Friday, July 27, representatives of the bank [Royal Bank], including RBC's head of fixed income and currencies for Canada, Peter Dymott, called David Allan to say the bank was giving Coventree the required 30 days' notice to resign as a seller of its paper."

There were just three legal firms who provided the legal services to the 22 problem trusts: Davies, Ward Phillips & Vineberg, McCarthy Tetrault and Ogilvie Renault.

Figure 5: Date of Non Bank ABCP Initial Issuance

All Non Bank ABCP trusts frozen under the Montreal Accord were initially issued into the Canadian market at dates equal to or later than January 25, 2002.

Apollo Trust	2/28/2003
Apsley Trust	11/24/2005
Aria Trust	Post Newshore Financial registration on 5/14/2003
Aurora Trust	2/28/2003
Comet Trust	1/25/2002
Devonshire Trust	8/14/2006
Encore Trust	Post Newshore Financial registration on 5/14/2003
Gemini Trust	1/25/2002
Ironstone Trust	10/28/2004
MMAI-I Trust	8/27/2004
Newshore Canadian Trust	Post Newshore Financial registration on 5/14/2003
Opus Trust	1/2/2006
Planet Trust	2/28/2003
Rocket Trust	2/12/2002
Selkirk Funding Trust	9/21/2006
Silverstone Trust	02/-/2005
Skeena Capital Trust	5/28/2006
SLATE Trust	9/20/2004
Structured Asset Trust	10/31/2005
Structured Investment Trust III	11/31/2003
Symphony Trust	1/2/2006
Whitehall Trust	8/15/2005
Foundation Trust (Dropped Out of Montreal Accord)	8/15/2005

The Caisse de dépôt, National Bank and Deutsche Bank Own Sponsors

The Caisse de dépôt et placement du Québec is a shareowner of Coventree and the National Bank and Deutsche Bank are shareowners of Metcalfe & Mansfield, two of the trust sponsors.

The Caisse de dépôt made dividends from its private equity investment in Coventree and made a large capital gain when Coventree went public in November 15, 2006. There is a Caisse representative on the Coventree Board of Directors. Therefore, the Caisse de dépôt is not simply a victim of having been sold the defective Non Bank ABCP that it purchased as a cash investment.

The IPO Coventree Prospectus dated November 15, 2006 had the following information:

Page 56 - Principal and Selling Shareowners, Showing Caisse Ownership

Shareholder	Ownership Prior to the Offering		Number of Shares to be Sold ⁽¹⁾	Ownership After the Offering ⁽¹⁾	
	Shares ⁽²⁾	Percentage		Shares	Percentage
Caisse de dépôt et placement du Québec	4,816,757	28.96	3,155,402	1,661,355	9.99

Page 46 - Leaders of the Company, showing Caisse representative.

François Maheu Director Director, Caisse de dépôt et placement du Québec
Brossard, Quebec

Page 55 - Prior Sales & Prior Dividends

Other than dividends of \$2.4 million paid on September 29, 2006 and \$1.9 million paid on October 5, 2006, no prior dividends have been issued on the Common Shares.

On November 15, 2006, the Caisse sold \$33.9 million of Coventree shares in its IPO = 3,155,402 shares X \$10.75 per share

We do not know the cost base for Caisse investment in Coventree, but it was probably very low since Coventree did not need significant capital to start its business.

The Caisse would have received Coventree dividends of \$0.695 million at September 29, 2006 and \$0.550 million at October 5, 2006.

Coventree, which owns 100% of Nereus Financial Inc., is the largest sponsor as 45% of the Non Bank ABCP Market, as you can see from Figure 2: Distribution of Gross Assets by Sponsor.

Ernst & Young is the appointed auditor for Coventree as noted in the attached Coventree media release. This is a conflict of interest with the Non Bank ABCP owners outside of the Caisse de dépôt because of this Coventree auditor role. Purdy Crawford and Ernst & Young made an early decision to not give the material contracts underlying the frozen trusts to the Non Bank ABCP owners. David Wilson, Chairman of the Ontario Securities Commission told BNN News on November 16th the information is too complex to give to the owners, and that Purdy Crawford has a team of experts studying the material contracts in order to come up with a restructuring proposal. Purdy Crawford in his media conference call of October 16th said he does not want the information made available to new buyers, such as hedge funds, because they will short the market and damage the current owners. The denial of transparency by Purdy Crawford and Ernst & Young means they have effectively closed the public market for the Non Bank ABCP. This smacks of an effort to enable the banks and the Caisse de dépôt to put the restructured long term notes they get from the Non Bank ABCP onto their books at an inflated value relative to the true marked to market value, that you would get from publicly posted trades in the market.

The National Bank and Deutsche Bank ownership of Metcalfe & Mansfield is described in the DBRS Credit Rating Report on the Apsley Trust below. Therefore, the National Bank and Deutsche Bank had a conflict of interest in being an owner of a trust sponsor, as well as being a contract supplier or distributor of the Non Bank ABCP.

Credit Rating Report

Apsley Trust



Report Date: November 28, 2005
Press Released: November 28, 2005

Christina Ongoma/Jamie Feehley
416-593-5577 x2267/x2312
congoma@dbrs.com

Metcalfe & Mansfield Capital Corporation is a subsidiary of the Quanto Financial Corporation group, a private Canadian financial institution with offices in Montréal, Toronto, and Calgary, and representatives in Vancouver and Winnipeg. The principal shareholders of the Quanto Financial Corporation group are National Bank Financial Inc., Deutsche Bank Canada, and Redfern Equity Capital Partners. The company acts as financial services agent to a number of Canadian asset-backed commercial paper conduits, acting directly for Whitehall Trust and Foundation Trust and, under a sub-delegation agreement with National Bank Financial, for Fusion Trust, MMAI-I Trust, Ironstone Trust, and Silverstone Trust. As of November 29, 2005, these conduits funded over \$8.0 billion in assets in the Canadian debt market. More information on Metcalfe & Mansfield Capital can be found at the company's website located at: www.mmcapitalcorp.com.

Who Owns the Made-in-Canada Defective Commercial Paper?

Figure 6: Non Bank ABCP Publicly Disclosed Owners

	Amount (\$ Mil)	Type
PSP Investments		? Government Pension Plan
Caisse de Depot (1)	\$13,200	Government Pension Plan
National Bank	\$2,250	Bank/Investment Bank
Desjardin Group	\$1,920	Bank/Investment Bank
ATB Financial	\$1,200	Government
Ontario Financing Authority	\$720	Government
Central Credit Union Groups	\$500	Bank/Investment Bank
Domtar Pension Fund	\$420	Corporate Pension Fund
Dundee Bank & Wealth Inc.	\$400	Bank/Investment Bank
HSBC Bank of Canada	\$380	Bank/Investment Bank
NAV Canada	\$368	Government
Canaccord Capital - Treasury & Clients	\$318	Bank/Investment Bank
Canada Mortgage and Housing	\$257	Government
Greater Toronto Airport Authority	\$249	Government
IA Insurance & Financial Services & MD Life	\$235	Insurer
407 International	\$163	Corporate
Transat A.T.	\$154	Corporate
New Gold	\$152	Corporate
Canadian Pacific Railway	\$144	Corporate
Societe generale de financement	\$137	Bank/Investment Bank
Global Diversified Investment Grade Trust II	\$125	Closed End Fund
Ontario Power Generation	\$103	Government
Legg Mason Western Asset Cdn Money Mkt	\$101	Institutional Pooled Fund
Global Diversified Investment Grade Trust I	\$98	Closed End Fund
Hamilton City	\$97	Government
Redcorp Ventures	\$91	Corporate
Altamira	\$89	Retail Mutual Fund
Toronto Hydro	\$88	Government
Canfor	\$85	Corporate
CFI Leasing	\$82	Corporate
Barrick Gold	\$65	Corporate
Canada Post	\$65	Government
Co-operative Superannuation Society Pension Plan	\$60	Corporate Pension Fund
Ontario Teachers Pension Plan	\$60	Government Pension Plan
Sherritt International	\$60	Corporate
Silver Standard	\$57	Corporate
Sun-Times Media Group	\$48	Corporate
Baffinland Iron Mines	\$44	Corporate
Bow Valley Energy	\$40	Corporate
Petrolifera	\$38	Corporate
Air Canada	\$37	Corporate
Miramar Mining	\$37	Corporate
Yukon Treasury	\$37	Government
Jean Coutu	\$36	Corporate
West Energy	\$31	Corporate
University of Western Ontario	\$30	Corporate
Genus Money Market	\$25	Retail Mutual Fund
Westaim	\$20	Corporate
MDS	\$17	Corporate
Jura Energy	\$15	Corporate
Ivanhoe Mines	\$14	Corporate
Northern Orion Resources	\$14	Corporate
Cameco	\$13	Corporate
Goldfarb	\$13	Corporate
Petaquilla Copper	\$13	Corporate
First Quantum Minerals	\$12	Corporate
La Mancha Resources	\$12	Corporate
Russel Metals	\$11	Corporate
Aastra Technologies	\$9	Corporate
Certified Management Accountants of Ontario	\$9	Corporate
Queensland Minerals	\$9	Corporate
Norsemount Mining	\$7	Corporate
Strategem Capital	\$7	Corporate
Professionals Qc Short Term	\$5	Retail Mutual Fund
Northwest Money Market	\$5	Retail Mutual Fund
Nexstar Energy	\$5	Corporate
Tecsys	\$5	Corporate
Western Canada Coal	\$5	Corporate
Mavrix Money Market	\$2	Retail Mutual Fund
Meritas Money Market	\$1	Retail Mutual Fund
Batirente Money Market	\$1	Retail Mutual Fund
APEX Money Market	\$1	Retail Mutual Fund
Accelware Corp	\$1	Corporate
TOTAL	\$25,121	

The Workout Process

On August 16, 2007, the Caisse de dépôt et placement du Québec brokered an agreement amongst eight banks/investment banks and PSP Investments (Federal Public Service Pension Plan) to a 60 day moratorium on owners calling default of the Non Bank Paper ABCP and on contract parties making margin calls and liquidity agreement calls. Participants sought an extension of this moratorium, from September 27, 2007 to December 14, 2007. This deadline has been extended a second time to January 31, 2008. The signatories, to what became known as the Montreal Accord, are developing detailed restructuring plans for the affected Non Bank ABCP. The restructuring is expected to involve the conversion of the short term ABCP into long term notes with floating interest rates. The owners seeking to realize cash in the short term will likely receive a purchase offer for these new notes brokered by one or more of the banks/investment banks within the Montreal Accord Group.

On September 6, 2007, the Pan Canadian Committee for Investors in Non Bank ABCP was formed. Purdy Crawford, a well known securities lawyer from Osler Hoskin Harcourt, was hired as Chairman of this Committee. The members of the Montreal Accord Group and Pan Canadian Committee are shown in Figure 7.

Figure 7: Pan Canadian Committee for Investors in Non Bank ABCP & Montreal Accord Signatories

Pan Canadian Committee for Investors in Non Bank ABCP 6-Sep-07	
ATB Financial	
Caisse De Dépôt	MA
Canaccord Capital	
Canada Mortgage and Housing Corp	
Canada Post	
Credit Union Central of Alberta	
Credit Union Central of Canada	
Desjardins Group	
Magna International	MA
National Bank	MA
Northwater Capital Management	
NAV Canada	
PSP Investments	MA
MA - Original signatories of Montreal Accord	
Montreal Accord Signatories 16-Aug-07	
ABN Ambro	
Barclay Capital	
Caisse De Dépôt	PCC
Desjardins Group	PCC
Deutsche Bank	
HSBC Securities	
Merrill Lynch	
National Bank	PCC
PSP Investments	PCC
UBS	
PCC - Also on the Pan Canadian Committee for Investors in Non Bank ABCP	

What one notices about the Montreal Accord Group in Figure 7 is who is not on it. The five major Canadian banks outside of Quebec are absent, while there are 6 international banks/investment banks on it: ABN Ambro, Barclays Bank, Deutsche Bank, HSBC Bank, Merrill Lynch and UBS. Quebec's National Bank and Desjardins Group are in the Montreal Accord Group. Desjardins Group has announced it was an investor in Non Bank ABCP itself and on behalf of its clients, and that it was not a sponsor, nor a distributor of Non Bank ABCP.

The counterparties to the credit default swaps and the signatories of the liquidity agreements in the Non Bank ABCP are not publicly disclosed in the Information Memorandum for the problem trusts. The media and others have reported the following banks to be involved in the credit default swaps or liquidity agreements: ABN Ambro, Barclays Bank, CIBC, Deutsche Bank, HSBC Bank, Royal Bank, Scotiabank and UBS.

Société Générale Securities was the signatory of the liquidity agreement within the Foundation Trust that has been dropped from the Montreal Accord. The Globe and Mail, "Black Box Explodes," dated November 16, 2007 reports:

"RBC turned down a request by Skeena Capital Trust, another ABCP conduit. According to people familiar with the decisions, these banks concluded there had been no general market disruption under the terms of their liquidity agreements because investors were still buying bank-issued ABCP. The view was not universal. In Toronto, a team led by John Schumacher, Scotiabank's head of global capital markets, examined the morning's crisis and the wording of the bank's loan contract with Skeena. Scotiabank agreed to a bailout. Across the Atlantic, officials at Dutch bank ABN Amro and British lender HSBC PLC made the same call, advancing money to Skeena."

Half of the 12 member Pan Canadian Committee is government pension funds or crown corporations. The Chairman of the Caisse De Dépôt, Henri-Paul Rousseau, told the Quebec Public Accounts Committee on November 28, 2007 that the Caisse owned \$13.2 billion of Non Bank ABCP. PSP Investments has not publicly disclosed the amount invested in Non Bank ABCP, despite it being one of the Montreal Accord signatories on August 16, 2007, along with the Caisse and Desjardins, who are the other investors in the Montreal Accord Group.

ATB Financial, an Alberta Government crown corporation, announced it holds \$1.2 billion of Non Bank ABCP. The Ontario Government has publicly disclosed its exposure to Non Bank ABCP at \$863 million, of which \$720 million is at the Ontario Financing Authority, \$103 million at the Ontario Power Generation Corporation and \$60 million at the Ontario Teachers Pension Plan. Interestingly, there is no Ontario Government representative on the Pan Canadian Committee membership list in the September 6, 2007 media release. The Ontario Government election was on October 10, 2007 and perhaps Ontario was concerned about its exposure becoming a high profile election issue.

Magna International joined the Pan Canadian Committee, as the sole corporate representative amongst at least 30 public corporations, that have publicly disclosed their ownership of the Non Bank ABCP as noted in Figure 6.

Ernst & Young Inc. announced that holders of over 81 % of the outstanding Non Bank ABCP release have signed agreements or acknowledgements indicating their support for the interim arrangements provided in the Montreal Accord.

Denial of Access to Material Contracts & Closure of Market is Anti-Competitive

The decision of Purdy Crawford, Ernst & Young and JP Morgan to deny transparency on the Non Bank ABCP trusts' specific CDS liabilities, liquidity agreements, collateral assets and selling agreements is inappropriate from many perspectives. Denying the information to new willing buyers of the Non Bank ABCP trusts and the restructured long term notes effectively closes the public market.

The consequence of this decision to effectively close the public market is that there is no opportunity for owners to mitigate damages on securities that are continuing to fall in marked to market valuations. Also, the owners' accountants are denied a market mechanism to estimate the writedown necessary in their financial statements. Of further deep concern is that this decision to close the market appears to violate S. 45 and S. 79 of the Federal Competition Act:

45. (1) Every one who conspires, combines, agrees or arranges with another person

(a) to limit unduly the facilities for transporting, producing, manufacturing, supplying, storing or dealing in any product,

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million dollars or to both.

79. (1) Where, on application by the Commissioner, the Tribunal finds that

(a) one or more persons substantially or completely control, throughout Canada or any area thereof, a class or species of business,

(b) that person or those persons have engaged in or are engaging in a practice of anti-competitive acts, and

(c) the practice has had, is having or is likely to have the effect of preventing or lessening competition substantially in a market,

the Tribunal may make an order prohibiting all or any of those persons from engaging in that practice.

Perimeter Markets Inc. initiated a new market for the Non Bank ABCP trusts on November 14, 2007. Perimeter has initiated agency trading on an over-the-counter basis and it will be publishing trades, bids and offers on its web site at www.perimeterabcp.com. Purdy Crawford has publicly urged the Non Bank ABCP owners not to trade in the new market and the major investment banks of Canada appear to have been persuaded by him, Ernst & Young and JP Morgan that they should not participate in the new market either. These major investment banks appear to have collectively decided to close their own money market desks for the trading of the Non Bank ABCP trusts. The justification for the closing of the old market and for

discouraging trades in the new market, is the lack of transparency on the 22 trusts subject to the Montreal Accord. Denying the information on publicly traded securities violates the basic principle in provincial securities acts of full, true and plain disclosure. Also, it is the decision of a defined group of vendors to conspire, combine, agree or arrange to not provide transparency that has the impact of frustrating the success of the new market.

The Need for Owners to Take Legal Steps to Assure Full Public Market Transparency

All owners, and particularly the government owners, should consider legal actions to compel all parties in the vendor group to make available all material contracts underlying the Non Bank ABCP trusts covered in the Montreal Accord in the Ernst & Young data room. Furthermore, these steps should compel that all this information in the Ernst & Young data room be accessible to all players in the fixed income markets of the world. The purpose of these steps is to enable each owner to have access to all the material contracts already available to JP Morgan, financial advisor to the Pan Canadian Committee, so that its own experts can ascertain the marked to market value of the ABCP trusts it owns and can properly assess whether it wishes to participate in the new Perimeter Market Inc. market, opened on November 14, 2007 and in the upcoming settlement offer. (Remember that DBRS was the only credit rating agency rating Canada's Non Bank ABCP, so why rely on just one financial advisor examining private & confidential information now! Also, note that the appointed Montreal Accord monitor is Ernst & Young, who is the auditor for Coventree that is the trust sponsor for over 45% of the frozen paper.)

Also, owners' interests will be best served if it supports information being available to all international buyers, not just the relatively small number of affected investment banks and fixed income buyers in Canada. All material contracts underlying the ABCP trusts should be made available now; at the time of the Montreal Accord settlement offer, where they are applicable to the newly restructured notes; and, thereafter.

Leveraged Credit Default Swaps Impose Liabilities with First Priority to Collateral Assets

The Globe and Mail article written by Sandra Rubin, "Class-action guys see profit in subprime mess," on September 5, 2007 says:

"Credit default swaps have become so pervasive in Canada that they're linked to about \$25-billion of the \$40-billion of the outstanding Non Bank asset-backed commercial paper, says a senior lawyer familiar with events.... Here's the thing: Under Canadian restructuring law [Companies' Creditor Arrangement Act], you can't stay a counterparty to a swap. By law, the parties who bought the protection can't be prevented from exercising their rights.....If the swaps are in default, expect the climate to turn on a dime."

The DBRS CDO Newsletter dated October 15, 2007 contains Figure 8 below, which shows that 61% of the Non Bank ABCP market is in leveraged Collateralized Debt Obligations and another 17% are in non-leveraged Collateralized Debt Obligations (CDO's). These CDO's contain the leveraged credit default swaps that give the

international banks the rights to make margin calls and lay claims to the top quality collateral in the Non Bank ABCP trusts.

Figure 8: Affected Trusts Asset Mix

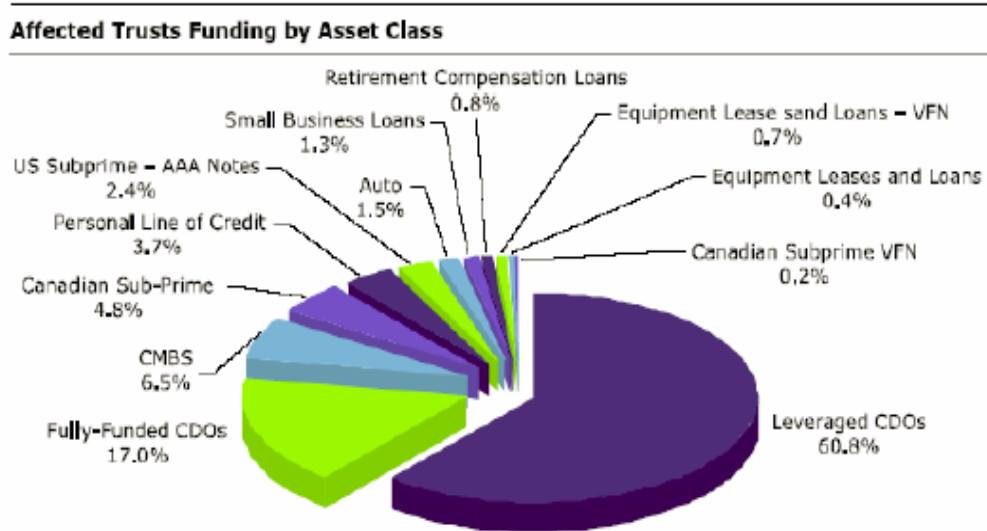
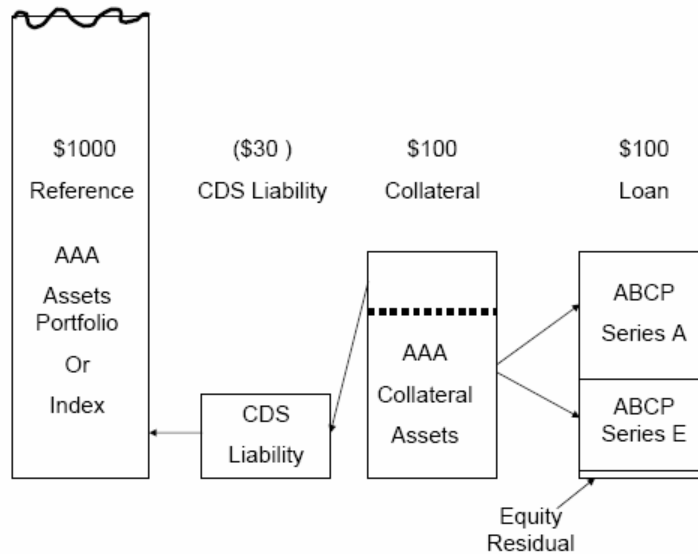


Figure 9: ABCP Investor Second Priority Claim to Collateral Assets

ABCP Investor Priority to Collateral



Canadian owners of the Non Bank ABCP, and their millions of affected Canadians, need to know the specific list of credit default swap counterparties, liquidity agreement signatories, and selling agreement signatories, but the Montreal Accord Group and Pan Canadian Committee have explicitly agreed there will be no disclosure on the details of these material contracts in the trusts. One informed owner says that in virtually all cases, the banks are on both sides of the equation, as a counterparty to credit default swaps and a signatory for the liquidity agreement for the same trust. There needs to be concern that the banks put themselves into the powerful position of being able to make a call for cash to pay for default damages under their swap, knowing that they would walk from their liquidity agreement and gain access to the trust's collateral of top rated assets held in trust. These bank counterparties would then control the triggering of the crisis for the Non Bank ABCP owners in Canada, if there was widening of credit spreads due to deteriorating credit conditions. At the same time, these banks would know that their own interests were protected in their self made crisis by their first call on the top quality collateral within the trust.

Even in situations where a bank is not both a counterparty for a credit default swap and a signatory of the liquidity agreement in the same trust, one should question whether two different banks knew about the other's role in the trust and had access to each other's detailed contract terms. Then, the two acting together have the same consequence of one bank involved as counterparty of the credit default swap and liquidity agreement.

The international banks, without significant Canadian retail operations and Mainstreet presence in Canada, would be the most inclined to participate in the scheme of being both counterparty to a leveraged credit default swap and signatory to a defective liquidity agreement. These international banks would not have the same reputation and business motive for voluntary offers to make customers in Canada whole. The international banks benefited from Canada's weak securities regulatory regime and enforcement.

One further nuance about the rights of the counterparties to the credit default swaps held in the Non Bank ABCP trusts is their right to call for additional margin. The original August 16, 2007 Montreal Accord media release attached gave subtle reference to the problem that the Canadian Non Bank ABCP trusts had received margin calls and would receive further margin calls. The original media release does not, however, refer specifically to margin calls arising from credit default swaps held in the trusts. It is the margin call(s) that probably triggered the freeze-up of the Non Bank ABCP market in Canada. Once the word spread about credit default swap margin calls, there would be no new buyers for the Non Bank ABCP current owners who wanted to sell or get their cash back on maturity.

A margin call to the trusts means that they need to add more cash/quality assets to the collateral backing their liability to cover future default damages as prescribed in the credit default swap. Then, if the additional margin is not put into the trust, the counterparty would have the immediate right to call the swap into default and take steps to demand cash payment funded from their collateral. So, if there is \$30 owing to the counterparties at today's credit default swap price for every \$100 of Non Bank ABCP,

then it becomes payable today unless the trust adds cash/quality assets to the collateral balance. So, without new cash/quality assets added, the trust does not have the luxury of time for the credit default swap price to recover, when credit spreads narrow after the world-wide credit crunch is over.

Office of Superintendent of Financial Institutions Permitted Defective Liquidity Agreements

Julie Dickson, Superintendent of the Federal Office of the Superintendent of Financial Institutions Canada (OSFI) spoke to the National Insurance Conference of Canada in Montreal, Quebec on Monday, October 01, 2007. She responds to criticisms about the OSFI B-5 regulation below, which clearly shows that OSFI permitted the banks to sign what I call "the Made-in-Canada defective liquidity agreements" for the Non Bank ABCP.

OSFI B-5 Regulation says:

"Liquidity support is a commitment to lend to, or purchase assets of, an SPE in order to provide investors with assurance of timely payment of principal and interest. **Liquidity support may include a general market disruption clause. A general market disruption can be defined as a disruption in the Canadian commercial paper market resulting in the inability of Canadian commercial paper issuers, including the SPE, to issue any commercial paper, and where the inability does not result from a diminution in the creditworthiness of the SPE or any originator or from a deterioration in the performance of the assets of the SPE.**"

Julie Dickson has these excuses in her attached October 1, 2007 speech:

(1) Its not my job.

In assessing the comments that have been made, I have to note that it is not OSFI's role to use our powers over banks (which are designed to help protect bank solvency) to regulate capital markets. As a prudential regulator we do not tell Canadian investors what to invest in or not invest in. We do not tell unregulated players how to go about their business. We do not tell banks to provide liquidity to certain players and on what conditions.

In summary, OSFI focuses on the strength of the financial institutions because that is our job – safety and soundness of institutions that make promises to pay depositors and policyholders. OSFI focuses on capital, or buffers for the unexpected, as well as stress testing, liquidity and continual enhancement of monitoring systems and risk management, as that plays a key role in maintaining a safe and sound financial system.

(2) Sophisticated investors should have known, and the S & P and DBRS had different credit rating opinions.

4. Uniqueness of the Canadian ABCP market – **The fact that Canadian investors were buying ABCP with one rating and with limited liquidity lines was also known. S&P had put out reports explaining why they would not rate a product that had liquidity lines that could only be drawn in the event of a general market disruption (GMD or so-called Canadian style due to their popularity in Canada). S&P suggested that liquidity lines that were more readily available in time of need (so-called global style lines) were better for the investor. Others such as DBRS believed that GMD lines were sufficient given the higher level of credit enhancement in Canadian structures compared to international structures. Sophisticated investors and advisors supported the DBRS view.**

(3) Our banks have fixed the problem now, by moving to the international standard for liquidity agreements.

OSFI applied internationally agreed capital rules. The more risk of a liquidity line being drawn, the more capital a bank had to hold (the charge was 10% for global style lines). Where the risk of a line being drawn was extremely remote, the capital charge was zero. These are international capital rules. Despite headlines suggesting lax rules, loose rules, or different rules, Canadian rules are robust and aligned with international standards. Like all international banks, Canadian banks have stepped in to support their conduits, and this has helped to bring back investor confidence. The banks have also announced a move to global style lines, again to reassure investors.

So, now Canadians discover there is another regulatory agency that protects the major Canadian banks, at the expense of no investor protection for investors. Even the OSFI role to supervise and ensure the solvency of federally registered pension funds has taken a back seat to serving the Canadian banks by allowing them to sign liquidity agreements that they knew would have virtually no benefit to the ABCP pension fund owners. The Federal Office of Superintendent of Financial Institutions has effectively assisted the banks to skim fees from the ABCP trusts, which reduced the interest paid to the retail investors, Canadian pension funds and corporations owning ABCP.

On the excuse that OFSI does not regulate the international banks who signed most of the ineffective liquidity agreements in the 22 Non Bank ABCP that are frozen, the Canadian subsidiaries of foreign banks are registered with OSFI. Also, is Canada open to international banks who seek to make profits by skimming and misleading Canadian retail investors and pension funds? OSFI cannot promote the Canadian banks to be "saintly" on the defective ABCP liquidity agreement issue. The Canadian banks have indeed made voluntary offers to make retail investor whole on their own Bank ABCP. But their investment bank subsidiaries are well represented amongst the originating distribution agents and ongoing selling agents for the problem Non Bank ABCP sold to accredited pension funds and corporations, and thousands of retail customers who bought the minimum amount that meets provincial securities commission accredited investor definitions.

Standard & Poor's Canada wrote a research report in 2002 called, "Leap of Faith: Canadian Asset-Backed Commercial Paper Often Lacks Liquidity Backup." This 2002 S & P report was prescient in predicting that the OSFI B-5 regulation would not protect the Canadian banks as it was intended to do. Rather, the extremely limited use liquidity agreement wording of B-5 would contribute to a market confidence contagion within ABCP, if there became a need for the trusts to make liquidity calls. This is what has just happened!

S & P 202 Report, "Leap of Faith," says:

"The Canadian market is unique in its acceptance of ABCP conduits with extremely limited-use liquidity support. Why has this situation evolved? The arrangement was initially implemented in 1994 as the sponsoring banks interpreted then-issued regulation B-5 of the Office of the Superintendent of Financial Institutions (OSFI). Since then, the practice has become institutionalized among market participants.

OSFI's concern is with ensuring banking system stability, and the capital adequacy of individual banks. To the extent a bank takes credit risk through the provision of a lending facility, OSFI requires the bank to hold capital against that exposure. In B-5, OSFI makes an exception for liquidity lines to ABCP special-purpose entities. OSFI allows zero-capital treatment for a liquidity line if it is cancelable or reducible and only available in circumstances of widespread market disruption."

"Interestingly, the overall effect of B-5 may be to exacerbate, not limit, bank-system exposure to credit problems. Were a conduit able to rely on timely liquidity as funding support, this could preempt a conduit-specific default, and avoid market confidence contagion to other conduits managed by the same sponsors, or to conduits in general.

Nevertheless, given conventional Canadian liquidity support limitations, the liquidity might not be available, and a conduit facing operational difficulties or incremental performance deterioration could face a ratings downgrade. This, in turn, could lead to an outright default because the unavailability of liquidity facilities coincidental with faltering market confidence would cause the conduit to be unable to roll over maturing ABCP."

OSFI introduced its culpable Regulation B-5 in July 1994 and revised it in November 2004. Nick LePan served as Superintendent of Financial Institutions (OSFI) for Canada from September 2001 to October 2006. Previously, he had served at the Office as Deputy Superintendent (Supervision) from 1997, in which capacity he was responsible for overseeing the Supervision programs for banks, other deposit-taking institutions, life and general insurers, and federally regulated private pension plans. Mr. Le Pan joined OSFI as Deputy Superintendent (Policy) in 1995, and was responsible for OSFI's input into legislative development, regulations and guidelines, as well as various international and Canadian regulatory coordination efforts. In 1995, before joining OSFI, Mr. Le Pan served as Special Advisor in the Department of Finance, leading a task force that finalized a government white paper on the supervisory, deposit insurance and policyholder protection regime. He also served the Department as its Assistant Deputy Minister, Financial Sector Policy Branch, leading the 1992 review of Canadian financial institutions legislation.

Finance Canada announced that the Honourable Stockwell Day, Minister of Public Safety and the Honourable Jim Flaherty, Minister of Finance, appointed Nick Le Pan to serve as senior expert advisor to the RCMP on its Integrated Market Enforcement Teams (IMETs). This announcement came in the May 14, 2007 Finance Canada Media Release, "Senior expert advisor to RCMP named to bolster fight against white collar crime." This release says "Mr. Le Pan will help develop and guide the implementation of a plan to improve the effectiveness of the RCMP's IMETs, which investigate and prosecute major corporate fraud and capital market crimes." Stockwell Days says, "With the expertise that Mr. Le Pan brings to the table, we will be better equipped to effectively investigate and prosecute these serious crimes." "Strong enforcement is critical to protect investors and promote healthy capital markets in Canada," said Minister Flaherty. "Mr. Le Pan brings a unique skill set to this task, and has the knowledge and experience to carry it out."

Provincial Securities Commissions Ignored Need for Prospectus When Standard and Poor's Rated Non Bank ABCP Below Investment Grade

Non Bank ABCP is another Made-in-Canada defective investment product, which demonstrates there is no investor protection for investors and pensioners in Canada. Canadians are learning about Non Bank ABCP losses in the wholesale market, just as income trusts are stumbling into their own financial crisis of \$14 billion losses to date within the retail market. 34% of all income trusts have suspended or substantially cut distributions due to this business model's flawed design and its reliance on deceptive financial reporting.

The provincial securities commissions are directly involved in determining approved credit rating agencies and approved credit ratings for the commercial paper market as defined in National Instrument 45-106. NI 45-106 is prepared by the Canadian Securities Regulators, for application by all 13 provincial and territorial securities commissions. I have concluded that the provincial securities commissions were enablers of DBRS being the only credit rating organization providing credit ratings for the Non Bank ABCP trusts and of DBRS providing top credit ratings.

The Non Bank ABCP is a type of commercial paper that is covered within the short-term debt provisions of NI 45-106. As noted in NI 45-102 commercial paper maturing not more than one year from the date of issue is short-term debt. A sale of commercial paper, because it is short term debt, is exempt from the requirement for dealer registration and from the requirement for an issuer of the commercial paper to provide a prospectus, if the commercial paper has an approved credit rating from an approved credit rating organization.

The concept of issuing a prospectus to investors is to provide full, true and plain disclosure on the nature of the return and risk from the investment to potential buyers. The exemption from filing a prospectus conditional on obtaining an approved credit rating from an approved credit rating organization, implies that the buyer does not need the investor protection of a prospectus because he can rely upon the assessment of the risk from credit rating organization(s).

The definition for the approved credit rating from an approved credit rating organization within NI 45-106 is by direct reference to the definitions for these terms found in NI 81-102 Mutual Funds as follows.

**National Instrument 45-106
Prospectus And Registration Exemptions**

Part1: Definitions And Interpretation

“approved credit rating” has the same meaning as in National Instrument 81-102 Mutual Funds;

“approved credit rating organization” has the same meaning as in National Instrument 81-102 Mutual Funds;

Short-term debt

2.35 (1) The dealer registration requirement does not apply in respect of a trade in a negotiable promissory note or commercial paper maturing not more than one year from the date of issue, if the note or commercial paper traded

(a) is not convertible or exchangeable into or accompanied by a right to purchase another security other than a security described in this section,

and (b) has an approved credit rating from an approved credit rating organization.

(2) The prospectus requirement does not apply to a distribution of a security in the circumstances referred to in subsection (1).

National Instrument 81-102
Mutual Funds

1.1 Definitions - In this Instrument

“approved credit rating” means, for a security or instrument, a rating at or above one of the following rating categories issued by an approved credit rating organization for that security or instrument or a category that replaces one of the following rating categories if:

(b) no approved credit rating organization has rated the security or instrument in a rating category that is not an approved credit rating:

Approved Credit Rating Organization	Commercial Paper/ Short Term Debt	Long Debt	Term
Dominion Bond Rating Service Limited	R-1 (low)	A	
Fitch Ratings	F1	A	
Moody's Investors Service	P-1	A2	
Standard & Poor's	A-1(Low)	A”;	

“approved credit rating organization” means Dominion Bond Rating Service Limited, Fitch Ratings, Moody's Investors Service, Standard & Poor's and any of their respective successors;

The approved credit rating table for commercial paper does not specify whether more than one approved credit rating is required. There are, however, several Mutual Reliance Review System for Exemptive Relief (MRRS) Decisions that have been made, which explain how the approved credit rating table in NI 81-102 works. An example of the MRRS for Exemptive Relief Decision on the Ontario Power Generation Inc. commercial paper is below.

Several corporations have sought and received MRRS Exemptive Relief from the failure of their commercial paper to meet the approved credit rating test in NI 45-106 (by reference to NI 81-102). (I have not found MRRS Exemptive Relief decisions on the 22 Non Bank ABCP trusts, but I will explain later why no MRRS Exemptive Relief applications were necessary.) The MRRS Exemptive Relief Decisions confirm that the approved credit rating test has not been met, when the commercial paper sponsor has gotten a DBRS commercial paper credit rating at R-1 (low) or higher, but one of Standard & Poor's', Moody's and Fitch provided a credit rating that fell below the minimum standard in the NI 81-102 approved credit rating table. Without the MRRS Exemptive Relief Decision, the commercial paper sponsors, who failed the approved credit rating test, would not be permitted to offer their commercial paper to buyers without issuing a prospectus.

Quite shocking, however, is that two commissioners from each of the OSC, ASC, MSC and the NSSC (probably from other provincial securities commission too), have signed multiple MRRS Exemptive Relief Decisions that allow corporations to sell commercial paper without a prospectus, as long as it has one of the approved credit rating agencies giving it a credit rating at or above the one shown in the approved credit rating table of NI 81-102. In effect, these MRRS Exemptive Relief Decisions by provincial securities commissioners established that it is not of any concern to their securities commissions that international credit rating agencies give Canadian commercial paper credit ratings below the minimum standard set out in their regulations, and lower than DBRS. As long as DBRS was willing to give the Canadian commercial paper R1(low) or better, this was suffice for achieving what appears to be a rubber stamp MRRS Exemptive Relief Decision enabling the sale of Canadian commercial paper without a prospectus.

We know now that one of the Made-in-Canada defects of the frozen Non Bank ABCP is that DBRS was the only credit rating organization that provided ratings for the 22 trusts and it gave them top credit ratings. The sponsors of the 22 Non Bank ABCP assumed they passed the test of approved credit rating organization and approved credit rating since DBRS gave a credit rating above R1 (low) and there were no other approved credit rating organizations providing credit ratings that were too low.

The Non Bank ABCP sponsors paid DBRS a percentage of the outstanding ABCP face amount to pay for DBRS's credit rating services. There is no public disclosure of the DBRS contracts with the Non Bank ABCP sponsors. It is believed that DBRS was paid 3 to 5 basis points times the Non Bank ABCP outstanding face amount on an annual basis to complete the credit ratings for the Non Bank ABCP trusts.

The Non Bank ABCP sponsors could spare the risk of facing a failure of the approved credit rating test in NI 81-102 by simply not purchasing the services of any other approved credit rating organization. Since the credit rating organization business model for all the approved credit rating organizations is revenue paid by the debt security sponsor, Standard & Poor's, Moody's and Fitch would not be providing any credit ratings, unless the Non Bank ABCP sponsors paid them to do so.

In any case, if the other credit rating agencies were able to provide credit ratings financed from other sources, the Non Bank ABCP sponsors knew that they could make a MRRS Exemptive Relief application that was likely to be approved based on the numerous precedents for Exemptive Relief given when DBRS gave a credit rating of R1(Low) or better, while other approved credit rating organizations gave credit ratings that were below the standard set in NI 81-102.

A serious question that needs to be asked is why the provincial securities commissions did not act to address the serious concerns raised by Standards & Poor's in its August 1, 2002 "Leap of Faith" report about the "limited use" liquidity agreements in the Canadian ABCP. The consequence of this concern was that Standard & Poor's refused to rate the Canadian ABCP. It would have been apparent to the provincial securities commissions that the Non Bank ABCP was being sold to buyers on the basis of only the DBRS R1(Low) or higher credit rating. The explicit statement by the Standard & Poor's that it would not rate the Non Bank ABCP due to its "limited use" liquidity agreements should have been construed by the provincial securities commissions to be that the Standard & Poor's credit rating was well below the minimum standard in the approved credit rating table of NI 81-102. The Standard & Poor's credit rating was, in fact, off the bottom of their credit rating scale.

The provincial securities commissions could have forced the Non Bank ABCP sponsors to prepare prospectuses for their commercial paper due to the commercial paper failing the approved credit ratings test in NI 81-102. While the letter of the regulation may have been in some dispute, since Standard & Poor's did not provide a credit rating at all, the public interest provisions in the provincial securities acts could have been deployed to stop the sale of the Non Bank ABCP to pension funds, governments and corporations without a prospectus. Certainly, there should have been sufficient warning about differences in the credit ratings of DBRS and the Standard & Poor's, that should have stopped the provincial securities commissions from approving the many MRRS Exemptive Relief Decisions that established the principle of a DBRS credit rating being R1(low) or better being suffice to enable commercial paper to be sold without a prospectus.

Example of MRRS Exemptive Relief Decision on the Approved Credit Rating for Commercial Paper

IN THE MATTER OF
MUTUAL RELIANCE REVIEW SYSTEM FOR
EXEMPTIVE RELIEF APPLICATIONS
IN THE MATTER OF
ONTARIO POWER GENERATION INC.
(the Filer)
MRRS Decision Document

Representations

This decision is based on the following facts represented by the Filer:

1. The Filer was amalgamated under the laws of the Province of Ontario by Articles of Amalgamation dated January 1, 2006 and is existing as a corporation under the Business Corporations Act (Ontario). The Filer is an Ontario-based electricity generation company whose principal business is the generation and sale of electricity in Ontario.
2. The Filer is a reporting issuer in Ontario, Alberta, British Columbia, Newfoundland and Labrador, Nova Scotia, Québec and Saskatchewan.
3. The Filer is not in default of its obligations under the Legislation in any Jurisdiction.
4. The Filer has established an aggregate Cdn \$1 billion short term unsecured notes financing program pursuant to which the Filer may issue and sell unsecured Commercial Paper, provided that the aggregate outstanding principal amount of Commercial Paper issued by the Filer at any time does not exceed Cdn \$1 billion.
5. The Commercial Paper is not qualified by a prospectus filed in any Jurisdiction and is sold exclusively on a private placement basis in accordance with available exemptions from the prospectus requirements and dealer registration requirements.
6. Subsection 2.35(1)(b) of National Instrument 45-106 Prospectus and Registration Exemptions (NI 45-106) provides that exemptions from the dealer registration requirements and the prospectus requirements for short-term debt (the Commercial Paper Exemption) are available only where such short-term debt has an “approved credit rating from an approved credit rating organization”. NI 45-106 incorporates by reference the definitions for “approved credit rating” and “approved credit rating organization” that are used in National Instrument 81-102 Mutual Funds (NI 81-102).
7. The definition of an “approved credit rating” in NI 81-102 requires, among other things, that (a) the rating assigned to such debt must be “at or above” certain

prescribed short term ratings, and (b) such debt must not have been assigned a rating by any “approved credit rating organization” that is not an “approved credit rating”.

8. The rating of the Filer’s Commercial Paper by Dominion Bond Rating Service Limited, “R-1(low)”, meets the prescribed threshold stated in the definition of “approved credit rating” in NI 81-102.

9. The Filer’s Commercial Paper does not meet the definition of “approved credit rating” in NI 81-102 because Standard & Poor’s has assigned the Filer’s Commercial Paper a rating of “A-2”, which is lower than that required by the Commercial Paper Exemption.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that the Commercial Paper:

- (a) matures not more than one year from the date of issue;
- (b) is not convertible or exchangeable into or accompanied by a right to purchase another security other than Commercial Paper; and
- (c) has a rating issued by one of the following rating organizations, or any of their successors, at or above one of the following rating categories or a rating category that replaces a category listed below:

Rating Organization	Rating
Dominion Bond Rating Service Limited	R-1 (low)
Fitch Ratings Ltd.	F2
Moody's Investors Service	P-2
Standard & Poor's	A-2

For each Jurisdiction, this decision will terminate on the earlier of:

- (a) 90 days after the coming into force of any rule, other regulation or blanket order or ruling under the Legislation of the Jurisdiction that amends section 2.35 of NI 45-106 or provides an alternate exemption; and
- (b) three years from the date of this decision.

“Wendell S. Wigle, Q.C.”
Commissioner
Ontario Securities Commission

“Suresh Thakrar, FICB”
Commissioner
Ontario Securities Commission

OSC Has Non Bank ABCP Experts on Commodity Futures Advisory Board

The Ontario Securities Commission has taken advice from the issuers, investment bank distributors and securities lawyers who design new investment products, rather than from their own experts or retained independent experts. The OSC has a Commodity Futures Advisory Board that consults with and advises OSC staff on: developments in the nature of contracts and manner of trading; and, the influence of trading in contracts on the economy of Ontario. Three of four members on the OSC Commodity Futures Advisory Board are directly involved in the vendor group for the defective Non Bank ABCP. Northwater Capital Management is a money manager.

David Ellins	Coventree Capital Group Inc.
Carol Pennycook (Chair)	Davies Ward Phillips & Vineberg
Stephen Elgee	BMO Nesbitt Burns
Jim Sinclair	Northwater Capital Management Inc.

Davies Ward Phillips & Vineberg is one of three legal firms that signed off on the 22 problem ABCP trusts listed in Figure 4. David Brown, the former Chairman of the OSC and the Current Chairman of the RCMP Task Force on Governance and Cultural Change, is a current Counsel with the firm Davies Ward Phillips & Vineberg.

Coventree Capital, Nereus Financial, Northwater Capital Management and Dundee Securities are Ontario registrants.

The Pan Canadian Committee Cannot Make the Pension Beneficiaries, Taxpayers and Shareowners Whole, Only the Vendor Group Can

"Our Investor Committee will be looking to implement a solution that addresses the best interests of investors generally, and at the same time allows for a successful restructuring and a return to market stability for these investments", said Mr. Crawford who added that "in considering the best interests of investors, I will be guided by my own views as to fairness." (CNW Release, A Pan Canadian Committee Chaired by Mr. Purdy Crawford will oversee Non Bank Commercial Paper restructuring process, September 6, 2007.)

The Montreal Accord Group comprises the senior executives of banks/investment banks who either signed defective liquidity agreements, or distributed defective investment product. The Pan Canadian Committee comprises senior executives of investor organizations, that were either professionally negligent or duped into buying the defective commercial paper.

Both the Montreal Accord Group and Pan Canadian Committee members are motivated to cover-up their responsibility for the Non Bank ABCP damages from the pension beneficiaries, taxpayers and shareowners who will be paying for the damages, unless there is a make whole accommodating settlement offer from the vendor group. The banks/investment banks want a quick solution to mitigate litigation risk and liability for

any damages associated with known defective features in the ABCP or any misrepresentations on the characteristics of the product in the Information Memorandum or in sales calls. The professional money managers want to protect their personal reputation and jobs and they are not personally liable for the damages that will be borne by the pension beneficiaries, taxpayers and shareowners.

There is a reasonable question about why the banks/investment banks, who were either negligent or intended to sell defective products unique to Canada, should be permitted to be in the inner circle of investment banks putting together a restructuring offer that is less than a make whole offer. **An inner circle of investment banks, especially those who may have been negligent or deceitful, should not be permitted to make a discount offer to the owners needing cash, with the intent to flip the restructured securities into the international fixed income market at considerable profits for themselves. Such ill-gotten profit belongs to the pension beneficiaries, taxpayers and shareowners, who would get this money in a properly conducted public auction at the outset.**

The vendor group should make the buyers whole, when one considers the negligence and/or deceit within this Made-in-Canada defective investment product and the allegations that the investment bank distributors made sales to owners without public disclosure of material information on deteriorating conditions within the money market product that the investment bank distributors specifically knew about. Defective investment products are not different than defective consumer products, where we see mass product recalls and compensation paid to buyers, such as for defective pet food, toys, autos, tobacco and the Dalcon Shield.

Desjardin Group's decision to reimburse its institutional clients sets a benchmark for make-whole offers from the sponsors and the banks/ investment banks that manufactured or distributed the Non Bank ABCP to both retail and institutional clients. The banks and/or investment banks, that are counter-parties to the credit default swaps and signatories to the limited use liquidity agreements, and DBRS are "co-manufacturers" of the third-party ABCP, along with the sponsors. As such, they are different from some other investment banks that distributed the Non Bank ABCP, but were not manufacturers of the paper they sold. These distributors should also expect to contribute to accommodating settlements with all their retail and institutional clients, since they too were part of the negligence or deceit by signing selling agreements with the trust sponsors enabling them to sell this defective product to Canadian pension funds, governments, corporations and thousands of retail customers.

The Canadian trust sponsors and DBRS are privately owned, except for Coventree, which is a public company that has negative \$170,833 thousand shareholders' equity as of June 30, 2007. The Montreal Accord vendor-related members are ABN Ambro, Barclays Capital, Deutsche Bank, HSBC Securities, Merrill Lynch, National Bank and UBS. We presume that it is the Montreal Accord banks that Purdy Crawford has publicly stated are prepared to make accommodating settlement offers to the owners of Non Bank ABCP. But the other big five domestic banks, except for TD Bank's claim of being

uninvolved, were distributors of the Non Bank ABCP, under seller agreements with the trust sponsors. So one must assume that these domestic banks have considerable litigation risk associated with the sale of the defective Non Bank ABCP to institutional and retail owners, beyond their own mutual funds.

The November 2007 writedowns announced by Canadian Imperial Bank of Commerce (\$753 M), National Bank (\$575 M), Royal Bank of Canada (\$360 M), BMO (\$320 million), and Scotiabank (\$190 M), add up to \$2,198 million. These writedowns relate to both holdings of US subprime mortgages and Collateralized Debt Obligations and already announced make whole settlements for Non Bank ABCP in retail mutual funds. It is not possible to separate the sources of writedown on an aggregate basis for the five banks on the basis of their media releases.

If the major Canadian banks and foreign subsidiaries of international banks make full settlement offers to the institutional and direct retail owners of the Non Bank ABCP, in addition to their already announced make whole agreement with their own retail mutual funds, the likely range of total damages is \$7,000 million to \$13,000 million pre-tax. This range is worse case since it includes paying the Caisse damages despite its dominance in the Non Bank ABCP market and its conflict of interest as an owner of Coventree and it does not provide for shared damage with the ABCP Series Notes not backed by any liquidity agreement. Figure 10 is assuming the Canadian trust sponsors and DBRS are a small % of a voluntary make whole settlement or a mandatory make whole litigation award. This writedown range is well in excess of the \$2,198 million combined writedowns taken by the major banks so far. But, such amounts are affordable and appropriate given the evidence of defects in the Non Bank ABCP and the allegations that the investment bank distributors made sales to owners without public disclosure of material information on deteriorating conditions within the money market product that the investment bank distributors specifically knew about.

Estimated damages of \$7,000 million to \$13,000 million pre-tax is calculated assuming marked to market losses of -20% to -40% on the \$33 billion in the 22 frozen Non Bank ABCP trusts. This total of make whole settlement offers would be \$4,400 million to \$8,700 million after tax, assuming a tax rate of 34%. The damage to total banks shareholders' equity in Canada is only -4% to -8%, which is affordable and not an unreasonable price to pay in light of their alleged culpability for the losses to Canadian pension beneficiaries, taxpayers and shareowners.

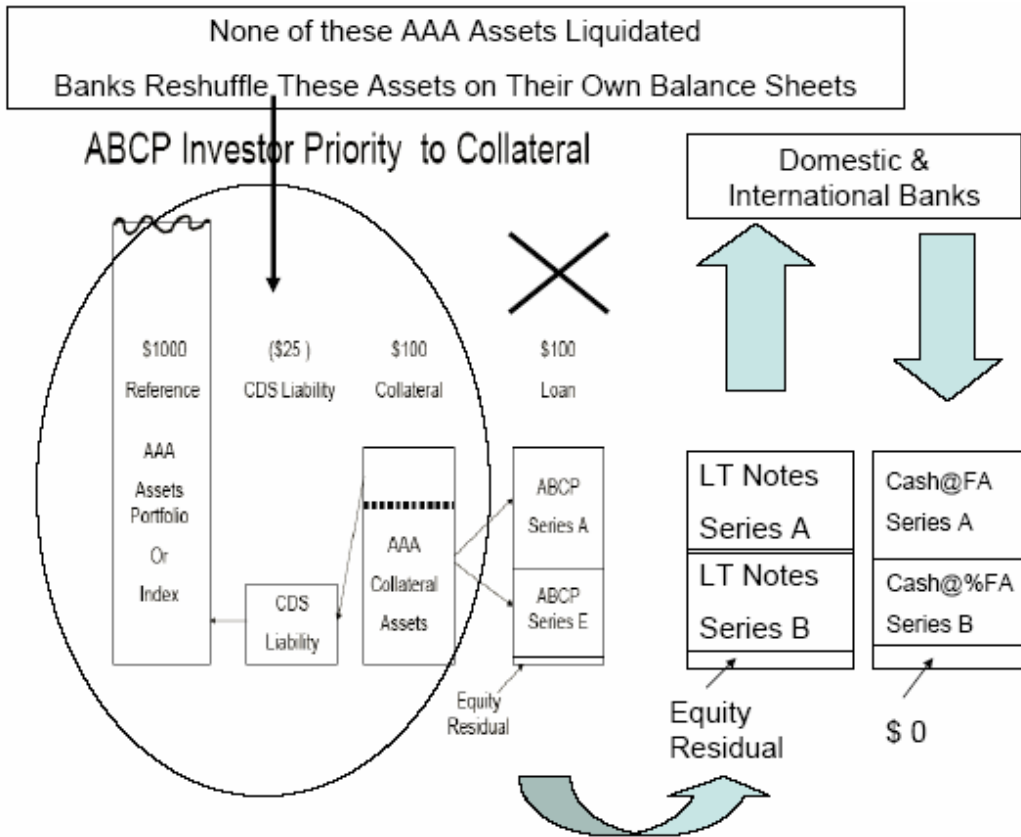
Figure 10: Impact of Make Whole Settlement on Banks' Shareholders' Equity

Non Bank ABCP Exposure (\$ thousands)	\$33,000,000	% of Total All Banks Shareholders' Equity (1)	
Marked-to-Market Writedown (\$ thousands)		Pre Tax	After Tax
-15%	-\$4,950,000	-4%	-3%
-20%	-\$6,600,000	-6%	-4%
-25%	-\$8,250,000	-7%	-5%
-30%	-\$9,900,000	-9%	-6%
-35%	-\$11,550,000	-10%	-7%
-40%	-\$13,200,000	-12%	-8%
-45%	-\$14,850,000	-13%	-9%
-50%	-\$16,500,000	-15%	-10%

(1) Banks Shareholders' Equity August 31, 2007 From OSFI Website	
Domestic Banks	\$101,690,775
Foreign Bank Subsidiaries	\$9,206,827
Total All Banks	\$110,897,602

In my opinion, the banks should offer the solution in Figure 11, where they take the newly restructured long term notes and they offer cash settlements to the current owners at par (except for the Caisse due to its dominance in the Non Bank ABCP market and its conflict of interest as an owner of Coventree and modest discounts for ABCP Series Notes not backed by any liquidity agreement). Then, the banks can take possession of, on their own balance sheets, the AAA rated collateral assets and the leveraged credit default swap liabilities under settlement arrangements amongst themselves, that avoid the fire sale of \$250 billion worth of AAA rated collateral assets and CDS reference AAA asset portfolios. The banks should upon taking the restructured long term notes onto their own balance sheets, take the marked to market writedowns on the underlying net assets.

Figure 11: Banks Buy the Long Term Notes and Take Assets Onto Own Balance Sheet



The banks agreeing to this solution, that I illustrate by the schematic in Figure 11, would demonstrate the same leadership that J.P. Morgan exhibited in the U.S. Financial Panic of 1907, where the major U.S. banks agreed to bailout several trusts that were suffering runs by depositors, who feared the loss of their money when the net assets within the trusts were becoming impaired in value. These U.S. banks volunteered to make the trust depositors whole even when they had no legal obligation to do so. In the current Canadian Non Bank ABCP crisis, the ABCP short-term lenders are akin to the depositors in the trusts during the Financial Panic of 1907. The difference in circumstances within Canada today, is that the domestic banks (excluding possibly the TD Bank) and the foreign divisions of international banks were themselves, or their subsidiaries, directly involved in the manufacturing or distribution of the frozen Non Bank ABCP that were designed and sponsored by entrepreneurial conduit firms. Some Canadian banks and the list of international banks in the Montreal Accord became involved in the manufacturing of the Non Bank ABCP trusts, when they became buyers of the leveraged credit default swaps or the signatories for the "no use" liquidity agreements. In most cases, the bank who bought the credit default swaps with the claims for default damages

and subsequent rights to the AAA collateral assets, was the same bank that signed the "no use" liquidity agreements. This simultaneous contracting by the banks was not fair dealing and not disclosed to the Non Bank ABCP owners.

The banks offering the solution I suggest is not a case comparable to J.P. Morgan organizing a bank bailout of trusts that they were not legally required to do. Owners of the Non Bank ABCP today do have legitimate legal claims for remedy from the banks for negligent misrepresentation related to the manufacturing or distribution of the Non Bank ABCP trusts. If J.P. Morgan and the banks existing in 1907 had the where with all to make a voluntary bailout of the trusts, when they had no legal obligation to do so, to avoid a financial crisis, surely the Canadian and international banks that have legal liability for their direct or subsidiary involvement with the Canadian Non Bank ABCP trusts can step to the plate to come up with an agreement with Canadian pension funds, governments and corporations that are stuck with this defectively designed commercial paper of uncertain current value.

The way I see it, just because the securities guard is asleep does not mean you are entitled to rob the bank. The pension fund portfolio managers, government and corporation treasurers could have asked more questions, but the banks should not have sold a product negligently or with deceit that has Canadian pension beneficiaries, shareowners and taxpayers have their net worth damaged. The money managers and treasurers working for Canadians did not invest in money market instruments for high investment returns, but to achieve capital preservation while they waited for its long term deployment in corporate projects, public infrastructure and services and the purchase of long term investments such as stocks, bonds and real estate.

The Need for Government to Appoint an Independent Expert Monitor

The Bank of Canada Governor David Dodge and Federal Finance Minister Jim Flaherty have made statements supporting the Montreal Accord Group and the Pan Canadian Committee, crediting the process as an orderly restructuring of the Canadian ABCP market, that provides an opportunity for the affected parties to work through the many complex issues related to the market.

But the process is seriously flawed because the Montreal Accord Group and Pan Canadian Committee Members are made up of the people who need to "protect their reputations" and who are not paying for the loss - the pension beneficiaries, taxpayers and shareowners are.

The Federal Parliament, through the Federal Minister of Finance, should appoint a qualified independent monitor to ensure that the interests of the pension beneficiaries, taxpayers and shareowners are being met in the decisions of the Montreal Accord Group. The pension beneficiaries and shareowners should not be expected to enter subsequent civil litigation against the managers hired to conduct duties on their behalf, in the event these managers accepted a quick concessionary

solution to cover up for their own negligence in purchasing defective Non Bank ABCP.

The purpose of the requested independent expert monitor appointed by the Federal Government is to ensure that the damages to pension beneficiaries, taxpayers and shareowners are mitigated.

(1) That there will be no quick opaque discount offer made by the vendor group (= the trust sponsors, all bank contract parties, the investment bank distributors and DBRS) and accepted by the investment management executives who bought the defective Non Bank ABCP, in order to cover-up negligence or deceit and to protect the reputations of the vendor group and of the investment management executives.

(2) There needs to be a government monitor acting in the public interest in terms of identifying any securities, competition or criminal law misconduct within the vendor group and DBRS, whose knowledge and threat of enforcement would leverage a better restructuring solution from the vendor group than otherwise. **Given the evidence of negligence or misrepresentation on the part of the vendor group, the pension beneficiaries, taxpayers and shareowners should be made whole.**

(3) The public interest monitor must ensure that the Canadian Non Bank ABCP owners, and their millions of affected Canadians, know the names of the banks/investment banks, who are the counterparties to the credit default swaps, liquidity agreement signatories and selling agreement signatories. Bank counterparties in credit default swaps that have the right to call for cash payments, should not be permitted to be an exclusive group entitled to make discounted restructuring offers to the Canadian Non Bank ABCP owners, especially since when they were also signatories for the Made-in-Canada defective liquidity agreements in the same trusts.

(3) Worse still, the inside vendor group cannot be allowed to make discount deals, only to flip the notes acquired into the international fixed income markets for windfall gains to themselves that belong to the pension beneficiaries, taxpayers and shareowners of Canada. **There needs to be a public auction for the purchase of the restructured notes, where international fixed income asset buyers and investment banks are permitted entry into the data room now and the opportunity to make fully informed bids for each of the trusts.**

(4) The independent government monitor must ensure that investment banking fees, legal fees, accounting fees, stalking horse bid fees and any other fees not named are held to reasonable amounts. **Too much money is being spent on professional fees to mop up problems caused by defects in investment products that were designed and distributed by the same professionals. Employment for investment bankers, lawyers and accountants manufacturing and repairing defective investment products is not a good industry for Canada.**

(5) Procedures must be adopted to ensure full transparency to the independent government monitor or other agents for the pension beneficiaries, taxpayers and shareowners. Bona fide agents for the pension beneficiaries, taxpayers and shareowners need to be added to the Ernst & Young protocol for access to the data room. The specific information requiring transparency is:

- (a) the collateral assets and credit default swap liabilities in the Non Bank ABCP trusts;**
- (b) all material contracts, including selling agreements and liquidity agreements;**
- (c) the features of the restructured long term notes;**
- (d) all investment banking, legal and accounting fees;**
- (e) the process for a public auction of the long term notes by the owners seeking immediate cash.**

Fix Canada's Malfunctioning Securities Regulation and White Collar Crime Policing

Finance Minister James Flaherty is right to say that Canada should have a national securities commission. A national securities commission, if properly structured, would be a better first responder to financial crises, especially ones that involves a national market abuse and needs co-ordinated responses with other countries.

Indeed, there are credit crunch problems throughout the world, where there is strong securities regulation such as in the U.S. and the U.K. But, in those countries, government experts are on standby to answer 911 calls from the owners of distressed securities, who need well orchestrated and fair solutions. For sure, the private sector players involved in negligence or deception cannot seize the agenda to act in their own interests rather than the interests of the actual people suffering the damages, the pension beneficiaries, taxpayers and shareowners.

The provincial securities commissions are attempting to shift blame for the Non Bank ABCP crisis onto the investors, who they say are sophisticated and have the resources to ask the right questions and to do due diligence. David Wilson, the current Chairman of the OSC and the former C.E.O. of Scotia Capital Markets, attempts to shirk the banks' responsibilities for the defects in Non Bank ABCP onto the buyers for not detecting them in a November 16, 2007 interview with Howard Green on BNN. **But, just because the gatekeeper is asleep, does not mean you are entitled to rob the bank. And, governments and corporations should not be expected to hire financial analysts to search for defects in money market products sold by an industry whose function is to provide bona fide investment products and services, and who has the expertise to know there are defects in its sophisticated products.** The damages to pension beneficiaries, taxpayers and shareowners from Non Bank ABCP will be up to \$13 billion. Such unnecessary losses are bad for the country's economy and its already broken reputation on securities regulation. Canada needs to adopt a national securities regulator, with proper civilian oversight and effective enforcement.

Both David Brown, the former OSC Chairman, and David Wilson, the current OSC Chairman, failed to detect since 2002 that DBRS was giving top investment grade ratings to Non Bank ABCP that did not meet the international standard for sound liquidity agreements, while Standard and Poor's refused to give this Non Bank ABCP an investment grade rating. The OSC was not able to prevent the loss to the Ontario Government that has publicly disclosed its exposure to Non Bank ABCP at \$882 million amongst three entities.

The Globe and Mail, "ABCP reporting under scrutiny," by Janet McFarland dated December 6, 2007, has reported that many public companies are furious because they believe that their banks sold them notes in late July and early August without fully disclosing the information they knew about behind-the-scenes turmoil in the commercial paper market. In filings related to two recent lawsuits, Canaccord Capital Corp. has alleged that Bank of Nova Scotia received non-public information about commercial paper in July and began reducing its own holdings while continuing to pitch the investment to clients – including Canaccord. Scotiabank has denied the allegations.

"Meanwhile, Ms. Gillett said the OSC is not responsible for reviewing the conduct of brokerage firms and their trading of ABCP held in their own accounts, or their sales of commercial paper to clients in the summer.

Ms. Gillett said matters involving brokerage firms fall under the jurisdiction of the Investment Dealers Association of Canada (IDA), a self-regulatory body.

Alex Popovic, head of enforcement for the IDA, would not comment on whether the IDA is reviewing commercial paper trading by investment dealers."

The OSC says here that it is fully delegating to the Investment Dealers Association (IDA) the review of the conduct of the registered investment dealers, including their issuance and trading of ABCP. But, it would appear to me that the sponsors and investment dealers, who issued Non Bank ABCP, violated the requirement for an approved credit rating from an approved credit rating organization as set out in National Instrument 45-106, in regard to the Standard & Poor's credit rating agency not being willing to give the Non Bank ABCP an investment grade rating as set out in its "Leap of Faith" Report. With the NI 45-106 approved credit rating test not met, the Non Bank ABCP should not have been sold to pension funds, governments and corporations without a prospectus. The OSC is responsible for enforcing NI 45-106. The OSC's responsibility for NI 45-106 means that it cannot delegate the review of whether DBRS's conduct in the matter meets the test of an approved credit rating from an approved credit rating organization applicable to the sale of commercial paper.

David Wilson has a direct conflict of interest in his capacity of Chairman of the OSC and his past position as officers of the Bank of Nova Scotia and/or Scotia Capital, which were directly involved in the vendor group for some or all of the 22 frozen Non Bank ABCP trusts.

The three Non Bank ABCP trusts below have specific disclosure for the involvement of Bank of Nova Scotia and/or Scotia Capital on initially distributed dates when David Wilson had executive positions at the Bank of Nova Scotia and/or Scotia Capital. Scotia

Capital may have other direct involvement, but the selling agreements between the sponsors for the 22 frozen Non Bank ABCP and the Canadian investment dealers are material contracts that have not been provided to the owners of the Non Bank ABCP.

STRUCTURED INVESTMENT TRUST III - October 31, 2003 (One of the named Non Bank ABCP trusts in the lawsuit against Canaccord by Canaccord clients owning Non Bank ABCP).

Issuing and Paying Agent: The Bank of Nova Scotia

PLANET TRUST - February 28, 2003

Distribution Agents: National Bank of Canada, CIBC World Markets Inc., HSBC Bank Canada, Laurentian Bank Securities Inc., Scotia Capital Inc., RBC Dominion Securities Inc.

STRUCTURED ASSET TRUST - October 31, 2005

Issuing and Paying Agent: The Bank of Nova Scotia

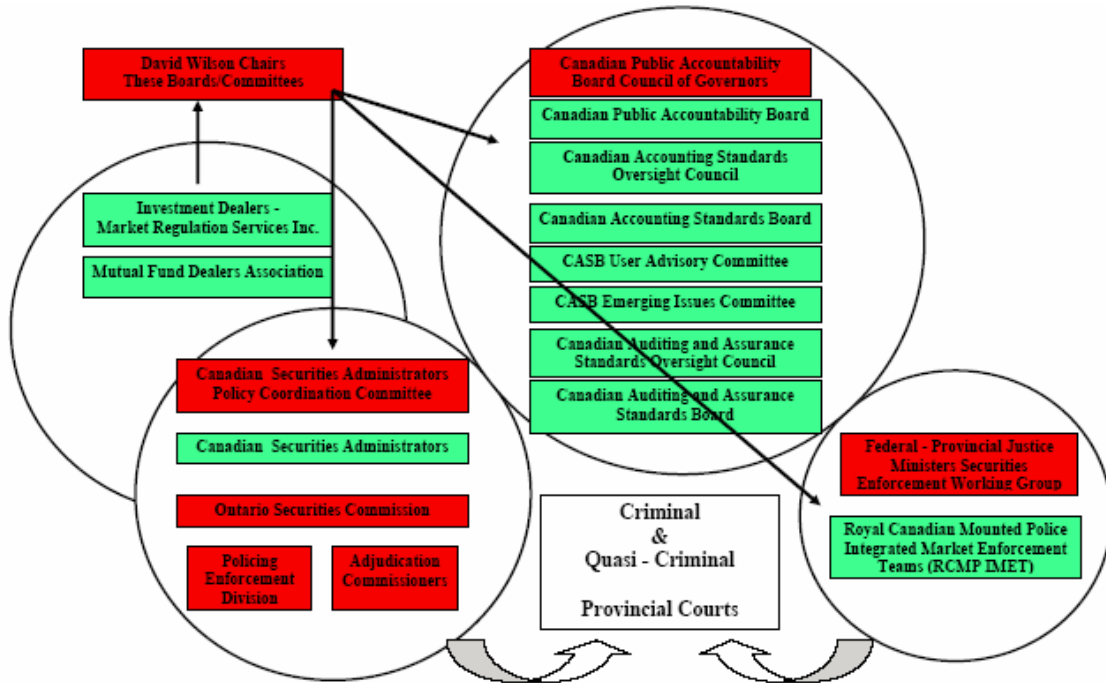
The Investment Dealers Association, a Self-Regulatory Organization, does not have the legislative authority to perform its delegated investor protection function in the public interest in Ontario and in all the other provinces and territories, except for Alberta. It does not have the legislative tools to compel witness testimony, to collect fines from people who leave the investment industry, to lay charges with jail penalties, or to protect the rights of the accused under the Federal Charter of Rights and Freedoms and under the Ontario Evidence Act and Ontario Statutory Powers Procedure Act. The Investment Dealers Association does not have proper civilian oversight in place to ensure that its enforcement activities are conducted thoroughly and with integrity. Recent BCSC, ASC and OSC audits of the IDA's enforcement activities show significant procedural weaknesses, but even these government organizations auditing the IDA have been found lacking in their own enforcement conduct (Toronto Star reports on December 1, 2007 "Ontario Enforcement Third World".)

Purdy Crawford, the Oslers lawyer chairing the Montreal Accord - Pan Canadian Committee process, was Chairman of the Nominating Committee, who recommended David Wilson for the OSC Chairman's job. So, it is not surprising that David Wilson is not intervening to ensure full transparency on the material contracts in the Non Bank ABCP or the restructured long term notes, even though there is an available new market offered by Perimeter Markets Inc. David Wilson said in his November 16, 2007 BNN interview that the information on the frozen Non Bank ABCP was too complex to give to the owners of the frozen paper.

As shown in Figure 12, as long as David Wilson is Chairman of the OSC, Chairman of the CSA Policy Co-ordination Committee, Chairman of the Public Accountability Board Council of Governors (where the OSFI Superintendent is a member) and Co-Chairman of the Federal-Provincial Justice Ministers Securities Enforcement Working Group, there will be no securities investigations (nor referral of criminal investigations to the RCMP) about the alleged misconduct associated with the Non Bank ABCP crisis.

Also, as long as David Brown is Chairman of the Task Force on Governance and Cultural Change at the RCMP and Nick LePan is Senior Expert Advisor to the RCMP Integrated Market Enforcement Team Unit, there will be no RCMP criminal investigation about the alleged misconduct associated with the Non Bank ABCP crisis.

Figure 12: Organization Structure for Securities Enforcement



Similarly, Jean St.-Gelais, Chairman of Quebec's l'Autorité des marchés financiers, appears to have been oblivious to the significant participation of Quebec registrants in defective Non Bank ABCP: Caisse de dépôt et placement du Québec, National Bank, Desjardins Bank Securities, Laurentian Bank Securities and Société Générale Securities.

Minister of Public Safety Stockwell Day and Minister of Finance James Flaherty need to come to terms with the potential for David Brown and Nick LePan in their current senior advisory roles with the RCMP to influence whether proper criminal investigations of alleged misconduct in the Non Bank ABCP market takes place or not. These men should be replaced by independent experts that have no conflicts of interest associated with the parties alleged to be responsible for the Non Bank ABCP crisis. Federal Government entities have disclosed ownership of at least \$690 million of Non Bank ABCP, while PSP Investments, manager of the Public Service Pension Plan, has not disclosed its Non Bank ABCP ownership notwithstanding its participation in the Montreal Accord Group (NAV Canada owns \$368 million, Canada Mortgage and Housing owns \$257 million, Canada Post owns \$65 million).

Furthermore, new Ontario Minister of Finance Dwight Duncan needs to be certain that David Wilson, Chairman of so many committees involved in decisions affecting investigations of the alleged Non Bank ABCP misconduct is not in a conflict of interest related to his previous role as C.E.O. of Scotia Capital Markets, and has no bias against the initiation of investigations on defective investment products sold by investment banks, such as most income trusts and Non Bank ABCP. The best way to be certain about the OSC - Non Bank ABCP situation is for Finance Minister Dwight Duncan to replace David Wilson, with a new OSC Chairman that is not a former investment banker and that has a record of achievement on investor protection issues.

At the very least, Ontario Finance Minister Dwight Duncan should ask the Auditor General of Ontario to examine the sale of Non Bank ABCP by investment dealers, aided by DBRS, who had alleged insider information that was material and not disclosed to the buyers. The Auditor General of Ontario should also examine how the various Ontario entities decided to purchase \$1.3 billion of the Non Bank ABCP, which is now frozen and of questionable value (Ontario Financing Authority owns \$720 million; Ontario Power Generation owns \$103 million, Ontario Teachers Pension Plan owns \$60 million, Toronto Hydro owns \$88 million, Hamilton City owns \$97 million and Greater Toronto Airport Authority owns \$249 million).

The House of Commons Finance Committee must hold hearings on the lessons learned from the Non Bank ABCP fiasco and the general malfunctioning of Canada's securities regulation and white collar crime enforcement system. The hoped for outcome of this hearing would be a new Federal Government securities law and a national securities commission. The existing investment industry SRO's and provincial securities commissions have failed to protect Canadians once again. Average Canadians can no longer afford to take more billions of dollar damages from Made-In-Canada defective investment products and white collar securities crime.

Canada's top priority, however, is to develop a properly functioning independent RCMP white collar crime police unit, that has the confidence of international police forces and collaborates with municipal and provincial police forces throughout Canada. The RCMP must discontinue its reliance on referrals for criminal investigations from the investment industry SRO's and the provincial securities commissions.

Diane Urquhart
Independent Analyst
Mississauga, Ontario
Telephone: (905) 822-7618
Cell: (416) 505-4832