The Ontario Securities Commission

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NOTICE OF CO-OPERATION AGREEMENT CONCERNING

INNOVATIVE FINTECH BUSINESSES WITH

THE FINANCIAL SUPERVISORY COMMISSION OF TAIWAN

June 11, 2020

The Ontario Securities Commission, together with the Québec Autorité des marchés financiers, British Columbia Securities Commission, the Alberta Securities Commission, the Financial and Consumer Affairs Authority of Saskatchewan, the Manitoba Securities Commission, the Financial and Consumer Services Commission (New Brunswick) and the Nova Scotia Securities Commission, have recently entered into a Co-operation Agreement ("the Agreement") with the Financial Supervisory Commission of Taiwan ("FSC") concerning co-operation and information sharing between authorities regarding their respective innovation functions. The Agreement provides a comprehensive framework for co-operation and referrals related to the innovation functions which were established through the CSA Regulatory Sandbox initiative and by the FSC.

The Agreement is subject to the approval of the Minister of Finance. The Agreement was delivered to the Minister of Finance on June 9, 2020.

Questions may be referred to:

Pat Chaukos
Director
Office of Economic Growth and Innovation
416-593-2373
pchaukos@osc.gov.on.ca

Yan Kiu Chan
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Global & Domestic Affairs
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Innovation Functions Co-operation Agreement

Between

The Financial Supervisory Commission, Taiwan

and

The Ontario Securities Commission	**The Autorité des marchés financiers (Québec)**
British Columbia Securities Commission	**The Alberta Securities Commission**
The Financial and Consumer Affairs Authority of Saskatchewan	**The Manitoba Securities Commission**
The Financial and Consumer Services Commission (New Brunswick)	**The Nova Scotia Securities Commission**

Contents

Innovation Functions Co-operation Agreement

1 Definitions

For the purposes of this Co-operation Agreement, unless the context requires otherwise:

- **"Authorisation"** means the process of licensing, registering, approving, authorising, granting exemptive relief, or otherwise bringing an entity under an Authority's regulatory ambit so that they are authorised to carry on business in providing a financial service or issuing a financial product in the relevant Authority's jurisdiction, and "Authorised" has a corresponding meaning;

- **"Authority"** means the Financial Supervisory Commission of Taiwan or a Canadian Authority (and, collectively, "the Authorities");

- **"Canadian Authority"** means a securities regulatory authority established in Canada under provincial or territorial statute, that is a signatory or has signed on to this Co-operation Agreement pursuant to Article 9 and is listed in Appendix A.;

- **"Criteria for Support"** means the criteria of a Referring Authority that an Innovator Business is required to meet before the Referring Authority refers the Innovator Business to a Receiving Authority;

- **"Innovator Business"** means an innovative financial business that has been offered support from an Authority through its Innovation Function, or would qualify for such support;

- **"Innovation Function"** means the dedicated function established by an Authority to support innovation in financial services in their respective markets;

- **"Receiving Authority"** means:

  (a) Where the Referring Authority is the Financial Supervisory Commission of Taiwan, any Canadian Authority to which a referral is made under the agreement, or

  (b) Where the Referring Authority is a Canadian Authority, the Financial Supervisory Commission of Taiwan;

- **"Referring Authority"** means the Authority that is referring an Innovator Business to the Receiving Authority; and

- **"Regulations"** means any securities acts, regulations, regulatory requirements or guidelines applicable in the jurisdiction of an Authority.

2 Introduction

2.1 The Authorities share a mutual desire to promote innovation in financial services in their respective markets. The Authorities have established Innovation Functions in order to do so. The Authorities believe that through co-operation with each other, they will be able to further the promotion of innovation in their respective markets.

2.2 On February 23, 2017, Canadian securities regulatory authorities launched the CSA Regulatory Sandbox, an initiative that supports innovative businesses across Canada. The Regulatory Sandbox helps in developing an in-depth understanding of new securities-related business models that use technology solutions.

2.3 On April 30, 2018, the Financial Supervisory Commission of Taiwan launched the FinTech Regulatory Sandbox, known as the FinTech innovation experimental mechanism, to help FinTech innovators to test and put their new ideas into practice and to accelerate the launch of innovative financial products or services in Taiwan.

<u>Support offered through the Innovation Functions</u>

2.4 The support offered by the Authorities to Innovator Businesses through their Innovation Functions may include:

2.4.1 A dedicated team and/or a dedicated contact for each Innovator Business;

2.4.2 Help for Innovator Businesses to understand the Regulations in the relevant Authority's jurisdiction, and how they apply to their business and them;

2.4.3 Assistance during the pre-Authorisation application phase to:

2.4.3.1 Discuss the Authorisation application process and any Regulations issues that the Innovator Business has identified; and

2.4.3.2 Ensure the Innovator Business understands the relevant Authority's Regulations and what it means for them.

2.4.4 Support during the Authorisation process, including the allocation of Authority's staff who are knowledgeable about financial innovation in their respective markets, to consider the application.

2.4.5 A dedicated contact person after an Innovator Business is Authorised.

3 Purpose

The purpose of this Co-operation Agreement is to provide a framework for co-operation and referrals between the Innovation Functions of the Financial Supervisory Commission of Taiwan and any Canadian Authority. The framework centres on a referral mechanism which will enable the Authorities to refer Innovator Businesses to their respective Innovation Functions. It also sets out how the Authorities plan to share and use information on innovation in their respective markets.

4 Principles

4.1 The Authorities intend to provide the fullest possible mutual assistance to one another within the terms of this Co-operation Agreement. This Co-operation Agreement shall be subject to the domestic laws and Regulations of each Authority and shall not modify or supersede any applicable laws and Regulations in force in, or applicable to, any such Authority's respective jurisdiction. This Co-operation Agreement sets forth a statement of intent and accordingly does not create any enforceable rights, and is not legally binding. This Co-operation Agreement is intended to complement, but not affect or alter the terms and conditions of any obligations under any other multilateral or bilateral arrangements concluded between the Authorities or between the Authorities and third parties.

4.2 This Co-operation Agreement is a bilateral arrangement between each Canadian Authority and the Financial Supervisory Commission of Taiwan and should not be considered a bilateral agreement between any Canadian Authority.

5 Scope

Referral mechanism

5.1 The Authorities, through their Innovation Functions, will refer to each other Innovator Businesses that would like to operate in the other's jurisdiction.

5.2 Referrals will be made in writing, and shall include information demonstrating that the Innovator Business seeking to operate in the Receiving Authority's jurisdiction meets, or would meet, the Referring Authority's Criteria for Support.

5.3 The Criteria for Support should include, but shall not be limited to, the following:

5.3.1 The Innovator Business shall offer innovative financial products or services that benefit the consumer, investor and/or industry; and

5.3.2 The Innovator Business shall demonstrate that they have conducted sufficient background research on the Receiving Authority's Regulations as they might apply to it.

5.4 Following referral, and provided the Innovator Business meets the Criteria for Support, the Receiving Authority's Innovation Function may offer support to the Innovator Business in accordance with paragraph 2.4 above.

5.5 The Referring Authority acknowledges that when a Receiving Authority provides assistance to an Innovator Business, the Receiving Authority is not expressing an opinion about whether an Innovator Business will ultimately meet the requirements for Authorisation in its jurisdiction.

Information sharing

5.6 The Authorities undertake, subject to applicable domestic laws and Regulations, to:

5.6.1 share information about innovations in financial services in their respective markets, where appropriate. This may include, but is not limited to:

5.6.1.1 Emerging trends and developments (including use of new technologies); and

5.6.1.2 Regulatory issues pertaining to innovation in financial services;

5.6.2 share further information on an Innovator Business which has been referred to a Receiving Authority for support through its Innovation Function by a Referring Authority (including the nature of the support to the Innovator Business by the Referring Authority); and

5.6.3 notify each other of any material changes to the other Authority's Criteria for Support.

6 Confidentiality & Permissible Uses

6.1 Any information disclosed by the Financial Supervisory Commission of Taiwan to a Canadian Authority or by a Canadian Authority to the Financial Supervisory Commission of Taiwan under paragraphs 5.1 to 5.6 should be treated by the other Authority as confidential information.

6.2 Information about an Innovator Business included in a referral under paragraphs 5.1 to 5.4 and shared under paragraph 5.6 should be sent to a Receiving Authority only if the Innovator Business consents to that disclosure in writing and provides such consent to both the Financial Supervisory Commission of Taiwan and to the Canadian Authority. Where the Receiving Authority is a Canadian Authority, the said consent should also include consent for the Receiving Authority to share such information with any other Canadian Authority, which may include sharing through the CSA Regulatory Sandbox, provided that such sharing is done only for the same purposes pursuant to which the Referring Authority shared the information with the Receiving Authority. Such consent can be withdrawn by the Innovator Business at any time.

6.3 A Receiving Authority should use information disclosed to it by a Referring Authority pursuant to this Co-operation Agreement only for the purpose for which the information was disclosed, unless the Innovator Business and the Referring Authority consents to other uses. For greater clarity, a Receiving Authority may use information about a referred Innovator Business for the purpose of providing support to the referred Innovator Business through the Receiving Authority's Innovation Function and ensuring compliance with the domestic laws and Regulations of the Receiving Authority's jurisdiction.

6.4 If any Canadian Authority is required to disclose any information provided to it by the Financial Supervisory Commission of Taiwan or if the Financial Supervisory Commission of Taiwan is required to disclose any information provided to it by any Canadian Authority pursuant to a requirement of law, such Authority should notify the other Authority prior to complying with such a requirement and should assert all appropriate legal exemptions or privileges with respect to such information as may be available.

7 Term

7.1 This Co-operation Agreement takes effect from the date of execution for all parties, or on the date determined in accordance with each Authority’s applicable legislation.

7.2 Each of the Financial Supervisory Commission of Taiwan or any Canadian Authority may terminate this Agreement by the giving of at least 30 days’ written notice of termination to the other Authorities. If this Co-operation Agreement is terminated by one or more than one Canadian Authority (“**Terminating Authorities**”), it shall cease to have effect as between the Financial Supervisory Commission of Taiwan and such Terminating Authorities, but will continue to have effect as between the Financial Supervisory Commission of Taiwan and any other remaining Canadian Authority.

7.3 In the event of the termination of this Co-operation Agreement, information obtained under this Co-operation Agreement will continue to be treated in the manner set out under paragraph 6.

8 Amendment

8.1 The Authorities will review the operation of this Co-operation Agreement and update its terms as required. The Authorities acknowledge that review may be required if there is a material change to the support offered by a Receiving Authority's Innovation Function to Innovator Businesses referred by a Referring Authority pursuant to paragraph 5.1 or to the Criteria for Support.

8.2 This Co-operation Agreement may be amended if Authorities agree in writing to do so.

9 Additional Parties to the Agreement

Any other Canadian securities regulatory authority may become a party to this Co-operation Agreement by executing a counterpart hereof together with the Financial Supervisory Commission of Taiwan and providing notice to the other signatories which are parties to this Co-operation Agreement, pursuant to which their contact details shall be added to Appendix A.

Executed by the Authorities:

This Co-operation Agreement will be effective from the date of its signing by the Authorities or on the date determined in accordance with each Authority's applicable legislation.

For the Financial Supervisory Commission, Taiwan

"Tien-Mu Huang"

Tien-Mu Huang
Chairperson

June 05, 2020

Date

For the Ontario Securities Commission

"Grant Vingoe"

Grant Vingoe
Acting Chair and CEO

June 05, 2020

Date

For the Autorité des marchés financiers (Québec)

"Louis Morisset"

Louis Morisset
President and CEO

"*June 08, 2020"*

Date

For the British Columbia Securities Commission

"Brenda Leong"

Brenda Leong
Chair and CEO

"June 02, 2020"

Date

For the Alberta Securities Commission

"Stan Magidson"

Stan Magidson
Chair and CEO

"June 03, 2020"

Date

For the Financial and Consumer Affairs Authority of Saskatchewan

"Roger Sobotkiewicz"

Roger Sobotkiewicz
Chair and CEO

"June 05, 2020"

Date

For the Manitoba Securities Commission

"David Cheop"

David Cheop
Chair and CEO

"June 05, 2020"

Date

For the Financial and Consumer Services Commission (New Brunswick)

"Kevin Hoyt"

Kevin Hoyt
CEO

"June 05, 2020"

Date

For the Nova Scotia Securities Commission

"Paul Radford"

Paul Radford
Chair

"June 05, 2020"

Date

Appendix A: Designated Innovation Functions Contact Persons

Financial Supervisory Commission, Taiwan
Financial Technology Development and Innovation Center
18F., No.7, Sec. 2, Xianmin Blvd., Banqiao Dist., New Taipei City 22041
Taiwan
Email: fintechcenter@fsc.gov.tw

Autorité des marchés financiers (Québec)
Director, FinTech and Innovation
800, Square-Victoria, 22e étage
Montréal (Québec) H4Z 1G3
Email: fintech@lautorite.qc.ca
With a copy of Notice of termination (paragraph 7.2) to
Corporate Secretary and Executive Director, Legal Affairs
Email: secretariat@lautorite.qc.ca

Alberta Securities Commission
Denise Weeres
Director, New Economy
Alberta Securities Commission
Suite 600, 250-5th Street SW, Calgary, AB, T2P 0R4
Phone: 403.297.2930
Fax: 403.297.2082
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Manitoba Securities Commission
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Director, General Counsel
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Winnipeg (Manitoba) R3C 4K5
Tel.: 204 945-2561
Fax: 204 945-0330
Toll free: 1 800 655-5244
Email: Chris.Besko@gov.mb.ca

Nova Scotia Securities Commission
Executive Director
Suite 400, Duke Tower
5251 Duke Street
Halifax (NS) B3J 1P3
Tel.: 902 424-7768
Email: nsscexemptions@novascotia.ca

Ontario Securities Commission
OSC LaunchPad Co-operation Requests
20 Queen Street West, 20th Floor
Toronto ON, M5H 3S8
Email: osclaunchpad@osc.gov.on.ca
Telephone: (416) 596-4266

British Columbia Securities Commission
BCSC Tech Team
701 West Georgia Street
P.O. Bx 10142 Pacific Centre
Vancouver (British Columbia) V7Y 1L2
Tel: 604 899-6854
Email: TechTeam@bcsc.bc.ca
Copy to: COMMSEC@bcsc.bc.ca

Financial and Consumer Affairs Authority of Saskatchewan
Sonne Udemgba
Deputy Director
601-1919 Saskatchewan Drive
Regina (SK) S4P 4H2
Office: 306 787-5879
Fax: 306 787-5899
Email: sonne.udemgba@gov.sk.ca

Financial & Consumer Services Commission (New Brunswick)
Deputy Director, Policy, Securities Division
85 Charlotte Street, Suite 300
Saint John, NB
E2L 2J2
Email: Registration-inscription@fcnb.ca
Tel.: 506 658-3060

1.3 Notices of Hearing with Related Statements of Allegations

1.3.1 Stanislaw A. Pasyk – ss. 127(1), 127(10)

FILE NO.: 2020-17

IN THE MATTER OF
STANISLAW A. PASYK

NOTICE OF HEARING
Subsections 127(1) and 127(10) of
the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Inter-jurisdictional Enforcement Proceeding

HEARING DATE AND TIME: In writing

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Commission to make the order requested in the Statement of Allegations filed by Staff of the Commission on June 8, 2020.

Take notice that Staff of the Commission has elected to proceed by way of the expedited procedure for a written hearing provided for by Rule 11(3) of the Commission's *Rules of Procedure*.

Staff must serve on you this Notice of Hearing, the Statement of Allegations, Staff's hearing brief containing all documents Staff relies on, and Staff's written submissions.

You have **21 days** from the date Staff serves these documents on you to file a request for an oral hearing, if you do not want to follow the expedited procedure for a written hearing.

Otherwise, you have **28 days** from the date Staff served these documents on you to file your hearing brief and written submissions.

REPRESENTATION

Any party to the proceeding may be represented by a representative at the hearing.

FAILURE TO PARTICIPATE

IF A PARTY DOES NOT PARTICIPATE, THE HEARING MAY PROCEED IN THE PARTY'S ABSENCE AND THE PARTY WILL NOT BE ENTITLED TO ANY FURTHER NOTICE IN THE PROCEEDING.

FRENCH HEARING

This Notice of Hearing is also available in French on request of a party. Participation may be in either French or English. Participants must notify the Secretary's Office in writing as soon as possible if the participant is requesting a proceeding be conducted wholly or partly in French.

AVIS EN FRANÇAIS

L'avis d'audience est disponible en français sur demande d'une partie, que la participation à l'audience peut se faire en français ou en anglais et que les participants doivent aviser le Bureau du secrétaire par écrit dès que possible si le participant demande qu'une instance soit tenue entièrement ou partiellement en français.

Dated at Toronto this 9th day of June, 2020

"Grace Knakowski"
Secretary to the Commission

For more information

Please visit www.osc.gov.on.ca or contact the Registrar at registrar@osc.gov.on.ca.

IN THE MATTER OF
STANISLAW A. PASYK

STATEMENT OF ALLEGATIONS
(Subsections 127(1) and 127(10) of
the *Securities Act*, RSO 1990, c S.5)

A. OVERVIEW

1. Staff of the Enforcement Branch (**Staff**) of the Ontario Securities Commission (the **Commission**) elect to proceed using the expedited procedure for inter-jurisdictional proceedings as set out in Rule 11(3) of the Commission's *Rules of Procedure*.

B. FACTS

2. Staff make the following allegations of fact:

(i) Overview

3. On February 21, 2019, Pasyk pled guilty before the Honourable Justice Harris of the Ontario Court of Justice (the **OCJ**) to fraud over $5000 contrary to section 380.1 of the Canadian Criminal Code (**Criminal Code**).

4. A sentencing hearing was subsequently held before Justice Harris who delivered his Reasons for Sentence on November 14, 2019 (the **Reasons for Sentence**), sentencing Pasyk to a conditional sentence of two years less a day, to be served in the community, followed by probation for three years.

5. The offences for which Pasyk was charged arose from transactions, business, or a course of conduct related to securities.

6. Staff is seeking an inter-jurisdictional enforcement order reciprocating Pasyk's conviction, pursuant to paragraph 1 of subsection 127(10) of the Act.

7. The offences for which Pasyk was charged took place between March 8, 2011 and July 3, 2017 (the **Material Time**). The Material Time was changed to March 8, 2011 to November 19, 2012 on the Information, at the time of sentencing, to conclude on November 19, 2012 so that section 742.1 of the Criminal Code would not preclude a conditional sentence of imprisonment from consideration. This change was made on the condition that the Respondent makes full restitution to his victims, which the Respondent has met.

(ii) The Respondent

8. Pasyk has pled guilty to the facts as set out below.

9. During the Material Time, Pasyk was the sole owner and operating mind of a diamond exploration company known as A4 Diamonds Inc. (**A4 Diamonds**). A4 Diamonds was registered with the Ontario government and Corporations Canada as a privately owned non-distributing corporation, with more than 50 shareholders. The head office was in Pasyk's home in Burlington, Ontario. A4 Diamonds held 14 mining claims with the Ministry of Northern Mines and Development that are located in the Kirkland Lake area. A4 Diamonds has never been registered with the Commission in any capacity.

10. During the Material Time, Pasyk and/or four recruiting agents that referred victims to him, approached at least 66 Ontario residents and convinced them to invest in A4 Diamonds. Over $1 million has been identified as deposited into A4 Diamonds' bank account.

11. Pasyk made the following misleading or false statements to investors during the Material Time:

    (a) A4 Diamonds was a diamond mining company in Ontario and it owned mining properties in the Kirkland Lake, Ontario, area;

    (b) a minimum $5,000 investment with A4 Diamonds would result in substantial profits and investors would receive a return of ten times their investment back within six months;

    (c) investors would receive a return within one year on their money;

(d) A4 Diamonds was going to mine the claims;

(e) A4 Diamonds would soon be listed on the stock exchange;

(f) A4 Diamonds was going to be sold to a Dubai company at a value that promises exorbitant returns for investors;

(g) there were rich veins of diamonds to be mined from A4 Diamonds' claims;

(h) A4 Diamonds was mining a diamond mine;

(i) there were precious stones in the mine;

(j) the accused had never owned a diamond mine company before A4 Diamonds;

(k) a Dubai company has made a down payment for the purchase of A4 Diamonds;

(l) A4 Diamonds' mine is beside a diamond mine owned by the diamond mining company De Beers;

(m) investment funds were to be used for the expense of drilling core samples to comply with the requirements of the Ontario Government;

(n) the accused himself was not going to take any of the money for himself;

(o) A4 Diamonds was drilling core samples and expected to be done within six months to a year;

(p) an initial public offering of A4 Diamonds was expected to occur in two to three years and the company may be listed on the Toronto, London, or Dubai Stock Exchange;

(q) the investment funds would be used for exploration and mining;

(r) through news update letters, the accused had stated A4 Diamonds owns a contiguous block of very select mining claims near Kirkland Lake, Ontario, totalling about 2,000 acres; and

(s) the accused's company, Canadian Mining Resources Inc., is his holding company for A4 Diamonds.

12. The accused held three seminars for prospective investors using PowerPoint presentations that included false and deceiving content (the **Presentations**). The Presentations were also sent to investors as an email attachment by Pasyk. There were three versions of the Presentations that were shown to new investors throughout the Material Time. The Presentations were identical to each other except for the number of mining claims that were said to be held by A4 Diamonds.

13. The Presentations described A4 Diamonds' activities within the mining industry and officers or consultants to the company. These statements were designed to enhance the company's appearance of expertise and experience. The statements were misleading because they significantly overstated the level of involvement or level of expertise of these officers and/or consultants. The Presentations also overstated the amount and quality of diamonds that were expected to be found within the A4 Diamonds' claims. There was no deposit from any Dubai company or any revenue generated from A4 Diamonds' mining activities.

14. Analysis of the funds in Pasyk's and A4 Diamonds' bank accounts revealed that only $58,198 of the $1,035,150 collected from investors was used for A4 Diamonds' business purposes. Over half of the funds raised from investors, $636,695, was transferred into the Respondent's personal account which he shares with his wife.

15. The Respondent admits that he made false and misleading statements to investors in order to finance his lifestyle, pay the mortgage on his home, and fund other unrelated businesses.

Pasyk's Sentence

16. A sentencing hearing was held before Justice Harris on November 14, 2019. It was confirmed that Pasyk had made full restitutions to all investors, with an intention to repay any investor who continues to come forward even after he is sentenced.

17. Pasyk was sentenced to a conditional sentence of two years less a day, to be served in the community, followed by probation for three years for one count of fraud listed as count one on the Information. In addition, pursuant to s. 380.2 of the Criminal Code, Pasyk is prohibited for the rest of his life from seeking, obtaining, or continuing any employment,

or becoming or being a volunteer in any capacity that involves having authority over the real property, money or valuable security of another person, other than his wife.

C. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

18. Pursuant to paragraph 1 of subsection 127(10) of the Act, Pasyk's conviction for offences arising from transactions, business or a course of conduct related to securities or derivatives may form the basis for an order in the public interest made under subsection 127(1) of the Act.

19. Staff allege that it is in the public interest to make an order against Pasyk.

20. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.

D. ORDER SOUGHT

21. Staff request that the Commission make the following inter-jurisdictional enforcement order, pursuant to paragraph 1 of subsection 127(10) of the Ontario Securities Act, RSO 1990 c S.5 (the Act):

(a) against Pasyk that:

i. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Pasyk shall cease permanently, except that this order does not preclude Pasyk from trading in securities or derivatives in a registered retirement savings plan, registered education savings plan, any registered retirement income funds, and/or tax-free savings account (as defined in the Income Tax Act (Canada)) in which he has a beneficial ownership, provided that he carries out any permitted trading through a registered dealer (which dealer must be given a copy of this Order) and through accounts opened in his name or his spouse's name only, or from disposing to members of his immediate family the securities he currently owns of his spouse's medical professional corporation at which he is employed;

ii. pursuant to paragraph 2.1 of subsection 127(1) of the Act, acquisition of any securities by Pasyk shall be prohibited permanently, except that this order does not preclude Pasyk from purchasing securities or derivatives in a registered retirement savings plan, registered education savings plan, any registered retirement income funds, and/or tax-free savings account (as defined in the Income Tax Act (Canada)) in which he has a beneficial ownership, provided that he carries out any permitted acquisitions through a registered dealer (which dealer must be given a copy of this Order) and through accounts opened in his name or his spouse's name only;

iii. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Pasyk permanently;

iv. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Pasyk resign any positions that he holds as a director or officer of any issuer or registrant;

v. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Pasyk be prohibited permanently from becoming or acting as a director or officer of any issuer or registrant;

vi. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Pasyk be prohibited permanently from becoming or acting as a registrant or promoter; and

(b) such other order or orders as the Commission considers appropriate.

DATED this 8th day of June, 2020.

Vivian Lee
Litigation Counsel
Enforcement Branch
LSO #74659N

Tel: (416) 597-7243
Email: vlee@osc.gov.on.ca

1.4 Notices from the Office of the Secretary

1.4.1 David Randall Miller

FOR IMMEDIATE RELEASE
June 3, 2020

DAVID RANDALL MILLER,
File No. 2019-48

TORONTO – The Commission issued its Reasons for Decision in the above named matter.

A copy of the Reasons for Decision dated June 2, 2020 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

1.4.2 Majd Kitmitto et al.

FOR IMMEDIATE RELEASE
June 3, 2020

MAJD KITMITTO,
STEVEN VANNATTA,
CHRISTOPHER CANDUSSO,
CLAUDIO CANDUSSO,
DONALD ALEXANDER (SANDY) GOSS,
JOHN FIELDING, and
FRANK FAKHRY,
File No. 2018-70

TORONTO – The Commission issued its Reasons and Decision on a Motion in the above named matter.

A copy of the Reasons and Decision on a Motion dated June 2, 2020 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

1.4.3 VRK Forex & Investments Inc. and Radhakrishna Namburi

FOR IMMEDIATE RELEASE
June 5, 2020

VRK FOREX & INVESTMENTS INC. and
RADHAKRISHNA NAMBURI,
File No. 2019-40

TORONTO – The Commission issued an Order in the above named matter.

A copy of the Order dated June 5, 2020 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

1.4.4 Paul Se Hui Oei and Canadian Manu Immigration & Financial Services Inc.

FOR IMMEDIATE RELEASE
June 5, 2020

PAUL SE HUI OEI AND
CANADIAN MANU IMMIGRATION &
FINANCIAL SERVICES INC.,
File No. 2020-1

TORONTO – The Commission issued its Reasons and Decision and an Order pursuant to Subsections 127(1) and 127(10) of the *Securities Act* in the above named matter.

A copy of the Reasons and Decision and the Order dated June 3, 2020 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

1-877-785-1555 (Toll Free)
inquiries@osc.gov.on.ca

1.4.5 Paramount Equity Financial Corporation et al.

FOR IMMEDIATE RELEASE
June 9, 2020

PARAMOUNT EQUITY FINANCIAL CORPORATION,
SILVERFERN SECURED MORTGAGE FUND,
SILVERFERN SECURED MORTGAGE LIMITED PARTNERSHIP,
GTA PRIVATE CAPITAL INCOME FUND,
GTA PRIVATE CAPITAL INCOME LIMITED PARTNERSHIP,
SILVERFERN GP INC.,
TRILOGY MORTGAGE GROUP INC.,
MARC RUTTENBERG,
RONALD BRADLEY BURDON and
MATTHEW LAVERTY,
File No. 2019-12

TORONTO – The Commission issued an Order in the above named matter.

A copy of the Order dated June 8, 2020 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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1.4.6 Stanislaw A. Pasyk

FOR IMMEDIATE RELEASE
June 9, 2020

STANISLAW A. PASYK,
File No. 2020-17

TORONTO – The Office of the Secretary issued a Notice of Hearing pursuant to Subsections 127(1) and 127(10) of the *Securities Act*.

A copy of the Notice of Hearing dated June 9, 2020 and Statement of Allegations dated June 8, 2020 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Hamilton Capital Partners Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Approval of investment fund merger – approval required because merger does not meet the criteria for pre-approved reorganizations and transfers – a reasonable person may not consider the Funds to have substantially similar fundamental investment objectives – merger will not be a "qualifying exchange" or a tax-deferred transaction under the Income Tax Act – merger to otherwise comply with pre-approval criteria, including securityholder vote and IRC approval – securityholders provided with timely and adequate disclosure regarding the merger – National Instrument 81-102 Investment Funds.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 5.5(1)(b), 5.6(1), 19.1.

May 29, 2020

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the "Jurisdiction")

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS
IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
HAMILTON CAPITAL PARTNERS INC.
("Hamilton ETFs" or the "Filer")

AND

HAMILTON GLOBAL BANK ETF,
HAMILTON GLOBAL FINANCIALS YIELD ETF,
HAMILTON U.S. MID-CAP FINANCIALS ETF (USD),
HAMILTON CANADIAN BANK VARIABLE-WEIGHT ETF,
HAMILTON AUSTRALIAN FINANCIALS YIELD ETF
(the "Terminating Funds")

AND

HAMILTON GLOBAL FINANCIALS ETF,
HAMILTON U.S. MID/SMALL-CAP FINANCIALS ETF,
HAMILTON CANADIAN BANK MEAN REVERSION INDEX ETF,
HAMILTON AUSTRALIAN BANK EQUAL-WEIGHT INDEX ETF
(the "Continuing Funds")

DECISION

Background

The principal regulator in the Jurisdiction (the "**Decision Maker**") has received an application from the Filer on behalf of the Terminating Funds and the Continuing Funds (each a "**Fund**" and, collectively, the "**Funds**") for a decision under the securities legislation of the Jurisdiction of the Decision Maker (the "**Legislation**") approving the proposed merger (each, a "**Merger**" and collectively, the "**Mergers**") of each Terminating Fund into the applicable Continuing Fund pursuant to paragraph 5.5(1)(b) of National Instrument 81-102 *Investment Funds* ("**NI 81-102**") as outlined on Schedule A hereto (the "**Approval Sought**").

Under National Policy 11-203 - *Process for Exemptive Relief Applications in Multiple Jurisdictions* ("**NP 11-203**"):

(a) the Ontario Securities Commission is the principal regulator for this application; and

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 - *Passport System* ("**MI 11-102**") is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Northwest Territories, Nunavut and Yukon (together with Ontario, the "**Jurisdictions**").

Interpretation

Terms defined in National Instrument 14-101 - *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined herein.

Representations

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

The Filer

1. Hamilton ETFs is a corporation organized under the laws of Ontario with a head office in Toronto, Ontario.

2. Hamilton ETFs is the manager, trustee and portfolio manager of the Funds.

3. Hamilton ETFs is registered as: (i) an investment fund manager in Ontario, Quebec and Newfoundland & Labrador; (ii) an exempt market dealer in Ontario; and (iii) a portfolio manager in Ontario.

4. Hamilton ETFs is not in default of any of the requirements of the securities legislation of any of the provinces and territories of Canada.

The Funds

5. Each Terminating Fund is an existing, exchange-traded, open-ended mutual fund trust, established under the laws of Ontario by a declaration of trust (the "**Declaration of Trust**") and each are governed by the provisions of NI 81-102.

6. Units of the Terminating Funds are currently qualified for sale in each of the provinces and territories of Canada pursuant to a prospectus dated August 7, 2019, as amended by Amendment No. 1 dated April 29, 2020, and related ETF Facts (collectively, the "**Terminating Fund Offering Documents**").

7. Units of the Terminating Funds are also currently listed and traded on the Toronto Stock Exchange ("**TSX**").

8. The Terminating Funds are reporting issuers as defined under the applicable securities legislation of each province and territory of Canada and are not in default of any of the requirements of the securities legislation of any of the provinces and territories of Canada.

9. Each Continuing Fund is a newly established exchange-traded, open-ended mutual fund trust, established under the laws of Ontario by the Declaration of Trust and each is governed by the provisions of NI 81-102.

10. Securities of the Continuing Funds are qualified for sale in each of the provinces and territories of Canada pursuant to a prospectus and related ETF Facts dated May 11, 2020 (together the "**Continuing Fund Offering Documents**").

11. The Continuing Funds are reporting issuers as defined under the applicable securities legislation of each province and territory of Canada and are not in default of any of the requirements of the securities legislation of any of the provinces and territories of Canada.

12. The Filer, on behalf of the Continuing Funds, has also applied to list the units of the Continuing Funds on the TSX. The TSX has conditionally approved the listing of the units of the Continuing Funds. Listing is subject to the Continuing Funds fulfilling all of the original listing requirements of the TSX.

13. Other than under circumstances in which the securities regulatory authority or securities regulator of a province or territory of Canada has expressly exempted, or will exempt, a Fund therefrom, each of the Funds follow, or will follow, the standard investment restrictions and practices established by NI 81-102.

14. The net asset value for each Fund is, or will be, calculated on a daily basis at the end of each day the TSX, is open for trading in accordance with the Fund's valuation policy and as described in the Fund's offering documents.

Reasons for the Approval Sought

15. The Filer has concluded that regulatory approval for the Mergers is required under subsection 5.5(1)(b) of NI 81-102, and pre-approval for the Mergers under section 5.6(1) is unavailable, because:

    (a) the fundamental investment objectives of the Continuing Funds may not be considered to be "substantially similar" by a reasonable person to the investment objectives of their corresponding Terminating Funds; and

    (b) each of the Mergers will not be completed as a "qualifying exchange" or other tax deferred transaction under the *Income Tax Act* (Canada) (the "**Tax Act**").

16. Except as noted above, each of the other conditions for pre-approval under subsection 5.6(1) of NI 81-102 is, or will be, met in respect of each Merger.

The Proposed Mergers

17. Subject to receipt of all necessary regulatory approvals and the outcome of the vote of unitholders of each Terminating Fund, each Merger (as described on Schedule A) is anticipated to be effective on or about June 26, 2020 (each an "**Effective Date**").

18. Each Merger will be effected on a taxable basis.

19. Prior to the Mergers, as required, each Terminating Fund will sell any securities in its portfolio that do not meet the investment objective and investment strategies of the applicable Continuing Fund. As a result, the Terminating Fund may temporarily hold cash or money market instruments and may not be fully invested in accordance with its investment objective for a brief period of time prior to the Merger being effected. Consequently, the assets of each Terminating Fund to be acquired by the applicable Continuing Fund to effect each Merger are currently or will, on the Effective Date, be acceptable to the portfolio manager of the applicable Continuing Fund and are, or will be, consistent with the investment objectives of the applicable Continuing Fund.

20. Hamilton ETFs will pay the costs associated with the sale of securities in a Terminating Fund's portfolio that do not meet the investment objective and investment strategies of the applicable Continuing Fund, including brokerage commissions.

21. Unitholders of each Terminating Fund are required to, and will be asked to, approve their Merger. The Filer will convene the Meetings (as defined below) in order to seek the approval of unitholders of the Terminating Funds to complete the Mergers.

22. As each Continuing Fund is newly established, aside from units held by the Filer in respect of seed capital, the Continuing Funds will not have any unitholders prior to the Mergers being implemented.

23. The Filer will pay for the costs of the Mergers. These costs consist mainly of brokerage charges associated with the merger-related trades that occur both before and after the Effective Date and legal, proxy solicitation, printing, mailing and regulatory fees.

24. No sales charges will be payable in connection with the acquisition by a Continuing Fund of the investment portfolio of the corresponding Terminating Fund.

25. No fees or sales charges will be payable by unitholders of the Funds in connection with the Mergers.

26. As units of each Terminating Fund are listed on the TSX, unitholders generally do not purchase, switch or redeem units of a Terminating Fund directly through the Filer. Rather, units of the Terminating Funds are generally traded on the

secondary market on the TSX. Unitholders of the Terminating Funds will therefore be able to trade their units on the TSX until the close of business on the De-Listing Date (as defined below).

Unitholder Disclosure

27. Press releases and a material change report were issued and filed on SEDAR on April 28, 2020 with respect to the proposed Mergers in accordance with applicable securities laws. The Terminating Fund Offering Documents were amended to include disclosure with respect to the Mergers in accordance with applicable securities law. The Continuing Fund Offering Documents also disclosed the proposed Mergers with the Terminating Funds, including the anticipated effective date of each Merger.

28. Pursuant to National Instrument 81-107 - *Independent Review Committee for Investment Funds*, the independent review committee of the Funds (the "**IRC**") has reviewed the proposed Mergers as a potential "conflict of interest" matter and the process to be followed in connection with each such Merger. After such review, the IRC has determined that the Mergers, if implemented, would achieve a fair and reasonable result for each Fund. The determination of the IRC was disclosed in the Circular (as defined below).

29. To obtain unitholder approval of the Terminating Funds for the Mergers, a notice of meeting, a management information circular (the "**Circular**") and a form of proxy in connection with the special meetings of unitholders of the Terminating Funds (collectively, the "**Meeting Materials**") to be held virtually on June 17, 2020 (the "**Meetings**" and each a "**Meeting**") were mailed to unitholders of the Terminating Funds of record as of May 18, 2020 and filed on SEDAR on May 27, 2020 in accordance with applicable securities law requirements. The Meeting Materials disclosed that unitholders of the Terminating Funds may vote to approve their Merger by proxy until 11:59 p.m. on June 17, 2020.

30. The Circular provides a comparison of the fundamental investment objectives, fee structures, other material differences between the Funds, as well as the tax consequences of the Mergers. As part of the Meeting Materials, unitholders of a Terminating Fund were also provided with the ETF Facts of the corresponding Continuing Fund.

31. The Circular also disclosed that unitholders of the Terminating Funds can obtain the Continuing Fund Offering Documents from the Filer upon request or on SEDAR at www.sedar.com. Accordingly, investors of the Terminating Funds will have an opportunity to consider such information prior to voting on the Mergers.

Merger Steps

32. Each Merger will be structured substantially as follows:

    (a) The board of directors of the Filer will approve the Merger.

    (b) Pursuant to subsection 5.1(f) of NI 81-102, unitholders of a Terminating Fund will be asked to approve its Merger at its Meeting.

    (c) The Declaration of Trust will be amended to permit such actions as are necessary to complete the Merger.

    (d) Prior to the Merger, as required, the Terminating Fund will sell any securities in its portfolio that do not meet the investment objective and investment strategies of the applicable Continuing Fund. As a result, the Terminating Fund may temporarily hold cash or money market instruments and may not be fully invested in accordance with its investment objective for a brief period of time prior to the Merger being effected.

    (e) The value of the Terminating Fund's investment portfolio and other assets will be determined at the close of business on the Effective Date in accordance with the Declaration of Trust.

    (f) As required, a Terminating Fund will declare, pay and automatically reinvest a distribution to its unitholders of net realized capital gains and net income, if any, to ensure that it will not be subject to tax for its current tax year.

    (g) Units of the Terminating Fund will be delisted from the TSX on or prior to the Effective Date (the "**De-Listing Date**"). The de-listing of the Terminating Fund will be subject to the approval of the TSX and will be made in accordance with any conditions of such approval. Unitholders of the Terminating Fund will not be able to trade their units on the TSX after the close of business on the De-Listing Date.

    (h) The Terminating Fund's assets and liabilities will be transferred to its respective Continuing Fund. In return, the Continuing Fund will issue to the Terminating Fund securities of the Continuing Fund having an aggregate net asset value equal to the value of the assets transferred to the Continuing Fund.

(i) Immediately thereafter, securities of the Continuing Fund received by the Terminating Fund will be distributed to unitholders of the Terminating Fund in exchange for their securities in the Terminating Fund on a dollar-for-dollar and class-by-class basis. Each Terminating Fund and each Continuing Fund only have, or will have, Class E - ETF Units outstanding. Therefore, unitholders of each Terminating Fund will receive Class E - ETF Units of their corresponding Continuing Fund.

(j) The Terminating Fund will be wound-up as soon as practicable and, in any case, within 30 days following the Merger.

Benefits of the Mergers

33. The Filer believes that the Mergers will be beneficial to unitholders of the Funds for the following reasons:

(a) The management fees of each Continuing Fund will be lower than those of the corresponding Terminating Fund. The Mergers therefore have the potential to lower costs for unitholders.

(b) In addition, with certain Mergers the operating costs and expenses of the Continuing Fund will be spread over a greater pool of assets when certain Terminating Funds merge into their Continuing Fund, potentially resulting in a lower management expense ratio for the Continuing Fund than may occur otherwise.

(c) Although the investment objectives of a Terminating Fund may not be substantially similar to its corresponding Continuing Fund, Hamilton ETFs submits that each Terminating Fund has a similar investment mandate as its corresponding Continuing Fund. As a result, certain Mergers will contribute towards reducing duplication and redundancy across the Hamilton ETFs fund line-up and may potentially reduce the administrative and regulatory operating costs and expenses associated with the Terminating Funds.

(d) Certain Mergers will involve an actively managed Terminating Fund merging into a Continuing Fund which will meet its investment objective by attempting to replicate an index. In such cases, the association with the Continuing Fund's global index provider, Solactive AG, may provide additional reputational strength to the Continuing Fund and may therefore also lead to an increase in assets; an increase which might not otherwise occur. As well, the associated indices will provide unitholders with access to additional performance history of the strategy, thereby providing greater transparency of returns.

(e) In the case of the Continuing Funds that will be actively managed, the investable universe has been widened, giving each Continuing Fund access to additional investment opportunities, increased liquidity and greater flexibility when making investment decisions.

(f) Each Continuing Fund will have an asset base of greater size, potentially allowing for increased portfolio diversification opportunities and a smaller proportion of assets set aside to fund redemptions. The ability to improve diversification may lead to increased returns and a reduction of risk, while at the same time creating a higher profile that may attract more investors.

(g) With respect to certain Mergers, the applicable Continuing Fund is expected to attract more assets as marketing efforts will be concentrated on a single fund, rather than multiple funds with similar investment mandates. The ability to attract assets to a Continuing Fund will benefit investors by ensuring that the Continuing Fund is a viable, long-term, attractive investment vehicle for existing and potential investors.

Taxable Mergers

34. As noted, each Merger will be effected on a taxable basis. Based on available information: (i) each Terminating Fund is expected to realize a net capital loss as a result of the Mergers; and (ii) the Filer expects that the majority of unitholders of the Terminating Funds will recognize a capital loss. Such information was also disclosed in the Circular.

35. The Filer has determined that it would not be appropriate to effect the Mergers as a "qualifying exchange" because, for investors that hold their units of a Terminating Fund outside of a registered plan and are in a capital loss position, triggering such capital loss can be beneficial as such capital losses can be used to offset any capital gains realized in the same year or any of the previous three years, and thus immediately reduce their tax liability.

Decision

The Decision Maker is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.

The decision of the Decision Maker under the Legislation is that the Approval Sought is granted provided the Filer obtains the prior approval of unitholders of a Terminating Fund for its Merger prior to the Effective Date.

"Darren McKall"
Investment Funds & Structured Products Branch
Ontario Securities Commission

SCHEDULE "A"

TERMINATING FUND		CONTINUING FUND
Hamilton Global Bank ETF	→	Hamilton Global Financials ETF
Hamilton Global Financials Yield ETF	→	Hamilton Global Financials ETF
Hamilton U.S. Mid-Cap Financials ETF (USD)	→	Hamilton U.S. Mid/Small-Cap Financials ETF
Hamilton Canadian Bank Variable-Weight ETF	→	Hamilton Canadian Bank Mean Reversion Index ETF
Hamilton Australian Financials Yield ETF	→	Hamilton Australian Bank Equal-Weight Index ETF

2.1.2 NCM Asset Management Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the conflict of interest restrictions in the Securities Act (Ontario) and the self-dealing prohibitions in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations to permit fund-on-fund structures involving pooled funds under common management subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 111(2)(b) and (c), 113.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.5(2)(a), 15.1.

Citation: *Re NCM Asset Management Ltd.*, 2020 ABASC 72

May 26, 2020

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ALBERTA
AND
ONTARIO
(the Jurisdictions)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS
IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
NCM ASSET MANAGEMENT LTD.
(NCM)

AND

THE TOP FUNDS
(as defined below)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application from NCM, on behalf of NCM and its affiliates (collectively, the **Filer**), Kipling Canadian Enhanced Dividend Fund, Kipling Strategic Income Fund, Kipling Global Enhanced Growth Fund, Kipling Global Enhanced Dividend Fund, NCM Market Neutral Income Fund and NCM Canadian Enhanced Equity Fund (collectively, the **Initial Top Funds**) and any future mutual fund that is not or will not be a reporting issuer, and that is, or will be, managed by the Filer (the **Future Top Funds**, and together with the Initial Top Funds, the **Top Funds**), for a decision under the securities legislation of the Jurisdictions (the **Legislation**) in respect of the Fund-on-Fund Structure (as defined below) exempting the Filer and the Top Funds from:

(a) the restriction in the Legislation that prohibits a mutual fund from knowingly making an investment in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder,

(b) the restriction in the Legislation that prohibits a mutual fund from knowingly making an investment in an issuer in which:

(i) any officer or director of the mutual fund, its management company or distribution company or an associate of them, or

(ii) any person or company who is a substantial securityholder of the mutual fund, its management company or its distribution company,

has a significant interest (collectively, the **Related Issuer Relief**), and

(c) the restrictions contained in subsection 13.5(2)(a) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) which prohibit a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase a security of an issuer in which a responsible person or an associate of a responsible person is a partner, officer or director, unless (i) this fact is disclosed to the client, and (ii) the written consent of the client to the purchase is obtained before the purchase (the **Consent Relief**, and together with the Related Issuer Relief, the **Requested Relief**),

to permit the Filer to cause the Top Funds to invest in the Underlying Funds (as defined below).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

(a) the Alberta Securities Commission is the principal regulator for this application,

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in every province and territory of Canada other than the Jurisdictions (together with the Jurisdictions, the **Offering Jurisdictions**), and

(c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority of regulator in Ontario.

Interpretation

Unless otherwise defined herein, terms in this decision have the respective meanings given to them in National Instrument 14-101 *Definitions*.

Representations

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

The Filer

1. The Filer is a corporation continued under the federal laws of Canada with its head office in Calgary, Alberta.

2. The Filer is registered as an investment fund manager in Alberta, Newfoundland and Labrador, Ontario and Québec, and a portfolio manager in Alberta and Ontario.

3. The Filer is not a reporting issuer in any jurisdiction of Canada and is not in default of securities legislation in any Offering Jurisdiction.

Top Funds

4. Each Initial Top Fund is organized under the laws of Alberta as a trust. Each Future Top Fund will be organized under the laws of Alberta or Ontario as a trust or a class of shares of a corporation.

5. Each Top Fund is or will be a “mutual fund” for the purposes of the Legislation.

6. None of the Initial Top Funds is in default of securities legislation in any Offering Jurisdiction.

7. None of the Top Funds is, or has plans to become, a reporting issuer in any Offering Jurisdiction.

8. The Filer is the investment fund manager of Kipling Canadian Enhanced Dividend Fund, Kipling Strategic Income Fund, Kipling Global Enhanced Growth Fund and Kipling Global Enhanced Dividend Fund. The Filer is, or will be, the portfolio manager of each Top Fund. A third party is the trustee of the Initial Top Funds. The Filer or a third party will act as trustee of each Future Top Fund.

9. Securities of the Initial Top Funds and each Future Top Fund are, or will be, offered on a private placement basis to qualified investors pursuant to available exemptions from the prospectus requirements under Canadian securities

legislation. Each investor is, or will be, responsible for making its own investment decisions regarding its purchases and redemptions of securities of a Top Fund.

10. Kipling Canadian Enhanced Dividend Fund is an investment trust established by the Filer on October 1, 2015 and is governed by the laws of Alberta. Kipling Global Enhanced Dividend Fund and Kipling Global Enhanced Growth Fund are each an investment trust established by the Filer on October 1, 2014 and governed by the laws of Alberta. Kipling Strategic Income Fund is an investment trust established by the Filer on August 5, 2016.

11. In addition to the Initial Top Funds, each Top Fund may also invest in units of one or more Underlying Funds (as defined below), which investment or investments will be consistent with the Top Fund's investment objectives and strategies.

12. The investment objective of Kipling Canadian Enhanced Dividend Fund is to provide shareholders with regular monthly income and long-term capital appreciation.

13. The investment objective of Kipling Global Enhanced Dividend Fund is to provide consistent long-term capital appreciation while outperforming on a risk-adjusted basis. The investment management team will construct an investment strategy that will be long the most attractive stocks and short the most unattractive stocks based on a proprietary security ranking system. Specifically, the Fund will be long quality companies in the midst of fundamental positive changes with reasonable valuations and strong free cash flow profiles while being short companies in the midst of negative fundamental changes, that have high valuations and little to no yield support.

14. The investment objective of Kipling Global Enhanced Growth Fund is to provide consistent long-term capital appreciation while outperforming on a risk-adjusted basis. The investment management team will construct an investment strategy that will be long the most attractive stocks and short the most unattractive stocks based on a proprietary security ranking system. Specifically, the Fund will primarily be long quality companies in the midst of fundamental positive changes with reasonable valuations and strong free cash flow profiles while being short companies in the midst of negative fundamental changes.

15. The investment objective of Kipling Strategic Income Fund is to provide unitholders with a steady income while preserving capital and mitigating risk exposure.

Underlying Funds

16. Any underlying fund that is, or will be, managed by the Filer and that is, or will be, invested in by a Top Fund (the **Underlying Funds**) will be sold to investors either pursuant to a prospectus qualified in one or more of the Offering Jurisdictions or pursuant to an available exemption from the prospectus requirement under Canadian securities legislation.

17. The existing prospectus qualified mutual funds of the Underlying Funds and their investment objectives are set out in the NCM Funds Simplified Prospectus, currently dated May 22, 2019.

18. None of the existing Underlying Funds is in default of the securities legislation of any Offering Jurisdiction.

19. Each Underlying Fund is, or will be, structured as a limited partnership, a trust or a corporation governed by the laws of a jurisdiction of Canada. Each Underlying Fund is, or will be, a "mutual fund" as defined in securities legislation of the Offering Jurisdictions in which the Top Funds and the Underlying Funds are distributed.

20. The Filer is, or will be, the investment fund manager and portfolio manager of each of the Underlying Funds.

Fund-on-Fund Structure

21. The Initial Top Funds allow, and Future Top Funds will allow, investors in the Top Funds to obtain indirect exposure to the investment portfolio of Underlying Funds and their investment strategies through direct investments by the Top Funds in securities of the Underlying Funds (the **Fund-on-Fund Structure**).

22. The Fund-on-Fund Structure permits the Filer to manage a single portfolio of assets for both a Top Fund and each Underlying Fund that the Top Fund holds in a single investment vehicle structure.

23. Managing a single pool of assets provides economies of scale, allows the Top Funds to achieve their investment objectives in a cost-efficient manner and is not detrimental to the interest of other securityholders of an Underlying Fund.

24. An investment in an Underlying Fund by a Top Fund is, or will be, effected at an objective price. In the case of an Underlying Fund that is not a reporting issuer, the Filer's policies and procedures provide that an objective price, for this purpose, is the net asset value (**NAV**) of that Underlying Fund. In the case of an Underlying Fund that is a reporting issuer, the objective price is the NAV of the applicable securities.

25. The portfolio of each Underlying Fund consists, or will consist, primarily of publicly traded securities, debt instruments and derivatives. No Underlying Fund holds, or will hold, more than 10% of its NAV in "illiquid assets" (as defined in National Instrument 81-102 *Investment Funds* (**NI 81-102**).

26. The amounts invested, from time to time, in an Underlying Fund by one or more of the Top Funds or other related investment funds may exceed 20% of the outstanding voting securities of that Underlying Fund. Accordingly, each Top Fund could, either alone or together with one or more funds managed by the Filer, become a substantial securityholder of an Underlying Fund.

27. In all cases, the Filer manages, or will manage, the liquidity of each Top Fund having regard to the redemption features of the corresponding Underlying Fund(s) to ensure that it can meet redemption requests from investors of the Top Funds.

28. In addition, the Fund-on-Fund structure may result in a Top Fund investing in an Underlying Fund (i) in which an officer or director of the Top Fund, of the Filer or of any associate of them, has a significant interest, and/or (ii) where a person or company who is a substantial securityholder of the Top Fund or the Filer, has a significant interest.

29. The Top Funds and Underlying Funds subject to National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) will prepare annual audited financial statements and interim unaudited financial statements in accordance with NI 81-106 and will otherwise comply with the requirements of NI 81-106 applicable to them.

30. In the absence of the Related Issuer Relief, the Top Funds would be constrained by the investment restrictions in Canadian securities legislation in terms of the degree to which they could implement the Fund-on-Fund Structure. Specifically, the Top Funds would be prohibited from: (i) becoming substantial securityholders of the Underlying Funds, either alone or together with related investment funds; and (ii) a Top Fund investing in an Underlying Fund in which an officer or director of the Top Fund's management company has a significant interest and/or a Top Fund investing in an Underlying Fund in which a person or company who is a substantial securityholder of the Top Fund or the Top Fund's management company, has a significant interest.

31. In the absence of the Consent Relief, each Top Fund would be precluded from investing in one or more Underlying Funds unless the specific fact is disclosed to securityholders of the Top Fund and the written consent of the securityholders of the Top Fund to the investment is obtained prior to the purchase, since an officer and/or director of the Filer, who may be considered a responsible person (as per section 13.5 of NI 31-103) or an associate of a responsible person, may also be a partner, officer and/or director of the applicable Underlying Fund.

32. The Fund-on-Fund Structure represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the investors in the Top Funds.

Decision

Each Decision Maker, considering that it would not be prejudicial to the public interest, orders that the Requested Relief is granted, provided that:

(a) securities of a Top Fund are distributed in Canada solely pursuant to exemptions from the prospectus requirement under Canadian securities legislation;

(b) the investment by a Top Fund in an Underlying Fund is compatible with the fundamental investment objectives of the Top Fund;

(c) an investment in an Underlying Fund by a Top Fund will be effected at an objective price, calculated in accordance with section 14.2 of NI 81-106;

(d) a Top Fund will not invest in an Underlying Fund unless the Underlying Fund complies with the provisions of NI 81-106 that apply to a "mutual fund in Ontario" as defined in the *Securities Act* (Ontario);

(e) no Top Fund will purchase or hold a security of an Underlying Fund unless at the time of purchasing securities of the Underlying Fund, the Underlying Fund holds no more than 10% of its NAV in securities of other mutual funds unless the Underlying Fund:

(i) is a clone fund (as defined in NI 81-102);

(ii) purchases or holds securities of a "money market fund" (as defined in NI 81-102); or

(iii) purchases or holds securities that are "index participation units" (as defined in NI 81-102) issued by an investment fund;

(f) no management fees or incentive fees are payable by a Top Fund that, to a reasonable person, would duplicate a fee payable by an Underlying Fund for the same service;

(g) no sales fees or redemption fees are payable by a Top Fund in relation to its purchases or redemptions of redemptions of securities of an Underlying Fund that, to a reasonable person, would duplicate a fee payable by an investor in the Top Fund other than brokerage fees incurred for the purchase or sale of an index participation unit issued by an investment fund;

(h) the Filer does not cause the securities of an Underlying Fund held by a Top Fund to be voted at any meeting of the holders of such securities, except that the Filer may arrange for the securities the Top Fund holds of an Underlying Fund to be voted by the beneficial owners of the securities of the Top Fund who are not the Filer or an officer, director or substantial securityholder of the Filer;

(i) when purchasing and/or redeeming securities of an Underlying Fund, the Filer shall, as investment fund manager of the applicable Top Fund and Underlying Fund, act honestly, in good faith and in the best interests of the Top Fund and the Underlying Fund, respectively, and shall exercise the care and diligence that a reasonably prudent person would exercise in comparable circumstances;

(j) the offering memorandum, where available, or the statement of investment policies and procedures, relationship disclosure documents or other similar document of a Top Fund, will be provided to investors in a Top Fund prior to the time of investment, and will disclose:

(i) that the Filer is the investment fund manager and portfolio manager of both the Top Fund and the Underlying Funds;

(ii) that the Top Fund may invest all, or substantially all, of its assets in securities of Underlying Funds;

(iii) the fees, expenses and any performance or special incentive distributions payable by the Underlying Funds in which a Top Fund invests;

(iv) the process or criteria used to select the Underlying Funds, if applicable;

(v) for each officer, director and/or substantial securityholder of the Filer, or of a Top Fund, that has a significant interest in an applicable Underlying Fund, and for the officers and directors and substantial securityholders who together in aggregate hold a significant interest in an applicable Underlying Fund, the approximate amount of the significant interest they hold, on an aggregate basis, expressed as a percentage of the applicable Underlying Fund's NAV, and the potential conflicts of interest which may arise from such relationship;

(vi) that investors are entitled to receive from the Filer, on request and free of charge, a copy of the prospectus, offering memorandum, statement of investment policies and procedures or other similar disclosure document of the Underlying Funds, if available; and

(vii) that investors are entitled to receive from the Filer, on request and free of charge, the annual audited financial statements and interim financial reports relating to each Underlying Fund in which the Top Fund invests.

(k) the Filer shall annually inform investors in a Top Fund of their right to receive from the Filer, as applicable, on request and free of charge, a copy of the offering memorandum, statement of investment policies and procedures or other similar disclosure document of each Underlying Fund, if available, and the annual audited financial statements and interim financial reports relating to each Underlying Fund in which the Top Fund invests.

"Tom Graham, CPA, CA"
Director, Corporate Finance
Alberta Securities Commission

2.1.3 Arrow Capital Management Inc. and Arrow EC Income Advantage Alternative Fund (formerly East Coast Investment Grade Income Fund)

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from short selling restrictions in National Instrument 81-102 Investment Funds to permit an alternative mutual fund to short sell "government securities", as defined in NI 81-102, up to 300% of net asset value – relief sought in order to short securities in connection with fund's hedging strategy – features of government bonds mitigate many of the risks associated with short selling strategies – relief also granted to future alternative mutual funds managed by the Filer or an affiliate of the Filer with similar short selling strategies.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.6.1(1)(c)(v), 2.6.2, 19.1.

May 29, 2020

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS
IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
ARROW CAPITAL MANAGEMENT INC.
(the Filer)

AND

ARROW EC INCOME ADVANTAGE ALTERNATIVE FUND
(formerly East Coast Investment Grade Income Fund)
(the Initial Fund)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Initial Fund of which the Filer is the investment fund manager, for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) exempting the Initial Fund and any alternative mutual funds for which the Filer or an affiliate of the Filer acts as investment fund manager and which employ short selling strategies similar to the Initial Fund (the **Future Funds** and together with the Initial Fund, the **Funds** or individually, a **Fund**) from the following provisions of National Instrument 81-102 *Investment Funds* (**NI 81-102**) in order to permit the Fund to short sell "government securities" as that term is defined in NI 81-102, up to a maximum of 300% of a Fund's net asset value (**NAV**) (the **Exemption Sought**):

(a) subparagraph 2.6.1(1)(c)(v) of NI 81-102, which restricts the Funds from selling a security short if, at the time, the aggregate market value of the securities sold short by the Fund exceeds 50% of the Funds' NAV; and

(b) section 2.6.2 of NI 81-102, which states that the Funds may not borrow cash or sell securities short if, immediately after entering into a cash borrowing or short selling transactions, the aggregate value of cash borrowing combined with the aggregate market value of the securities sold short by the Funds would exceed 50% of the Funds' NAV

(collectively, the **Short Selling Restrictions**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

(a) the Ontario Securities Commission is the principal regulator for this application; and

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (collectively, the **Other Jurisdictions**) (together with the Jurisdiction, the **Canadian Jurisdictions**).

Interpretation

Terms defined in NI 81-102, National Instrument 14-101 *Definitions*, and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer on behalf of itself and the Funds:

The Filer

1. The Filer is a corporation existing under the laws of Ontario having its registered head office in Toronto, Ontario.

2. The Filer is the investment fund manager, trustee and portfolio manager of the Initial Fund. The Filer, or an affiliate, will be the investment fund manager and portfolio manager of the Future Funds. The Filer also acts as the investment fund manager and portfolio manager of an investment fund, the East Coast Investment Grade II Fund (**ECIG**), the securities of which are sold pursuant to exemptions from applicable prospectus requirements in securities legislation.

3. The Filer is registered in the following categories in the jurisdictions as indicated below:

   (a) Ontario: Portfolio Manager (**PM**), Investment Fund Manager (**IFM**); Exempt Market Dealer (**EMD**) and Commodity Trading Manager under the *Commodity Futures Act* (Ontario);

   (b) Alberta: EMD;

   (c) British Columbia: EMD;

   (d) Quebec: EMD and IFM; and

   (e) Newfoundland and Labrador: IFM.

4. The Filer is not in default of securities legislation in any of the Canadian Jurisdictions.

The Funds

5. The Funds are or will be open-ended public alternative mutual funds governed by NI 81-102.

6. The Funds are or will be organized as trusts or as part of a mutual fund corporation established under the laws of the Province of Ontario.

7. The Funds will distribute securities in each of the Canadian Jurisdictions pursuant to a simplified prospectus, annual information form and fund facts documents, prepared and filed in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

8. The Initial Fund is not in default of applicable securities legislation in any of the Canadian Jurisdictions.

9. The Initial Fund began operations on April 26, 2012 and has continuously operated since that date as an exchange-traded closed end investment fund with an investment strategy that includes short selling of government securities.

10. The sub-advisor to the Initial Fund and ECIG is East Coast Fund Management Inc. (the **Sub-Advisor**). The Sub-Advisor has acted in such capacity since the inception of the Initial Fund and ECIG and will continue to act in such capacity.

11. In a notice of special meeting and management information circular mailed to unitholders of the Initial Fund dated May 13, 2020, the Filer proposed to unitholders of the Initial Fund to restructure the Initial Fund by converting it to an open-end alternative mutual fund from a closed-end investment fund whose units are listed for trading on the Toronto Stock Exchange (the **TSX**) under the symbol ECF.UN (the **Restructuring**). It is expected that Unitholders will vote to approve

the Restructuring at a special meeting of unitholders to be held on June 12, 2020. As part of the Restructuring the name of the Initial Fund will be changed to Arrow EC Income Advantage Alternative Fund from East Coast Investment Grade Income Fund. It is expected that the units will be de-listed from the TSX as part of the Restructuring.

12. Concurrent with this application, the Initial Fund is filing a simplified prospectus, annual information form and fund facts documents such that the Initial Fund will become an alternative mutual fund to which NI 81-102 applies in that the Initial Fund has fundamental investment objectives that permits it to borrow, sell securities short and invest in specified derivatives in a manner not permitted for non-alternative mutual funds under NI 81-102.

13. The Initial Fund's investment objective is to generate income and preserve capital by investing in a diversified portfolio of primarily North American investment grade corporate bonds. The fund will use leverage. The leverage will be created through the use of cash borrowings, short sales and derivative contracts. The fund's leverage shall not exceed the limits on the use of leverage described in the "Investment Strategies" section in the simplified prospectus or as otherwise permitted under applicable securities legislation.

The Short Hedging Strategy

14. In order to hedge against interest rate risk in the Initial Fund and isolate levered corporate credit exposure, the Initial Fund currently sells short liquid government fixed income securities at the same time that the Initial Fund invests in corporate fixed income securities (the **Short Hedging Strategy**). The Short Hedging Strategy is effective because there is a high degree of correlation between the movement of government and corporate fixed income securities caused by changes in interest rates, creating a hedge against losses in value of the long corporate position. This relationship is a fundamental part of the fixed-income market such that dealers quote the price of corporate bond based on the incremental yield of the corporate bond over an equivalent term government bond.

15. The Filer believes that the Short Hedging Strategy provides investors with the potential for low volatility and compelling returns. The Short Hedging Strategy has been successful with the Initial Fund since inception as a closed-end investment fund and with ECIG.

16. After the Restructuring, the Short Selling Restrictions would restrict the Initial Fund to short selling government securities to no more than 50% of the Fund's NAV. However, NI 81-102 would otherwise permit the Initial Fund to obtain the additional leveraged short exposure through the use of specified derivatives, up to an aggregate exposure of 300% of the Fund's NAV.

17. The Filer is of the view however, that it would be in the Initial Fund's best interest to permit it to physically short sell government securities, up to 300% of the Fund's NAV, instead of being forced to achieve that degree of leverage through either specified derivatives alone, or a combination of physical short selling and specified derivatives, for the following reasons:

    (a) While derivatives can be used to create similar investment exposure as the Short Hedging Strategy up to 300% of the Initial Fund's NAV, the use of derivatives is less effective, is more complex, and is riskier than the Short Hedging Strategy. Derivatives provide credit exposure that is less targeted than the Short Hedging Strategy with a longer duration that increases risk, often without commensurately higher returns. In addition, implementing derivatives necessitates incremental transactional steps. These steps increase both operational risk and counterparty risk, as well as cost.

    (b) The risk of covering short government securities positions in a rising market is largely mitigated by several factors: (i) the strong correlation between the government security sold short and the corporate fixed income security held long by the Initial Fund which provides a hedge against short cover risk; (ii) government securities are highly liquid and more than one issuance of government securities can be used to hedge interest rate risk; (iii) government securities have markedly lower price volatility than equity securities; (iv) unlike equity securities, government securities have an effective upper value limit; and (v) financial institutions that facilitate short selling are regulated and implement effective risk controls on short sellers.

    (c) The Initial Fund has successfully been short selling government securities as part of a similar Short Hedging Strategy since inception of the Initial Fund.

Generally

18. The Future Funds will employ an investment strategy similar to the Short Hedging Strategy in that each will contemplate short-selling government securities concurrently with investing in long positions in corporate fixed income securities.

19. The only securities sold short by the Funds in excess of 50% of a Fund's NAV will be "government securities" as that term is defined in NI 81-102. The Funds will otherwise comply with the provisions governing short selling by an alternative mutual fund under sections 2.6.1 and 2.6.2 of NI 81-102.

20. Each Fund's aggregate exposure to short selling, cash borrowing and specified derivatives will not exceed 300% of the Fund's NAV, in compliance with section 2.9.1 of NI 81-102 (the **Aggregate Leverage Limit**).

21. The Funds will implement the following controls when conducting a short sale:

    (a) the Fund will assume the obligation to return to the Borrowing Agent (as defined in NI 81-102) the securities borrowed to effect the short sale;

    (b) the Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;

    (c) the Filer will monitor the short positions of the Fund at least as frequently as daily;

    (d) the security interest provided by the Fund over any of its assets that is required to enable the Fund to effect a short sale transaction is made in accordance with section 6.8.1 of NI 81-102 and will otherwise be in accordance industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;

    (e) the Fund will maintain appropriate internal controls regarding short sales, including written policies and procedures for the conduct of short sales, risk management controls and proper books and records; and

    (f) the Filer and the Fund will keep proper books and records of short sales and all of its assets deposited with Borrowing Agents as security.

22. Each Fund's prospectus (the **Prospectus**) will contain adequate disclosure of the Fund's short selling activities, including the material terms of the Exemption Sought.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted provided that:

1. The only securities which a Fund will sell short in an amount that exceeds 50% of the Fund's NAV will be securities that meet the definition of "government security" as that term is defined in NI 81-102.

2. Each short sale made by a Fund will otherwise comply with all of the short sale requirements applicable to alternative mutual funds in sections 2.6.1 and 2.6.2 of NI 81-102.

3. A Fund's aggregate exposure to short selling, cash borrowing and specified derivatives will not exceed the Aggregate Leverage Limit.

4. Each short sale will be made consistent with the Fund's investment objectives and investment strategies.

5. The Fund's Prospectus will disclose that the Fund is able to short sell "government securities" (as defined in NI 81-102) in an amount up to 300% of the Fund's NAV, including the material terms of this decision.

"Darren McKall"
Investment Funds & Structured Products Branch
Ontario Securities Commission

2.2 Orders

2.2.1 VRK Forex & Investments Inc. and Radhakrishna Namburi – ss. 127, 127.1

IN THE MATTER OF
VRK FOREX & INVESTMENTS INC. and
RADHAKRISHNA NAMBURI

File No. 2019-40

M. Cecilia Williams, Commissioner and Chair of the Panel

June 5, 2020

ORDER
(Sections 127 and 127.1 of
the *Securities Act*, RSO 1990, c S.5)

WHEREAS on June 5, 2020, the Ontario Securities Commission held a hearing by teleconference;

ON HEARING the submissions of the representative for Staff of the Commission (**Staff**) and for VRK Forex & Investments Inc. and Radhakrishna Namburi;

IT IS ORDERED THAT:

1. each party shall serve the other party with a hearing brief containing copies of the documents, and identifying the other things, that the party intends to produce or enter as evidence at the merits hearing by no later than July 24, 2020;

2. each party shall file a completed copy of the *E-hearing Checklist for the Hearing on the Merits* by no later than July 31, 2020;

3. a further attendance in this proceeding is scheduled for August 10, 2020 at 10:00 a.m., or on such other date and time as may be agreed to by the parties and set by the Office of the Secretary;

4. each party shall provide to the Registrar the electronic documents that the Party intends to rely on or enter into evidence at the merits hearing, along with an Index File, in accordance with the *Protocol for E-hearings*, by no later than September 14, 2020; and

5. the merits hearing shall commence on September 18, 2020 at 10:00 a.m. and continue on September 21, 23, 24, 25, 28, 29 and 30, 2020 and October 1 and 2, 2020 at 10:00 a.m. on each day, or on such other date and time as may be agreed to by the parties and set by the Office of the Secretary.

“M. Cecilia Williams”

2.2.2 Paul Se Hui Oei and Canadian Manu Immigration & Financial Services Inc. – ss. 127(1), 127(10)

IN THE MATTER OF
PAUL SE HUI OEI AND
CANADIAN MANU IMMIGRATION &
FINANCIAL SERVICES INC.

File No. 2020-1

Heather Zordel, Commissioner and Chair of the Panel

June 3, 2020

ORDER
(Subsections 127(1) and 127(10) of
the *Securities Act*, RSO 1990, c S.5)

WHEREAS on May 7, 2020, the Ontario Securities Commission (the **Commission**) held a hearing by teleconference to consider whether it is in the public interest to make an order against Paul Se Hui Oei and Canadian Manu Immigration & Financial Services Inc. (together, the **Respondents**) pursuant to subsections 127(1) and 127(10) of the *Securities Act*, RSO 1990, c S.5 (the **Act**), as requested in the Statement of Allegations filed by Staff of the Commission (**Staff**) on January 7, 2020;

ON READING the decision of the British Columbia Securities Commission (**BCSC**) dated December 12, 2017, the decision of the BCSC dated August 8, 2018 and the order of the BCSC dated August 8, 2018 (the **BCSC Order**), and on reading the materials filed by Staff and the Respondents;

IT IS ORDERED THAT:

1. Against Mr. Oei:

   (a) pursuant to the Act s.127(1)2, trading in any securities or derivatives by Mr. Oei cease permanently, except trades that are made for his own accounts (including RRSP accounts, TFSA accounts and RESP accounts) through a registered dealer, if he gives the registered dealer a copy of the BCSC Order and a copy of this Order;

   (b) pursuant to the Act s.127(1)2.1, the acquisition of any securities by Mr. Oei cease permanently, except purchases that are made for his own accounts (including RRSP accounts, TFSA accounts and RESP accounts) through a registered dealer, if he gives the registered dealer a copy of the BCSC Order and a copy of this Order;

   (c) pursuant to the Act s.127(1)3, any exemptions contained in Ontario securities law do not apply to Mr. Oei permanently;

   (d) pursuant to the Act s.127(1)7 and s.127(1)8.1, Mr. Oei resign any positions that he holds as a director or officer of an issuer or registrant;

   (e) pursuant to the Act s.127(1)8 and s.127(1)8.2, Mr. Oei is prohibited permanently from becoming or acting as a director or officer of any issuer or registrant; and

   (f) pursuant to the Act s.127(1)8.5, Mr. Oei is prohibited permanently from becoming or acting as a registrant or promoter.

2. Against Canadian Manu Immigration & Financial Services Inc.:

   (a) pursuant to the Act s.127(1)2, trading in any securities or derivatives by Canadian Manu cease permanently;

   (b) pursuant to the Act s.127(1)2.1, the acquisition of any securities by Canadian Manu cease permanently;

   (c) pursuant to the Act s.127(1)3, any exemptions contained in Ontario securities law do not apply to Canadian Manu permanently; and

   (d) pursuant to the Act s.127(1)8.5, Canadian Manu is prohibited permanently from becoming or acting as a registrant or promoter.

"Heather Zordel"

2.2.3 Core Gold Inc.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – The issuer ceased to be a reporting issuer under securities legislation.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 1(10)(a)(ii).

June 8, 2020

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA
AND
ONTARIO
(the Jurisdictions)

AND

IN THE MATTER OF
THE PROCESS FOR CEASE TO BE
A REPORTING ISSUER APPLICATIONS

AND

IN THE MATTER OF
CORE GOLD INC.
(the Filer)

ORDER

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (Decision Maker) has received an application from the Filer for an order under the securities legislation of the Jurisdictions (the Legislation) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the Order Sought).

Under the Process for Cease to be a Reporting Issuer Applications (for a dual application):

(a) the British Columbia Securities Commission is the principal regulator for this application,

(b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, and

(c) this order is the order of the principal regulator that evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

¶ 2 Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this order, unless otherwise defined.

Representations

¶ 3 This order is based on the following facts represented by the Filer:

1. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;

2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;

4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and

5. the Filer is not in default of securities legislation in any jurisdiction.

Order

¶ 4 Each of the Decision Makers is satisfied that the order meets the test set out in the Legislation for the Decision Maker to make the order.

The decision of the Decision Makers under the Legislation is that the Order Sought is granted.

“Allan Lim”
Acting Director, Corporate Finance
British Columbia Securities Commission

2.2.4 Trumid Financial, LLC – s. 15.1 of NI 21-101, s. 12.1 of NI 23-101, s. 10 of NI 23-103

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

AND

IN THE MATTER OF
NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION
(NI 21-101)

AND

IN THE MATTER OF
NATIONAL INSTRUMENT 23-101
TRADING RULES
(NI 23-101)

AND

IN THE MATTER OF
NATIONAL INSTRUMENT 23-103
ELECTRONIC TRADING AND DIRECT ACCESS TO MARKETPLACES
(NI 23-103)

AND

IN THE MATTER OF
TRUMID FINANCIAL, LLC

ORDER
(Section 15.1 of NI 21-101 and
section 12.1 of NI 23-101 and
section 10 of NI 23-103)

WHEREAS Trumid Financial, LLC (**Trumid**) has filed an application (**Application**) with the Ontario Securities Commission (**OSC**) requesting an order under Section 15.1 of National Instrument 21-101 – *Marketplace Operation* ("**NI 21-101**"), Section 12.1 of National Instrument 23-101 – *Trading Rules* ("**NI 23-101**") and Section 10 of National Instrument 23-103 – *Electronic Trading and Direct Access to Marketplaces* ("**NI 23-103**" and, together with NI 21-101 and NI 23-101, the "**Marketplace Rules**") exempting Trumid from the application of all provisions of the Marketplace Rules that apply to a person or company carrying on business as an alternative trading system ("**ATS**") in Ontario (the "**Requested Relief**");

AND WHEREAS Trumid has represented to the OSC that:

1. Trumid is a limited liability company existing under the laws of Delaware in the United States (the "**U.S.**"), with its head office located in New York, New York, U.S.;

2. Trumid was founded in 2014 and operates as the electronic service provider of a USD corporate debt securities trading platform for institutional clients;

3. Trumid has a technology affiliate, Trumid Technologies, LLC, which developed the trade matching platform and licenses the application for Trumid to operate. Both Trumid and Trumid Technologies, LLC, are wholly-owned subsidiaries of Trumid Holdings, LLC. All entities are under common management and control;

4. Trading of USD corporate bonds is facilitated through Trumid's Market Center (2.0) interface (the "**Platform**"). Trumid's technology solution is html5 based and offered over the internet. The technology provides access to an electronic application that allows clients to access available trades in USD corporate bonds;

5. It is expected that certain Ontario institutional investors wish to become clients of Trumid in order to access the liquidity afforded by the robust, existing network of clients;

6. The prospective participants in Ontario (the "**Ontario Participants**") will be comprised only of institutional investors that qualify as permitted clients as that term is defined in Section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**);

7. Trumid will confirm that Ontario Participants that seek to participate on the Platform are institutional investors who qualify as permitted clients, as such term is defined in section 1.1 of NI 31-103, by obtaining a representation from the Ontario Participants for access to the Platform in their onboarding documentation. The documentation will specify that this representation is deemed to be repeated by the Ontario Participant each time it enters an order for a trade on the Platform;

8. Trumid relies on the "international dealer exemption" under section 8.18 of NI 31-103 in Ontario for any trading in securities with permitted clients located in Ontario. Trumid is not registered in any capacity under the OSA;

9. Trumid is regulated and operating in the U.S. as an ATS registered with the U.S. Securities Exchange Commission ("**SEC**") (SEC#: 8-69500) as broker-dealer pursuant to Rule 301(b) of the *Regulation ATS under 1934 Securities Exchange Act* and is a member of Financial Industry Regulatory Authority (CRD#: 172129), the U.S. equivalent of Investment Industry Regulatory Organization of Canada;

10. Trumid is not in default of securities legislation in any jurisdiction;

11. Trumid seeks to provide Ontario institutional investors with direct, electronic access to trading in only USD corporate debt securities and is therefore considered to be an ATS in Ontario, as defined in subsection 1(1) of the OSA;

12. As an ATS, Trumid is prohibited from carrying on business in Ontario unless it complies with or is exempted from the Marketplace Rules;

13. In order to obtain direct access to the Platform, an Ontario Participant must agree to abide by the Trumid Rulebook;

14. Trumid will also require Ontario Participants to sign a user agreement agreeing to the terms and conditions of the use of the Platform, including clear and transparent access criteria and requirements for all market participants on the Platform, as well as minimum financial requirements for participants to maintain the financial integrity of the Platform. Trumid applies these criteria to all Platform participants in an impartial manner;

15. In addition to complying with the Trumid Rulebook and all applicable laws pertaining to the use of the Platform, prospective clients must also satisfy those requirements of Trumid's third-party intermediary. For the purpose of trading on the Platform, the intermediary acts as executing broker and will complete credit, know-your-client and anti-money laundering verifications, suitability analyses and other account supervision procedures prior to entering into clearing agreements with all users and on an ongoing basis in accordance with Ontario securities laws and Trumid requirements. The third-party intermediary has represented to Trumid that it is appropriately registered or relies on an exemption from registration under Ontario securities laws to carry on this activity;

16. Trumid will only permit trading in fixed income securities that are permitted to be traded in the United States under applicable securities laws and regulations;

17. All trades on Trumid are for securities which are TRACE-eligible. Trumid displays orders of corporate debt securities and provides accurate and timely information regarding orders. Additionally, Trumid automatically reports all transactions to TRACE in a timely manner (within fifteen (15) minutes) via FIX, and would report transactions of Ontario Participants in the same manner as it reports U.S.-based participant trades. Trade information is consistent with FINRA TRACE reporting standards and includes information regarding the type of counterparty, issuer, class or series of the security (achieved through the inclusion of the security's unique identifier), coupon, maturity, price of trade, time of trade and volume of trade, capped at $5mm+ for investment grade securities or $1mm+ for non-investment grade securities. Trumid's reporting does not absolve any participants of their own regulatory reporting requirements;

AND WHEREAS the OSC will monitor developments in international and domestic capital markets and Trumid's activities on an ongoing basis to determine whether it is appropriate for the OSC to continue to grant the Requested Relief and, if so, whether it is appropriate for the Requested Relief to continue to be granted subject to the terms and conditions set out in Schedule A to this order;

AND WHEREAS Trumid has acknowledged to the OSC that the scope of the Requested Relief and the terms and conditions imposed by the OSC set out in Schedule A to this order may change as a result of its monitoring of developments in

international and domestic capital markets or Trumid's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives, commodity futures contracts, commodity futures options or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgements of Trumid to the OSC, the OSC has determined that the granting of the Requested Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the OSC that:

(a) Pursuant to Section 15.1 of NI 21-101, section 12.1 of NI 23-101 and section 10 of NI 23-103, Trumid is exempt from the requirement to comply with the Marketplace Rules;

PROVIDED THAT Trumid complies with the terms and conditions attached hereto as Schedule A.

DATED THIS 8th day of June, 2020

"Susan Greenglass"
Director, Market Regulation
Ontario Securities Commission

Schedule A

TERMS AND CONDITIONS

Regulation and Oversight

1. Trumid will continue to be subject to the regulatory oversight of the regulator in its home jurisdiction;

2. Trumid will either be registered in an appropriate category or rely on an exemption from registration under Ontario securities laws;

3. Trumid will promptly notify the OSC if its status in its home jurisdiction has been revoked, suspended, or amended, or the basis on which its status has significantly changed;

Access

4. Trumid will not provide direct access to an Ontario Participant unless the Ontario Participant is a permitted client as that term is defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

5. Trumid will require Ontario Participants to provide prompt notification to Trumid if they no longer qualify as permitted clients;

6. Trumid must make available to Ontario Participants appropriate training for each person who has access to trade on the Platform;

Trading by Ontario Participants

7. Trading on Trumid by Ontario Participants must be cleared and settled through a clearing agency that is regulated as a clearing agency by the clearing agency's applicable regulator;

8. Trumid will permit Ontario Participants to only trade those securities which are permitted to be traded in the United States under applicable securities laws and regulations;

9. Trumid will only allow Ontario Participants to trade those fixed income securities listed in representation number 11 of this Order;

10. Trumid will automatically report all transactions of Ontario Participants to TRACE in a timely manner (within fifteen (15) minutes via FIX). This trade information is consistent with FINRA TRACE reporting standards;

Reporting

11. Trumid will promptly notify OSC Staff of any of the following:

    (a) any material change to its business or operations or the information provided in its application for exemptive relief, including, but not limited to:

        (i) changes to its regulatory oversight;

        (ii) the access model, including eligibility criteria, for Ontario Participants;

        (iii) systems and technology; and

        (iv) its clearing and settlement arrangements;

    (b) any change in its regulations or the laws, rules, and regulations in the home jurisdiction relevant to the products traded;

    (c) any known investigations of, or regulatory action against, Trumid by the regulator in the home jurisdiction or any other regulatory authority to which it is subject;

    (d) any matter known to Trumid that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and

(e) any default, insolvency, or bankruptcy of any participant known to Trumid or its representatives that may have a material, adverse impact upon Trumid or any Ontario Participant;

12. Trumid will maintain the following updated information and submit such information in a manner and form acceptable to OSC Staff on a bi-annual basis (within 30 days of the end of each six-month period), and at any time promptly upon the request of OSC Staff:

(a) a current list of all Ontario Participants, specifically identifying for each Ontario Participant the basis upon which it represented to Trumid that it could be provided with direct access;

(b) a list of all applicants for status as an Ontario Participant who were denied such status or access and a list of Ontario Participants who had such status or access revoked during the period;

(i) for those Ontario Participants who had their status revoked, an explanation as to why their status was revoked;

(c) for each product:

(i) the total trading volume and value originating from Ontario Participants, and

(ii) the proportion of worldwide trading volume and value on Trumid conducted by Ontario Participants, presented in the aggregate for such Ontario Participants; and

(d) a list of any system outages that occurred for any system impacting Ontario Participants' trading activity on the Platform which were reported to the regulator in Trumid's home jurisdiction;

Disclosure

13. Trumid will provide to its Ontario Participants disclosure that states that:

(a) rights and remedies against it may only be governed by the laws of the home jurisdiction, rather than the laws of Ontario, and may be required to be pursued in the home jurisdiction rather than in Ontario;

(b) the rules applicable to trading on Trumid may be governed by the laws of the home jurisdiction, rather than the laws of Ontario; and

(c) Trumid is regulated by the regulator in its home jurisdiction, rather than the OSC;

Submission to Jurisdiction and Appointment of Agent for Service

14. With respect to a proceeding brought by the OSC arising out of, related to, concerning, or in any other manner connected with the OSC's regulation and oversight of the activities of Trumid in Ontario, Trumid will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario, and (ii) an administrative proceeding in Ontario;

15. Trumid will submit to the OSC a valid and binding appointment of an agent for service in those jurisdictions upon which the OSC may serve a notice, pleading, subpoena, summons, or other process in any action, investigation, or administrative, criminal, quasi-criminal, penal, or other proceeding arising out of or relating to or concerning the OSC's regulation and oversight of Trumid's activities in Ontario;

Information Sharing

16. Trumid must, and must cause its affiliated entities, if any, to promptly provide to the OSC, on request, any and all data, information, and analyses in the custody or control of Trumid or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:

(a) data, information, and analyses relating to all of its or their businesses; and

(b) data, information, and analyses of third parties in its or their custody or control; and

17. Trumid must share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

2.2.5 Paramount Equity Financial Corporation et al.

IN THE MATTER OF
PARAMOUNT EQUITY FINANCIAL CORPORATION,
SILVERFERN SECURED MORTGAGE FUND,
SILVERFERN SECURED MORTGAGE LIMITED PARTNERSHIP,
GTA PRIVATE CAPITAL INCOME FUND,
GTA PRIVATE CAPITAL INCOME LIMITED PARTNERSHIP,
SILVERFERN GP INC.,
TRILOGY MORTGAGE GROUP INC.,
MARC RUTTENBERG,
RONALD BRADLEY BURDON and
MATTHEW LAVERTY

File No. 2019-12

Timothy Moseley, Vice-Chair and Chair of the Panel File

June 8, 2020

ORDER

WHEREAS on March 23, 2020, the Ontario Securities Commission vacated the scheduled merits hearing dates in response to COVID-19;

ON READING submissions of the representatives for Staff of the Commission on behalf of the parties;

IT IS ORDERED THAT the hearing on the merits shall continue on July 3, 2020 at 11:00 a.m. or on such other dates and times as provided by the Office of the Secretary and agreed to by the parties.

“Timothy Moseley”

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Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 David Randall Miller

Citation: *Miller (Re)*, 2020 ONSEC 16
Date: 2020-06-02
File No. 2019-48

IN THE MATTER OF
DAVID RANDALL MILLER

REASONS FOR DECISION

Hearing:	May 27, 2020	
Reasons for Decision:	June 2, 2020	
Panel:	Timothy Moseley	Vice-Chair and Chair of the Panel
Appearances:	Christina Galbraith	For Staff of the Ontario Securities Commission
	Lynda Morgan	For David Randall Miller

REASONS FOR DECISION

I. OVERVIEW

[1] David Randall Miller, the respondent in this enforcement proceeding, seeks an extension of a previously agreed-upon deadline for him to deliver a witness list and witness summaries, and for him to indicate whether he intends to call an expert witness at the merits hearing.

[2] At the conclusion of the hearing of Miller's motion, I decided to deny his request, with reasons to follow. These are my reasons, in which I explain that Miller did not present sufficient grounds to justify an extension.

II. BACKGROUND

[3] In this proceeding, Staff of the Ontario Securities Commission (**Staff**) makes various allegations against Miller, including allegations of fraud and illegal insider trading.

[4] Staff filed its Statement of Allegations on December 19, 2019. At a first attendance on January 14, 2020, various procedural matters were addressed, and a second attendance was set for May 5, 2020.

[5] Prior to the scheduled May 5 attendance, Staff and Miller agreed to the matters that were to be the subject of that hearing. Specifically, they agreed that the next attendance would be on July 3, 2020, and that by June 3, 2020, Miller would: (i) serve and file his witness list, (ii) serve a summary of each witness's anticipated evidence, and (iii) indicate whether he intended to call an expert witness.

[6] At Staff's request, and on Miller's consent, I issued an order on May 1, 2020, reflecting the above agreement.

[7] On May 22, 2020, Miller's counsel advised that Miller would seek an extension of the June 3 deadline. Miller filed his motion record on May 25. Staff filed written submissions the same day. I heard the motion by teleconference on May 27.

III. ANALYSIS

[8] Miller's motion record sets out a number of events leading up to the motion hearing. It describes the situation in Toronto relating to COVID-19 generally, the circumstances of Miller's return to Canada in April, and the fact that he had to quarantine upon his return. All of those events pre-date the parties' agreement that underlies the deadlines set out in the May 1 order.

[9] Miller's counsel explained that since that time, she has communicated with Miller by phone. She also met with Miller once in a parking lot, because Miller's counsel's office is closed to clients. Miller's counsel submitted that in her view, the meeting in a parking lot was unsatisfactory. She asserted that she believes that additional in-person meetings with Miller are required.

[10] In expressing that belief, Miller's counsel clearly implied that there were circumstances that impeded her ability to help him comply with his obligations under the May 1 order. She stated, however, that she was unable to specify what those circumstances are because of solicitor-client privilege.

[11] The issue on this motion is whether there are circumstances sufficient to justify an extension of an agreed-upon deadline. If I cannot know what those circumstances are, then Miller has not met his burden.

[12] Miller's counsel referred me to the Supreme Court of Canada's decision in *R v Cunningham*, in which the court held that a solicitor's request to withdraw for ethical reasons must be accepted at face value, so as not to trench on matters that may be the subject of solicitor-client privilege.[1]

[13] In my view, there is a critical distinction between the issue in *R v Cunningham* and the issue on this motion. When a solicitor seeks to withdraw for ethical reasons, the solicitor is representing to the court that circumstances exist that prevent the solicitor from continuing the solicitor-client relationship without breaching the solicitor's professional conduct obligations. In those circumstances, there is good reason to accept the solicitor's assessment.

[14] Miller's counsel made no such suggestion about the situation facing her and Miller. She merely asserts that current circumstances warrant the extension of a deadline. While I have no reason whatsoever to doubt her representations as to what her belief is, the relief sought on this motion compels me to understand better what underlies that belief. What does it mean to say that an in-person meeting between counsel and her client is required in order to comply with the May 1 order? How significant are the impediments?

[15] At the hearing of this motion, Miller's counsel did not go so far as to say that Miller would be denied procedural fairness if I were not to extend the deadline. But when I attempted to explore the prejudice that Miller might suffer, Miller's counsel was unable, for the reasons explained above, to be specific about what impediments exist and what consequences flow from those impediments.

[16] The Commission must be sensitive to challenges faced by parties as a result of the COVID-19 pandemic. In general, those challenges are manageable. The extent to which they are manageable in a particular case depends on the circumstances of that case. Even during the pandemic, lawyers and their clients can communicate by videoconference, by telephone, and privately in person in any number of settings (while respecting physical distancing guidelines). Documents may be exchanged in-person or delivered. If a respondent seeking relief faces personal challenges of some sort that preclude the use of these methods, then it is incumbent on that respondent to explain.

[17] On this motion, Miller did not present any circumstances that would justify an extension of the agreed-upon deadline. His failure to do so cannot be rescued by his assertion of solicitor-client privilege. It is not sufficient to hint at the existence of challenges but then choose not to articulate what those challenges are. Miller cannot have it both ways. It is of course his choice whether to waive solicitor-client privilege, and if so, to what extent. When he brings this motion, it is his decision as to what grounds to assert. But any ground he asserts must have some support. If supporting a ground would mean that he has to waive solicitor-client privilege in some limited way, then his choice is to do that or to abandon the ground.

[18] On this motion, I was left with his counsel's unsupported assertion that in-person meetings are required, for reasons that cannot be divulged and that must, it would appear, have surfaced since the May 1 agreement. Had those reasons existed before May 1, presumably they would have been factored into that agreement.

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[1] 2010 SCC 10 at para 48

IV. CONCLUSION

[19] For these reasons, I decided that Miller did not meet his burden of demonstrating that an extension of the agreed-upon deadline was warranted.

Dated at Toronto this 2nd day of June, 2020.

“Timothy Moseley”

3.1.2 Majd Kitmitto et al.

Citation: *Kitmitto (Re)*, 2020 ONSEC 15
Date: 2020-06-02
File No. 2018-70

IN THE MATTER OF
MAJD KITMITTO,
STEVEN VANNATTA,
CHRISTOPHER CANDUSSO,
CLAUDIO CANDUSSO,
DONALD ALEXANDER (SANDY) GOSS,
JOHN FIELDING
AND
FRANK FAKHRY

REASONS AND DECISION ON A MOTION

Hearing:	February 20, 2020	
Decision:	June 2, 2020	
Panel:	M. Cecilia Williams	Commissioner and Chair of the Panel
Appearances:	Frank Addario Samara Secter	For John Fielding
	Wendy Berman John M. Picone Stephanie Voudouris Erin Minuk	For Donald Alexander (Sandy) Goss
	Ian Smith Andrew Guaglio	For Majd Kitmitto
	Matthew Britton Katrina Gustafson	For Staff of the Commission

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REASONS AND DECISION ON A MOTION

I. OVERVIEW

[1] Staff of the Ontario Securities Commission (**Staff** of the **Commission**) alleges that Majd Kitmitto, Steven Vannatta, Christopher Candusso, Claudio Candusso, Donald Alexander (Sandy) Goss (**Goss**), John Fielding (**Fielding**) and

Frank Fakhry (collectively, the **Respondents**) carried out illegal insider tipping and trading in Amaya Gaming Group Inc. (**Amaya**) in contravention of the *Securities Act*[1].

[2] Fielding and Goss (the **Moving Parties**) request that the Commission order Staff to disclose the following:

a. all relevant, non-privileged investigator notes, handwritten or otherwise, including notes taken during interviews and hearings;

b. all relevant, non-privileged internal communications at the Commission; and

c. a log of all relevant but privileged documents and information that has not been disclosed, with enough information to allow the Respondents to understand the decision to withhold and to be able to challenge that decision.

[3] Fielding and Goss submit that there are significant gaps in Staff's disclosure, which is inconsistent with Staff's obligation under Rule 27 of the Commission's *Rules of Procedure and Forms* (**Rules**)[2] and undermines their ability to make full answer and defence to the serious allegations made against them.

[4] Specifically, Fielding submits that Staff's disclosure does not reflect the scale, complexity, or length of the investigation into this matter. He cites, for example, that only 46 of the 76,600 documents are investigator's notes, that the notes begin at a point well into the investigation, and that the production database of disclosure includes very few internal communications.

[5] Fielding initially submitted that Staff ought to be required to provide a log identifying all the information Staff refuses to disclose pertaining to the investigator's notes or the investigation, pursuant to Rule 27. Fielding later clarified in oral submissions that a log of only privileged information was being sought.

[6] Goss submits that Staff's obligation is to produce all relevant documents, regardless of whether the same information is contained in a different form and is available elsewhere. Goss submits that relevant documents not produced to the Respondents are known to exist, based on the cross-examination of one of Staff's investigators, Christine George (**George**), including internal emails and handwritten notes of investigators, electronic and other documents made for George's own use, and internal correspondence.

[7] Goss further submits that not all the documents were evaluated by Staff for relevance, and certain categories of documents were excluded from Staff's review.

[8] Staff's submits that they have met their disclosure obligations, erring on the side of inclusion, and that Fielding and Goss have failed to establish that there is relevant, undisclosed investigatory information.

[9] Staff submits that a privilege log is unnecessary because Rule 27(1)(b) is limited to "things in Staff's possession that are relevant to an allegation." Staff maintain that all the documents sought by the Moving Parties are irrelevant.

[10] For the reasons set out below I deny the motion. Therefore, Staff is not required to make the additional disclosure requested by the Moving Parties.

II. BACKGROUND

[11] Staff's review of trading in Amaya began on February 25, 2015.

[12] There were three main investigators involved in Staff's investigation – George, Stuart Mills and Anne Paiement (**Paiement**). Staff advised that they intend to call each of these investigators as witnesses in the hearing.

[13] Two other individuals played a role in Staff's investigation – Robert Sanchioni (**Sanchioni**) who played a limited role and Mike Bordynuik (**Bordynuik**) who was a resource on an as-needed basis.

[14] Staff has disclosed over 76,000 documents, including 100 summons, 100 s.19 directions, numerous emails (including approximately 200 email threads involving the investigators), 41 transcripts of interviews and notes of communications entered in the Enforcement Information System (**EIS**). The first investigator note disclosed is dated May 28, 2015.

[15] Staff's initial disclosure included 46 EIS entries but no hand-written notes from investigators.

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1 RSO 1990, c S.5
2 (2019) 42 OSCB 9714

[16] George, the lead investigator, was cross-examined on her affidavit for this motion dated February 11, 2020 by the Moving Parties.

[17] In response to this motion and the cross-examination of George, Staff subsequently disclosed 25 hand-written notes underlying 27 of the 46 EIS entries and a handwritten note from Paiement. Staff confirmed that all hand-written notes underlying the disclosed 46 EIS entries have now been disclosed.

III. ISSUES

[18] This motion presents the following issues:

a. Are Staff's investigator notes and internal communications relevant and therefore required to be disclosed in an enforcement proceeding?

b. Is Staff required to do a document-by-document relevance review?

c. Should Staff be required to provide a log of privileged material that has not been disclosed?

IV. LAW AND ANALYSIS

A. Disclosure standard

[19] Rule 27(1) of the Rules requires Staff to provide every other party "copies of all non-privileged documents in Staff's possession that are relevant to an allegation". This rule embodies a disclosure standard like that imposed on the Crown in criminal proceedings by *R v Stinchcombe* and adopted by the Commission in enforcement proceedings.[3]

[20] Staff must initially assess which non-privileged documents it considers to be relevant to an allegation. In exercising that judgment, which is later reviewable by the Commission, Staff must:

a. include not only documents on which Staff intends to rely, but also documents that might reasonably assist a respondent in making full answer and defence to Staff's allegations, including by helping the respondent make tactical decisions;

b. assess the relevance of documents in the context of the specific allegations being made by Staff;

c. reasonably anticipate defences or issues that a respondent might properly raise, in order to inform Staff's assessment of relevance;

d. include both inculpatory and exculpatory documents; and

e. err on the side of inclusion.[4]

[21] Staff need not produce what is clearly irrelevant and they bear the initial obligation to separate the "wheat from the chaff" before making disclosure.[5]

[22] The parties agree that this is the applicable disclosure standard but disagree about its application in this case.

[23] Following Staff's initial disclosure, the burden lies with the Moving Parties to articulate a basis for requesting further disclosure.[6] They need to demonstrate the relevance of the documents in question by establishing a sufficient connection between those documents and their ability to make full answer and defence to Staff's allegations.[7]

B. Are Staff's investigator notes and internal communications relevant and therefore required to be disclosed in an enforcement proceeding?

[24] The main issue in this motion is whether Staff's investigator notes and internal communications are relevant and should be disclosed to satisfy Staff's disclosure obligation.

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3 [1991] 3 SCR 326 (***Stinchcombe***); *Philips (Re)*, 2012 ONSEC 43, (2012) 35 OSCB 10957 at para 13 (***Philips***); *Biovail Corp (Re)*, 2008 ONSEC 14, (2008) 31 OSCB 7161 at paras 15, 32, and 40 (***Biovail***)

4 *BDO Canada LLP (Re)*, 2019 ONSEC 21, (2019) 42 OSCB 5239 (***BDO***) at para 14; *Biovail* at paras 15, 32, 40, 41; *Shambleau (Re)*, (2002) 25 OSCB 1850 at para 16; *R v Taillfer* [2003] 3 SCR 307 at para 59

5 *Stinchcombe* at para 20

6 *BDO* at para 16

7 *BDO* at para 17

[25] Staff asserts that many of the documents being requested by the Moving Parties are considered internally-generated documents, rather than material gathered in the course of the investigation and are therefore not subject to disclosure.

1. Staff's "analysis, commentary, opinion or discussions about commencing proceedings"

[26] Staff submit that the Moving Parties' request for investigator notes and internal communications encompasses internal Staff analysis, commentary, opinion or discussions that case law confirms is irrelevant.

[27] In *Philips*, the Commission dismissed, in part, a motion for further documentary disclosure ruling that "internally-generated documents…evidencing Staff's analysis, commentary, opinion or discussions about commencing proceedings ("Staff work product")" were not disclosable.[8]

[28] The parties proffer different interpretations of *Philips* on the issue of what internally-generated documents must be disclosed for Staff to comply with their disclosure obligations.

[29] The Moving Parties submit the words "analysis, commentary, opinion or discussions" are qualified by the phrase "about commencing proceedings" and that all other investigator analysis, commentary, opinion or discussions during an investigation is relevant and should, in their view, be disclosed. Staff submits this is a misinterpretation of *Philips*, and subsequent decisions applying *Philips*.

[30] In *Philips*, the Panel considered documents in six categories, which were not limited to documents concerning whether to commence proceedings. They included, among other categories:

a. drafts of an undertaking and correspondence, both internal and external, regarding the undertaking;

b. Staff's commentary, in internal emails or otherwise, about an independent accountant's report; and

c. documents evidencing meetings between Commission Staff and counsel for the independent accountant, including notes taken during the meeting and internal emails following the meeting.[9]

[31] The interpretation of *Philips* proposed by the Moving Parties gives the decision too narrow a reading that is unsupported by the language of the decision and the cases in which it was subsequently adopted and applied.

[32] The broader point established by *Philips* and adopted by the Commission in BDO is that internal analysis, commentary, opinion or discussions, even by a non-expert fact witness, and even if squarely on the issue to be determined by the Commission, would have no probative value before the Commission.[10] The Alberta Securities Commission (**ASC**) in *Fauth (Re)* took a similar position.[11]

[33] The fact that a document is internally generated is not the determinative factor. Rather, it is whether the content of the document contains analysis, commentary, opinion or discussions.[12]

[34] I now turn to a consideration of specific documents sought by the Moving Parties.

i. Internal Communications

[35] The Moving Parties seek all, non-privileged, emails between OSC Staff relating to Staff's investigation. The Moving Parties assert that Staff's disclosure included almost no emails between the investigators or between the investigators and other OSC Staff. Fielding states that it is "implausible that the investigators communicated so infrequently with each other and other OSC staff over the course of the investigation".[13]

[36] George provided evidence that internal email is not typically used to record evidence. George stated that investigators typically use internal email to discuss the administration and the process of the investigation. Staff's position is that such communications are internal commentary or opinion and, therefore, irrelevant.

[37] The Moving Parties' belief that, given the scale of Staff's investigation, there should be more internal communications is not sufficient to establish that there are relevant communications Staff has not disclosed.

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8 *Philips* at para 39
9 *Philips* at para 8
10 *Philips* at para 34; citing *Shambleau v Ontario (Securities Commission),* (2003) 26 OSCB 1629 (Div Ct); *BDO* at para 43
11 *Fauth (Re)*, 2017 ABASC 3 (***Fauth***)
12 *BDO* at para 22
13 Factum of the Moving Party John Fielding dated February 13, 2020 at para 26 (**Fielding Submissions**)

[38] Goss further submits that there are internal communications about the facts underlying the investigation that were not provided to the Respondents in disclosure and never considered for disclosure. Goss bases this on an admission by George in her cross-examination, that the communications were not disclosed because they were not, in Staff's view, the "better record" of the facts which they contained.

[39] According to Goss, these internal communications relate to background information about the Respondents that is contained in George's witness statement and that she intends to testify about at the hearing on the merits, including the Respondents' employment status and background, residence, contact information, trading statements and account opening documents, line of credit and bank statements, phone records, and connections among the Respondents, and family members, friends, and colleagues.

[40] Goss argues all internal communications involving information about the investigation, specifically background information from the investigation, should be disclosed.

[41] Under cross-examination, George stated that any internal communications containing evidence were disclosed. George did say that the "better record is the actual transcript or the underlying document".

[42] Staff's obligation under Rule 27 is to disclose all relevant documents. The fact that a relevant document has been transcribed into another format, thereby creating another version of the document, does not alter the relevance of the original document.

[43] The hand-written notes underlying the 46 EIS entries are a good example of this principle. Staff originally withheld these hand-written notes on the basis that the EIS entries were the "best and most complete record" of the information.

[44] The Moving Parties demonstrated during oral argument that the EIS entries differed from the underlying hand-written notes.

[45] Where there are two different versions of the same relevant document Staff should not be deciding which version should be disclosed. If a document is relevant, both versions should be disclosed.

[46] Conversely, an internal communication that forwards or refers to relevant information contained in a document is not another version of that document. Internal emails forwarding or referring to relevant information that is otherwise disclosed are properly among the "chaff" that Staff has an initial obligation to exclude.[14] Disclosing all such internal communications, that are not themselves otherwise relevant, would be redundant and burdensome for all parties.

[47] Staff is not required to disclose any commentary or observation by investigators in such an internal communication.

ii. Documents Created by Staff Investigators for Personal Use

[48] Goss points to the fact that Staff's disclosure does not include memos to file and notes that George may have made for her personal use between February 25, 2015 and May 11, 2015. Goss submits that this is a gap in Staff's disclosure and is evidence of relevant notes that should have been disclosed to the Respondents. Staff submits that these documents were not provided as they were not relevant on the basis that they were opinions.

[49] In my view, Staff is not required to disclose documents prepared by an investigator for their own use, regardless of their format (jot, bullet point, hand-written or electronic) because these fall within the category of analysis, commentary or opinion that are not disclosable.

[50] Fielding submits that Staff must disclose to-do lists and notes of leads and follow-ups because the Moving Parties have the right to understand the scope and course of the investigation. Fielding submits that understanding what steps the investigators considered, whether they were pursued and what, if any, follow-ups occurred would provide a basis for cross-examination of Staff's investigator witnesses about the accuracy of their evidence.

[51] Staff's position is that this information falls within the category of internal opinion and commentary about the evidence and is, therefore, irrelevant.

[52] It is the role of the panel at the hearing on the merits to determine whether Staff has adduced sufficient evidence to support the allegations against the Respondents. What steps, leads, follow-ups the investigators considered and whether they acted on them is internal commentary or opinion about the evidence and would have no probative value. It is, therefore, irrelevant and not subject to disclosure.

[14] *Stinchcombe* at para 20

[53] Fielding also submits that to-do lists and notes about the scope and course of the investigation may form the basis of an argument that the investigation suffered from tunnel vision or bias. He further submits that the potential existence of bias in the investigation could be important to the Moving Parties' cross-examination of Staff's witnesses.

[54] Fielding has not made an allegation of bias. Nor was there anything on the face of the submissions in this motion to suggest bias. It is not, appropriate, therefore, to overlook that these materials are irrelevant and require them to be disclosed so the Moving Parties may assess if bias has played any role in the investigation.

iii. Spreadsheets and Analyses Prepared by Investigators

[55] The Moving Parties seek disclosure of spreadsheets and analyses prepared by investigators and all documents reflecting the inputs to those spreadsheets and analyses. They know these documents exist because George admitted on cross-examination that she had prepared spreadsheets of trading and profits in Amaya by the Respondents, and her witness statement indicates that she prepared spreadsheets listing trades and profits in Amaya by the Respondents and others.

[56] Paiement's witness statement also indicates that she will speak to analyses she prepared comparing trading by the Respondents in Amaya to their trading in other securities.

[57] Staff confirmed in oral argument that the spreadsheets and analyses they are intending to introduce at the hearing through George and Paiement and the source documents underlying them have been disclosed. The Moving Parties did not dispute this.

[58] Any analyses prepared by investigators and intended to be relied on by Staff to support the allegations are relevant. As are any source material "to the extent ultimately incorporated or reflected" in such analyses that "could potentially assist...in understanding the...(disclosed) final products".[15]

[59] However, consistent with the ASC's decision in *Fauth*, early drafts of those same analyses need not be disclosed.[16] Similarly, other analyses performed by investigators that are not intended to be presented as evidence at the hearing, and their underlying source material, are not disclosable. This latter category falls within internal analysis that Staff is not required to disclose.

2. Investigator observations, impressions, and interpretation of the evidence

[60] The Moving Parties request all investigator notes and information, which they say contain investigators' observations, impressions about the Respondents and witnesses, interpretations of the evidence, or view of what facts were material.

[61] Goss refers to the Commission's decision in *Azeff (Re)*[17], stating:

> "Understanding how the investigators interpreted the evidence, what facts they considered material, and how they intend to weave those facts into a mosaic (*Azeff* at para 47) of evidence supportive of the allegations will be crucial in allowing the Respondents to properly prepare their defences and cross-examine each witness."[18]

[62] The panel in *Azeff* was speaking about their role in interpreting the mosaic of circumstantial evidence to decide whether there is sufficient, firmly established circumstantial evidence on which to base a finding of insider trading and tipping. *Azeff* is consistent with the principle derived from *Philips* that internal analysis, commentary or opinion have no probative value.

[63] The Moving Parties' request for documents containing investigator observations, impressions, and interpretation of the evidence is denied on the basis they have no probative value and are therefore irrelevant.

i. Investigator Information from February 2015 to May 28, 2015

[64] Staff's disclosure does not include any investigator notes for the period from the commencement of their review in February 2015 to May 28, 2015. The Moving Parties are requesting all notes from this period.

[65] According to Fielding, it is "implausible that the investigators were not making observations, communicating with one another (in writing or otherwise), or making notes during the first months of the investigation".[19]

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15 *Fauth* at para 73
16 *Fauth* at para 74
17 *Azeff (Re)*, 2015 ONSEC 11, (2015) 38 OSCB 2983 (***Azeff***)
18 Memorandum of Fact and Law of Donald Alexander (Sandy) Goss dated February 18, 2020 at para 29
19 Fielding Submissions at para 21

[66] When questioned about this early phase of Staff's investigation, George advised that there were hand-written notes, EIS entries, email and other correspondence that had been reviewed for relevance and not disclosed.

[67] I accept George's evidence that Staff considered investigatory material from this period in their relevance review and disclosed the relevant documents. Staff is not required to disclose any "observations" by the investigators, as discussed above.

ii. Investigator Notes Taken at Transcribed Interviews

[68] The Moving Parties request access to all investigator notes, which they state include investigator notes taken during witness interviews. They are aware that investigator notes like this may exist based on a hand-written note from Paiement which was disclosed the night before this motion hearing. The Moving Parties suggest that this indicates that there is still relevant outstanding information that has not been provided to the Respondents.

[69] Staff submit that the official transcripts of the interviews are the original record of those interviews, and that investigators do not attempt to take a handwritten record of interviews and merely note words or phrases for their working purposes. The transcripts of these interviews have been disclosed. In the one instance where a witness was interviewed by phone and no transcript was created, Staff have now disclosed Paiement's hand-written notes from that interview.

[70] The Moving Parties submit that the fact that information may be contained elsewhere is not a basis to withhold disclosure of otherwise relevant documents. In addition, Fielding submits that original and contemporaneous notes are important to the right of full answer and defence.

[71] The official transcripts of the interviews are the original and contemporaneous notes of the interview.

[72] Where there is a court reporter creating an official transcript, investigators are not attempting to record the interview. To the extent any such investigator notes contain impressions or observations about the witness' evidence, Staff is not required to disclose them.

3. Other requested disclosure

i. Investigator Notes Taken During Interlocutory Attendances

[73] Fielding seeks investigator notes taken during interlocutory attendances in this proceeding. He submits that "it is reasonable to assume that the investigator's hearing notes contain relevant information about their investigation of the case."

[74] I do not find Fielding's assumption to be reasonable. Interlocutory hearings are typically about procedural and other case management issues. No evidence is gathered or heard. The transcripts from those hearings are the original record. The Moving Parties have those records. Investigator notes from these hearings are not part of the investigative process. Any such investigator notes would be irrelevant and, therefore, not disclosable.

ii. Other Investigators' Notes

[75] The Moving Parties also seek disclosure of any notes created by the other two investigators involved in this matter, Bordynuik and Sanchioni. No hand-written notes nor EIS entries for either individual was part of Staff's disclosure. I find that the Moving Parties have not established that there are relevant notes from either of these investigators that have not been disclosed.

[76] Bordynuik is no longer with the Commission. He did not create any EIS entries. It is not known if he created any hand-written notes during the investigation. Staff provided evidence that Bordynuik played an internal role and had no contact with third parties. As a result, Staff submits that even if he had created any hand-written notes, they would not be relevant.

[77] In their response to an undertaking from George's cross-examination, Staff confirmed that Sanchioni did not take any hand-written notes or create any EIS entries. I find this to be consistent with the characterization of his role in the investigation as being limited.

4. Conclusion

[78] *Phillips* and *Azeff* do not stand for the proposition that every internally generated document during an investigation is irrelevant. As the parties agree, what determines relevance is the content of the document in question.[20] To the extent that the investigator notes and internal communications of Staff contain relevant information, they should be disclosed. If, however, investigator notes and internal communications contain analysis, commentary or opinion, they are not relevant and Staff is not required to disclose them. The documents sought by the Moving Parties in this instance fall within the category of analysis, commentary or opinion and are not required to be disclosed.

C. Is Staff required to do a document-by-document relevance review?

[79] Goss submits that Staff responsible for making the final decision about relevance did not review all documents and excluded entire categories without adequately considering them or considering them at all. He bases this in part on George's admission under cross-examination that internal communications were never considered for disclosure.

[80] George also responded to some questions during cross-examination about what investigators typically include in internal communications and what typically is the formal record of investigator communications. Goss submits that George's reference to Staff's usual practices suggests Staff uses a categorical approach to disclosure rather than an assessment of each document for relevance.

[81] I agree with the ASC's observation that the *Stinchcombe* obligation does not require perfection in disclosure provided the underlying objective is overall fairness to the respondent.[21] Staff must exercise considerable judgment in making disclosure decisions. The Commission's role in this motion for additional disclosure is to assess, given all the circumstances of the case, whether the objective underlying the disclosure obligation, fairness to the Respondents, is being achieved.

[82] It is not the Commission's role to dictate the actual steps or the means by which Staff meets the disclosure standard set out in Section IV above. I do not consider it appropriate, therefore, to decide whether Staff needs to conduct a document by document review for relevance in every instance.

D. Should Staff be required to provide a log of privileged material that has not been disclosed?

[83] The Moving Parties request that Staff be required to provide a privilege log containing enough detail to allow the Moving Parties to understand what has been withheld.

[84] Staff's position is that a privilege log is not required as no documents are being withheld on the bases of privilege, only irrelevance. However, Staff reserved the right to raise privilege claims with respect to any documents ordered to be disclosed as a result of this motion.

[85] As I am not ordering any of the requested documents be disclosed, Staff has not raised any privilege claims and it is not necessary to decide whether Staff is required to provide a privilege log.

V. CONCLUSION

[86] For the reasons set out above, I concluded that the documents sought by the Moving Parties are irrelevant and therefore not subject to disclosure. I, therefore, dismiss the motion.

[87] I thank the parties for their thorough submissions and able assistance on this motion.

Dated at Toronto this 2nd day of June, 2020.

"M. Cecilia Williams"

[20] *BDO* at paras 22-24
[21] *Fauth* at para 35

3.1.3 Paul Se Hui Oei and Canadian Manu Immigration & Financial Services Inc. – ss. 127(1), 127(10)

Citation: *Oei (Re)*, 2020 ONSEC 17
Date: 2020-06-03
File No. 2020-1

IN THE MATTER OF
PAUL SE HUI OEI
AND
CANADIAN MANU IMMIGRATION & FINANCIAL SERVICES INC.

REASONS AND DECISION
(Subsections 127(1) and 127(10) of
the *Securities Act*, RSO 1990, c S.5)

Hearing:	May 7, 2020	
Decision:	June 3, 2020	
Panel:	Heather Zordel	Commissioner and Chair of the Panel
Appearances:	Audrey Smith	For Staff of the Commission
	Paul Se Hui Oei	For himself and Canadian Manu Immigration & Financial Services Inc.

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REASONS AND DECISION

I. INTRODUCTION

[1] On December 12, 2017, a hearing panel of the British Columbia Securities Commission (the **BCSC**) found that the Respondents, Paul Se Hui Oei and Canadian Manu Immigration & Financial Services Inc. (**Canadian Manu**), perpetrated a fraud contrary to s.57(1)(b) of the British Columbia *Securities Act*.[1]

[2] Following the BCSC Findings, the BCSC held a sanctions hearing and on August 8, 2018 issued a decision[2] including an order (the **BCSC Order**) imposing monetary and non-monetary sanctions on the Respondents.

1 *Re Oei*, 2017 BCSECCOM 365 (**BCSC Findings**) at para 310

[3] On August 31, 2018, the Respondents applied for a hearing and review of both decisions of the BCSC. On July 22, 2019, the BCSC dismissed the application to vary or revoke any of their findings or orders against the Respondents.[3]

[4] On September 20, 2018, the Respondents filed an Amended Notice of Application for Leave to Appeal with the British Columbia Court of Appeal (the **BCCA**) regarding the BCSC Findings and BCSC Order. On December 12, 2018, the BCCA issued an order dismissing the application for leave to appeal.[4]

[5] Staff of the Ontario Securities Commission (**Staff** of the **Commission**) relies on the inter-jurisdictional enforcement provisions found in s.127(10) of the Ontario *Securities Act* (the **Act**)[5] and requests that a protective and preventative order be issued in the public interest under s.127(1) of the Act that imposes terms similar to the non-monetary sanctions imposed by the BCSC to the extent possible under the Act.

[6] There are two issues for my consideration:

a. Are the Respondents subject to an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the Respondents?

b. If so, should the Commission exercise its jurisdiction to make a protective and preventative order in the public interest in respect of the Respondents? Have the Respondents demonstrated that the BCSC Order should not be reciprocated?

[7] I am satisfied that it is in the public interest to issue a protective and preventative order substantially in the form requested by Staff. These are my reasons.

II. SERVICE AND PARTICIPATION IN THIS PROCEEDING

[8] Staff filed a Statement of Allegations dated January 7, 2020, naming Mr. Oei and Canadian Manu as the respondents in this proceeding and electing to proceed with a hearing in writing. On January 9, 2020, the Commission issued a Notice of Hearing commencing this proceeding and posted it on the Commission's website.

[9] Staff served the Respondents with the Statement of Allegations, the Notice of Hearing, and Staff's written submissions, hearing brief[6] and brief of authorities on January 9, 2020, via email. Staff filed an Affidavit of Service sworn on January 15, 2020.[7]

[10] In accordance with the *Ontario Securities Commission Rules of Procedure and Forms*, a respondent may request, within 21 days following the service of Staff's documents, that the proceeding be heard orally by serving and filing a written request.[8] On January 29, 2020, Mr. Oei emailed the Registrar with a written request for an oral hearing, copying Staff.

[11] On February 20, 2020, the Commission held an attendance and made an order with respect to the scheduling of the oral hearing in this proceeding, the service and filing of the Respondents' submissions and evidence, and Staff's reply submissions.[9] Mr. Oei participated by telephone on his own behalf and on behalf of Canadian Manu. Mr. Oei continued to represent Canadian Manu for the duration of this proceeding.

[12] On April 9, 2020, the Respondents served Staff with their written submissions and evidence[10] via email. On April 22, 2020, Staff served the Respondents with their written reply submissions and supplementary brief of authorities via email. Staff filed a second Affidavit of Service sworn by videoconference on April 23, 2020.[11]

[13] On April 28, 2020, the Registrar, on instruction from the Panel Chair, wrote to the parties advising that due to challenges presented by COVID-19, the oral hearing scheduled for May 7, 2020 could not proceed in-person. The parties were given the option to proceed in writing or by teleconference. On April 29, 2020, Staff indicated that the

2 *Re Oei,* 2018 BCSECCOM 231 (**BCSC Sanctions Decision**) at para 131
3 *Re Oei*, 2019 BCSECCOM 255 (**BCSC Section 171 Application Decision**) at para 69
4 Exhibit 1, Staff's Hearing Brief, BCCA Orders dated December 12, 2018, Tab 5
5 RSO 1990, c S.5
6 Marked as Exhibit 1 in this proceeding
7 Marked as Exhibit 2 in this proceeding
8 *Ontario Securities Commission Rules of Procedure and Forms* (2019) 42 OSCB 9714, r 11(3)(e)
9 (2020) 43 OSCB 1782
10 Marked as exhibit 3 in this proceeding
11 Marked as exhibit 4 in this proceeding

Respondents did not consent to the hearing proceeding by writing and as such, the hearing was to proceed by teleconference on May 7, 2020.

[14] Mr. Oei was invited to make oral submissions at the hearing on May 7, 2020. Staff also made brief oral submissions at the hearing.

III. BRITISH COLUMBIA PROCEEDINGS

[15] The findings made by another jurisdiction stand as a determination of fact for the purposes of the Commission's considerations under s.127(10) of the Act.[12]

A. Background

[16] The conduct for which the Respondents were sanctioned by the BCSC occurred between July 2009 and August 2013 (the **Material Time**).[13]

[17] During the Material Time, Mr. Oei was a resident of British Columbia and was registered by the Insurance Council of British Columbia[14] as an insurance broker[15]. Mr. Oei was not registered under the British Columbia *Securities Act*[16] (**BC Act**) during the Material Time.[17] No evidence was presented of any prior regulatory investigation or proceedings with respect to Mr. Oei.

[18] Canadian Manu was incorporated under the laws of British Columbia on February 28, 2006[18] and was dissolved on August 12, 2019 for failure to file records[19]. Canadian Manu was registered by the Insurance Council of British Columbia, but was not registered under the BC Act during the Material Time.[20]

[19] Mr. Oei was a director and officer of Canadian Manu from its incorporation to March 1, 2010. Mr. Oei's spouse became a director of Canadian Manu on November 9, 2009 and remained the sole director of the company after Mr. Oei's resignation in March 2010. Following Mr. Oei's resignation as a director of Canadian Manu he continued to control the company, including the company's bank accounts.[21]

[20] 0863220 B.C. Ltd. (**0863**) and 0905701 B.C. Ltd. (**0905**) (together, the **Numbered Companies**) were respondents at the contested hearing on the merits at the BCSC. Both of these companies, which were controlled directly or indirectly by Mr. Oei[22], are now dissolved[23]. Staff are not seeking to reciprocate the BCSC Order as it related to the Numbered Companies as the limitation period[24] imposed by the British Columbia *Business Corporations Act* on commencing proceedings against dissolved corporations has passed. 0863 was dissolved on March 22, 2016[25] and 0905 was dissolved on August 31, 2015[26].

B. BCSC Findings

[21] The BCSC Panel found that beginning in 2009[27], the Respondents raised funds on behalf of two companies, Cascade Renewable Carbon Corp. (**CRC**) and Cascade Renewable Organic Fertilizer Corp. (**CROF**) (together, **Cascade**), through an indirect investment structure.[28]

[22] Under the structure, Canadian Manu acquired securities from CRC and CROF and the investors purchased a security of either CRC or CROF from Canadian Manu. Canadian Manu agreed to hold this CRC or CROF security in trust for

12 *JV Raleigh Superior Holdings Inc* (Re), 2013 ONSEC 18, (2013) 36 OSCB 4639 (***JV Raleigh***) at para 16
13 BCSC Findings at para 2
14 BCSC Findings at para 7
15 BCSC Sanctions Decision at para 17
16 RSBC 1996, c 418
17 BCSC Findings at para 7
18 BCSC Findings at para 8
19 Exhibit 1, Staff's Hearing Brief, BC Company Summary, Tab 7
20 BCSC Findings at para 9
21 BCSC Findings at para 10
22 BCSC Findings at paras 13 and 15
23 Exhibit 1, Staff's Hearing Brief, BC Company Summaries, Tabs 8 and 9
24 SBC 2002, c 57, s 346(1)(b); Section 346(1)(b) of the British Columbia *Business Corporations Act* (**BC Business Corporations Act**) deals with dissolved companies deemed to continue for litigation purposes. It states that even though a company is dissolved under the BC Business Corporations Act, litigation may continue as if the company is not dissolved if a legal proceeding is brought against the company within 2 years of its dissolution.
25 Exhibit 1, Staff's Hearing Brief, BC Company Summary, Tab 8
26 Exhibit 1, Staff's Hearing Brief, BC Company Summary, Tab 9
27 BCSC Findings at paras 12 and 177
28 BCSC Findings at para 29

the investor under an Investment Trust Agreement. The Numbered Companies then issued shares to the investors, purportedly as "security" or collateral for the investor's investment in CRC or CROF. In most cases, the investors paid their invested funds into an account with the Respondent's legal counsel.[29]

[23] The executive director of the BCSC had alleged that the Respondents raised $13,349,000 with respect to 64 investments in Cascade.[30] Mr. Oei submitted to the BCSC Panel that he had actually received approximately $12.2 million from investor in Cascade and challenged the inclusion of over $1 million in the allegations against the Respondents.[31] As the BCSC Panel found that one of the investments did not make sense in the context of the allegations against the Respondents, the BCSC Panel instead focused on 63 total investments in Cascade, which raised a total of $13,262,600.[32] The BCSC Panel found that, with respect to the 63 investments in Cascade, fraud was carried out and the Respondents misappropriated approximately $5 million in investor funds.[33] Investors were told that the funds would be used for the "start-up costs" of Cascade; however, the Respondents expended approximately $5 million on items including commissions, interest payments, immigration fees, car lease payments and advertising, with funds paid to themselves and others, and for their own personal and corporate use.[34]

[24] The BCSC Panel found that investors received varying versions of a document called "offering summary" containing some terms that made little to no commercial sense. Certain versions of the document did not mention Canadian Manu. Aside from a term that there might be fees or expenses involved in the purchase of the securities, none of the versions made disclosure that some of the proceeds of the offering would be retained by the Respondents for their own personal or corporate use or that investors would be acquiring an indirect ownership interest in Cascade.[35]

[25] The BCSC Panel concluded that, for the 63 contraventions of the manipulation and fraud provision in s.57(1)(b) of the BC Act, Mr. Oei and Canadian Manu committed, each of them was accountable jointly and severally for the aggregate amount of $5,003,088.[36] Mr. Oei controlled the flow of the investors' funds and made the oral and written representations to investors that their funds would be used for the start-up costs of Cascade. Canadian Manu was part of the indirect investment structure and was the primary conduit of most of the investors' funds.[37]

[26] The BCSC Panel rejected the Respondents' oral submissions that the Respondents' lawyers were at fault for the Respondents' fraud with respect to the legal documents failing to disclose to the investors that the Respondents would be keeping all or a portion of the approximately $5 million that was misappropriated. The BCSC Panel said the Respondents' submission was made without any evidence to support the proposition that instructions were given by the Respondents to the Respondents' lawyers to prepare documents containing this disclosure. The submissions also suggested that the fraudulent misconduct was a mistake, which submission the BCSC Panel explicitly rejected.[38] The BCSC Panel found the indirect investment structure, which the lawyers had advised the Respondents on, did not cause the fraud in this case.[39]

[27] The BCSC Panel found that there was a material aggravating factor in this case with respect to the Respondents' poor record keeping, and while it may not have been the Respondents' intent to obfuscate the Respondents' misappropriation of investor funds, the poor record keeping had that effect.[40] The BCSC Panel further noted that those who do not keep adequate records of the use of investor funds pose a serious and substantial risk to the public.[41]

C. BCSC Order

[28] The BCSC Sanctions Decision imposed the following sanctions on the respondents pursuant to the BC Act:

a. Against Mr. Oei:

i. under s.161(1)(d)(i) of the BC Act, Oei resign any positions he holds as a director or officer of an issuer or registrant;

ii. Oei is permanently prohibited:

29 BCSC Findings at para 29
30 BCSC Findings at paras 3 and 55
31 BC Findings at paras 55 and 159
32 BCSC Findings at paras 195-199
33 BCSC Sanctions Decision at paras 2, 65 and 112
34 BCSC Findings at paras 199, 281, 285 and 308
35 BCSC Findings at paras 30, 31 and 34
36 BCSC Findings at para 284
37 BCSC Findings at para 286
38 BCSC Sanctions Decision at para 27
39 BCSC Sanctions Decision at para 26
40 BCSC Sanctions Decision at para 28
41 BCSC Sanctions Decision at para 2

(a) under s.161(1)(b)(ii) of the BC Act, from trading in or purchasing any securities or exchange contracts, except that he may trade and purchase securities or exchange contracts for his own account (including RRSP accounts, TFSA accounts and RESP accounts) through a registered dealer, if he gives the registered dealer a copy of the BCSC Sanctions Decision;

(b) under s.161(1)(c) of the BC Act, from relying on any of the exemptions set out in the BC Act, the regulations or a decision;

(c) under s.161(1)(d)(ii) of the BC Act, from becoming or acting as a director or officer of any issuer or registrant;

(d) under s.161(1)(d)(iii) of the BC Act, from becoming or acting as a registrant or promoter;

(e) under s.161(1)(d)(iv) of the BC Act, from acting in a management or consultative capacity in connection with activities in the securities market; and

(f) under s.161(1)(d)(v) of the BC Act, from engaging in investor relations activities;

iii. pursuant to s.161(1)(g) of the BC Act, Oei pay to the BCSC $3,087,977.41; and

iv. pursuant to s.162 of the BC Act, Oei pay to the BCSC an administrative penalty of $4.5 million.

b. Against Canadian Manu:

i. Canadian Manu is permanently prohibited:

(a) under s.161(1)(b)(ii) of the BC Act, from trading in or purchasing any securities or exchange contracts;

(b) under s.161(1)(c) of the BC Act, from relying on any of the exemptions set out in this Act, the regulations or a decision;

(c) under s.161(1)(d)(iii) of the BC Act, from becoming or acting as a registrant or promoter;

(d) under s.161(1)(d)(iv) of the BC Act, from acting in a management or consultative capacity in connection with activities in the securities market; and

(e) under s.161(1)(d)(v) of the BC Act, from engaging in investor relations activities;

ii. pursuant to s.161(1)(g) of the BC Act, Canadian Manu pay to the BCSC $3,087,977.41; and

iii. pursuant to s.162 of the BC Act, Canadian Manu pay to the BCSC an administrative penalty of $1 million.

D. Application to Vary or Revoke Findings

[29] On August 31, 2018, the Respondents applied under s.171 of the BC Act for a hearing and review of both the BCSC Findings and the BCSC Sanctions Decision.[42]

[30] On July 22, 2019, the BCSC dismissed the application to vary or revoke any of their orders against the Respondents pursuant to s.171 of the Act. The BCSC determined it would have been prejudicial to the public to do so.[43]

E. Application for Leave to Appeal to British Columbia Court of Appeal

[31] On September 20, 2018, the Respondents filed an Amended Notice of Application for Leave to Appeal with the BCCA regarding the BCSC Findings and the BCSC Sanctions Decision. On December 12, 2018, the BCCA issued two Orders dismissing the application for leave to appeal.[44]

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42 BCSC Section 171 Application Decision at para 1

43 BCSC Section 171 Application Decision at para 69

44 Exhibit 1, Staff's Hearing Brief, Amended Notice of Application for Leave to Appeal dated September 20, 2018, Tab 4; Exhibit 1, Staff's Hearing Brief, BCCA Orders dated December 12, 2018, Tab 5

IV. LAW AND ANALYSIS

A. Are the respondents subject to an order made by a securities regulatory authority, derivatives regulatory authority or financial regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the respondents?

[32] The Act s.127(10) facilitates the inter-jurisdictional enforcement of orders following breaches of securities law. It allows the Commission to issue protective and preventative orders to ensure that misconduct that takes place in another jurisdiction will not be repeated in Ontario's capital markets.

[33] The Act s.127(10)4 authorizes an order under s.127(1) where a respondent has been made subject to an order made by a securities regulatory authority, in any jurisdiction, that imposes sanctions, conditions, restrictions or requirements on the respondent. The BCSC is a securities regulatory authority and the BCSC Sanctions Decision imposes sanctions on the Respondents. Therefore, the threshold test under s.127(10)4 of the Act is satisfied.

[34] The Act s.127(10) does not itself empower the Commission to make an order; rather, if the threshold public interest criterion in s.127(10) is met, then it provides a basis for an order under s.127(1).

B. Should the Commission exercise its jurisdiction to make the requested order in the public interest?

[35] I must now consider whether it is in the public interest to issue an order under the Act s.127(1). Orders made under the Act s.127(1) are "protective and preventative" and are made to restrain potential misconduct that could be detrimental to the integrity of the capital markets and are therefore prejudicial to the public interest. The Commission does not require a pre-existing connection to Ontario before exercising its jurisdiction to make an order in reliance on s.127(10) of the Act.[45]

1. Staff's Position

[36] Staff submits that the following factors establish that it is in the public interest to make a protective order:

a. the Respondents were found by the BCSC Panel to have breached British Columbia securities law;

b. the conduct for which the Respondents were sanctioned in the BCSC Order would have likely constituted contravention of Ontario securities law, specifically the BCSC finding of fraud would constitute a contravention of s.126.1(1)(b) of the Act;

c. the terms of the order requested by Staff are consistent with the fundamental principle that the Commission maintain high standards of fitness and business conduct to ensure honest and responsible conduct by market participants;

d. the terms of the proposed order align with the sanctions imposed in the BCSC Order to the extent possible under the Act; and

e. the sanctions requested by Staff are prospective in nature and would impact the Respondents only if they attempted to participate in the capital markets of Ontario.

2. Respondents' Position

[37] The Respondents' filed approximately 900 pages of written submissions and documentary evidence in this proceeding. The Respondents' written submissions generally reflect the following points: Mr. Oei has no intention of working in the financial industry or moving to Ontario; Mr. Oei has a history of charitable work and community involvement; and Mr. Oei has suffered reputational damage and financial hardship as a result of the BCSC proceedings.[46] Mr. Oei further submits that an order from the Commission would further negatively impact his reputation in the community.

[38] The Respondents also submitted that during the Material Time they relied on the advice of legal counsel to their detriment and that negligence on the part of the Respondents' legal counsel was responsible for any fraudulent conduct that took place, not the Respondents. See discussion under Appropriate Sanctions paragraph [52] below.

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45 *Biller (Re)*, 2005 ONSEC 15, (2005) 28 OSCB 10131 at paras 32-35

46 Exhibit 3, Submissions and Evidence of Paul Oei dated April 9, 2020

3. Respondents' Onus

[39] Mr. Oei chose to focus many parts of his written and oral submissions on areas of the BCSC Findings and the BCSC Sanctions Decision that he did not agree with and on multiple occasions throughout this proceeding stressed that he wanted to "prove his innocence". It is not appropriate for this Panel to revisit the BCSC Findings as an enforcement proceeding under s.127(10) of the Act is not a forum for re-litigating findings made in other jurisdictions.[47]

[40] The onus lies on the Respondents to show that the BCSC Order should not be reciprocated by the Commission. The Commission should only refuse to reciprocate an order from another jurisdiction where a Respondent can demonstrate that:[48]

a. there was no substantial connection between the Respondent and the originating jurisdiction;

b. the order of the regulatory authority was procured by fraud; or

c. there was a denial of natural justice in the originating jurisdiction.

[41] The Respondents have not disputed that there is a substantial connection between the Respondents and the originating jurisdiction of British Columbia. Likewise, the Respondents have not alleged that the BCSC Order was procured by fraud and there has been no convincing evidence before me that the Respondents were denied natural justice.

[42] In order to successfully resist reciprocation of the BCSC Order, the Respondents would have to demonstrate that the BCSC Order was so outrageous as to violate Canadian notions of fundamental justice.[49] This is a very high bar, which the Respondents have not met. There has been no compelling evidence before me to indicate that BCSC proceedings were not fair. Both of Mr. Oei's attempts to have the BCSC Findings and the BCSC Sanctions Decision reviewed were dismissed, further indicating that the proceedings were fair.

[43] The contents of the Respondents' written submissions, and supplementary oral submissions, do not form a basis to resist reciprocation of the BCSC Order. The Respondents' written submissions had copies of documents used for the purposes of the Respondents' hearing and review proceedings, which declined to vary the terms of the BCSC Order, and for the BCSC Sanctions Decision. While it is helpful to have character references from a number of people, those references do not counter the BCSC's conclusions that investors were harmed, and there is a risk the Respondents may engage in future non-regulatory-compliant activity in the Province of Ontario.

4. Appropriate Sanctions

[44] Staff submits that to adequately protect the capital markets in Ontario, a protective and preventative order should be granted against the Respondents, preventing or limiting the Respondents' participation in Ontario's capital markets. The Respondents submit that an order is unnecessary and Mr. Oei indicated that he would provide an oral statement as an alternative to an order of the Commission indicating that he would not participate in Ontario's capital markets. While I appreciate Mr. Oei's comments and assurance that he will not participate in Ontario's capital markets, I accept that a formal order is necessary to adequately protect the public.

[45] The Commission may consider a number of factors in determining the nature and scope of sanctions, including the seriousness of the misconduct, any mitigating factors and the need to deter a respondent and other like-minded individuals from engaging in similar abuses of the capital markets in the future.

[46] The BCSC Panel stated, among other things, that the Respondents represent a very serious risk to the capital markets. The Respondents tendered financial evidence that "was not credible and, in some cases, defied logic".[50] The BCSC Panel found a material aggravating factor in the case to be the poor record keeping by the Respondents (see paragraph [27] herein).The BCSC panel further stated that "Oei's conduct not only falls far short of that expected of someone who carries out the duties of an officer or a director of a corporation but, in fact, demonstrates his willingness to use corporations in carrying out harm to the public".[51]

[47] The BCSC Panel dismissed the idea that the Respondents' conduct occurred in the context of legitimate capital raising[52] and noted a number of investors testified that they first came into contact with the Respondents through

47 *Black (Re)*, 2014 ONSEC 16, (2014) 37 OSCB 5847 at para 24
48 *JV Raleigh* at para 26
49 *Berry (Re)*, 2018 ONSEC 38, (2018) 41 OSCB 5897 at para 25
50 BCSC Sanctions Decision at para 36
51 BCSC Sanctions Decision at para 37
52 BCSC Sanctions Decision at para 16

dealings with the Respondents themselves, and Mr. Oei's spouse (both individuals were registered insurance brokers).[53] (See paragraph [17] herein re Mr. Oei and BCSC Sanctions Decision at paragraph [17] re Mr. Oei's spouse). They were induced to purchase securities in Cascade, suggesting there was an element of conflict of interest or abuse of that prior relationship.[54] Similar to the situation in *Theroux (Re)*[55], where Mr. Theroux had been a mutual fund salesperson, it could also be considered a "mistaken trust" of Mr. Oei as a registered insurance salesperson[56].

[48] Staff submits that Mr. Oei's submissions with regard to his character and community involvement (see paragraph [43] herein) should be afforded little or no weight in my decision as the Commission and Ontario Court of Justice has long noted that individuals who commit fraud may use their position in the community and reputations to gain trust and to assist them in committing their fraudulent misconduct.[57]

[49] Based on his submissions in this proceeding (see paragraphs [37] and [38] herein), Mr. Oei does not appear to have a background in trading in securities and does not appear to be familiar with relevant rules and regulations that are meant to guide the behaviour of those taking part in the capital markets.

[50] Individuals who want to advise other people about where and how to invest their money have obligations to such investees. There needs to be trust between the individuals. There needs to be a mutual understanding of what the investment is, what the rewards might be, what the risks are and how those risks might impact the investment. In order to build that trust, our securities regulatory system requires proper disclosure of material facts and material changes. There is an old saying that "sunlight is the best disinfectant".

[51] Mr. Oei did not seem to understand the underlying principles of securities regulation and particularly the role of disclosure (see paragraph [26] herein). He did not disclose the mark-up on the price he had paid to acquire Canadian Manu shares as compared to the price he was "selling" them to subsequent investors and he did not disclose the fees he was taking and the expenses he was charging through his companies. Mr. Oei, in oral submissions, compared his management of these private investments to how a retail shop owner might manage the acquisition of cell phones that such store owner might buy at a wholesale price and sell at a higher retail price, without having to disclose how much he originally paid, and the owner would use the difference to pay the costs of running the retail business and use the net profit himself and for charity. However, securities are not cell phones and their sale is regulated through a different regulatory system that Mr. Oei had an obligation to learn and comply with. He appeared to have no sense that taking $5 million out of the $12.2 to $13.3 million total funds raised (depending on whether the figure used by the BCSC executive director or the Respondents was used – see paragraph [23] herein)[58] might not be within the range of reasonable expectations of investors for fees and costs of investment.

[52] Mr. Oei provided evidence that he had hired legal counsel to work with him and that the law firm had suggested the indirect investment structure he used. He also provided evidence that his lawyer had subsequently been the subject of a Law Society of British Columbia Discipline Committee process, in respect of legal advice given, considering questions including (i) whether there was a failure to make reasonable inquiries into whether the clients were registered to sell securities, (ii) the rates and forms of returns described to investors, (iii) the levels of investment risk described to investors and (iv) whether the investor funds were paid to the entities for which the funds were purportedly raised.[59] In *Black Panther Trading Corp (Re)*[60], it was noted that reliance on legal advice can be a mitigating factor where someone obtains advice from an appropriate source and, while relying in good faith on that advice, unknowingly contravenes Ontario securities law.[61] However, in this case the BCSC Panel considered the evidence of legal advice and did not consider it to be a mitigating factor[62] (see paragraphs [26] and [52] herein). Obtaining legal advice is evidence of an effort to comply with the law, but does not exculpate Mr. Oei from responsibility for the way he implemented whatever advice was given.

[53] Mr. Oei did not have the appropriate education, qualifications or business support for the activities he was carrying on (see paragraphs [17], [24], [25], [26] and [27] herein). His insurance sales credentials and employment gave him access to individuals who mistakenly trusted that he had more knowledge about investing than he did. He did not take appropriate care in managing his business, to the degree that the BCSC found it fraudulent (see paragraph [23] herein). As had been the case in *Black Panther*, Mr. Oei made untrue statements that reasonable investors would

53 BCSC Sanctions Decision at para 17
54 BCSC Sanctions Decision at para 17
55 2019 ONSEC 20 (2019), 42 OSCB 5043 (***Theroux Sanctions Decision***)
56 *Theroux Sanctions Decision* at para 26
57 *R v Wall*, [2000] OJ No 5447 at para 102; *Theroux Sanctions Decision* at para 26
58 BCSC Findings at para 159
59 Exhibit 3, Submissions and Evidence of Paul Oei dated April 9, 2020, p 55-57
60 2017 ONSEC 8, (2017), 40 OSCB 3727 (***Black Panther Sanctions Decision***)
61 *Black Panther Sanctions Decision* at para 28
62 BCSC Sanctions Decision at paras 23 and 24

consider relevant in deciding whether to enter into or maintain a trading or advising relationship, contrary the representation prohibited provision in s.44(2) of the Act.[63] He doesn't know what he doesn't know.

[54] The BCSC Panel found that the Respondents "had the requisite mental intent for fraud and knowingly misappropriated over $5 million of the funds provided by investors for Cascade" and stated "This is very serious misconduct and [the BCSC's] orders must reflect that".[64] (See paragraphs [23], [24], [25] and [27] herein.)

[55] The Commission has consistently held that fraud is one of the most egregious securities regulatory violations. It causes direct and immediate harm to investors and it significantly undermines confidence in the capital markets.[65] The Commission has held that serious fraudulent conduct warrants permanent removal from the capital markets to protect investors and to deliver a deterrent message to others who might contemplate similar misconduct.[66]

[56] The BCSC Panel noted that while the Respondents have no history of regulatory misconduct, there were no mitigating factors in this case, but there was a material aggravating factor.[67] (See paragraphs [17], [27] and [52] herein).

[57] Taking into consideration the nature of the misconduct engaged in by the Respondents, the importance of inter-jurisdictional cooperation among securities regulators, and the need to deter the Respondents and other like-minded individuals from engaging in similar misconduct in Ontario, I conclude the Respondents have not discharged their onus and a protective and preventative order ought to be made in substantially the form requested by Staff. The Respondents, particularly Mr. Oei who fundamentally lacks an understanding of capital markets norms and regulation, cannot be trusted to refrain from engaging in any activities in Ontario's capital markets. I accept Staff's submissions that the sanctions requested are proportionate to the Respondents level of misconduct, and serve to protect Ontario investors and Ontario's capital markets from potential misconduct by the Respondents.

[58] As noted above in paragraph [20], Staff do not seek to reciprocate the BCSC Order as it relates to the Numbered Companies, as this proceeding is outside of the two-year limitation period for litigation involving dissolved companies specified by the BC Business Corporation Act for both companies.[68] Canadian Manu was dissolved on August 12, 2019, which is within the two-year time frame of the commencement of this proceeding.[69] The Commission has reciprocated the non-monetary sanctions ordered by the BCSC against a dissolved company in the past when the proceeding was commenced within the specified time frame, in case the company is reinstated.[70] Therefore, I find that it is appropriate to make a protective and preventative order with respect to both Respondents.

C. Differences between British Columbia and Ontario Statutes

[59] Due to differences between the Act and the BC Act, some of the sanctions I impose in Ontario differ from those imposed in British Columbia, as outlined below.

[60] First, the BCSC prohibited the Respondents from trading in or purchasing "exchange contracts"[71]. Subsection 127(1) of the Act does not expressly refer to exchange contracts. The BC Act defines "exchange contract" to mean a futures contract or option that meets certain specified requirements. As a result, Staff seeks an order prohibiting the Respondents from trading in derivatives. In my view, when considering the factors described above that support the making of an order prohibiting trading, there is no reason to distinguish between securities and derivatives. I find it is equally in the public interest to protect Ontario investors and the capital markets by prohibiting the Respondents from trading in derivatives. I will therefore make the order requested by Staff.

[61] Second, the BCSC Sanctions Decision prohibits the Respondents from engaging in "investor relations activities" and from "acting in a management or consultative capacity in connection with activities in the securities market."[72] In Ontario, the Act does not use those terms. Instead, such activities would largely be covered by the prohibitions already requested, against individuals acting as a director or officer of an issuer or as a registrant or promoter.

63 *Black Panther Sanctions Decision* at paras 50 and 51
64 BCSC Sanctions Decision at para 14
65 *Black Panther Sanctions Decision* at para 48
66 *Black Panther Sanctions Decision* at para 68
67 BCSC Sanctions Decision at paras 21 and 24
68 BC Business Corporations Act, s 346(1)(b); see para 20 of these Reasons for a further explanation.
69 BC Business Corporations Act, s 346(1)(b)
70 *SBC Financial Group Inc (Re)*, 2018 ONSEC 60, (2018) 42 OSCB 89 at paras 29-31
71 BC Sanctions Decision at paras 131(b) and 131(e)
72 BC Sanctions Decision at paras 131(b) and 131(e)

D. Importance of Reciprocating Orders Across Canada

[62] Canada has a provincial system for securities regulation, with a long-term objective of having a consistent approach across the country, as much as possible. I hope Mr. Oei and Canadian Manu will understand that this exercise has been an effort to apply in Ontario the decision made by the primary regulator, British Columbia, to the extent reasonably possible. Through the process and this decision, I hope we are providing improved information and understanding to the parties of what the relevant securities regulatory requirements and expectations are and how we are interpreting and applying legislation, rules, regulations and regulatory interpretations.

V. CONCLUSION

[63] For the reasons set out above, I will make the following order:

a. against Mr. Oei:

i. pursuant to the Act s.127(1)2, trading in any securities or derivatives by Mr. Oei cease permanently, except trades that are made for his own accounts (including RRSP accounts, TFSA accounts and RESP accounts) through a registered dealer, if he gives the registered dealer a copy of the BCSC Order and a copy of this Order;

ii. pursuant to the Act s.127(1)2.1, the acquisition of any securities by Mr. Oei cease permanently, except purchases that are made for his own accounts (including RRSP accounts, TFSA accounts and RESP accounts) through a registered dealer, if he gives the registered dealer a copy of the BCSC Order and a copy of this Order;

iii. pursuant to the Act s.127(1)3, any exemptions contained in Ontario securities law do not apply to Mr. Oei permanently;

iv. pursuant to the Act s.127(1)7 and s.127(1)8.1, Mr. Oei resign any positions that he holds as a director or officer of an issuer or registrant;

v. pursuant to the Act s.127(1)8 and s.127(1)8.2, Mr. Oei is prohibited permanently from becoming or acting as a director or officer of any issuer or registrant; and

vi. pursuant to the Act s.127(1)8.5, Mr. Oei is prohibited permanently from becoming or acting as a registrant or promoter;

b. against Canadian Manu:

i. pursuant to the Act s.127(1)2, trading in any securities or derivatives by Canadian Manu cease permanently;

ii. pursuant to the Act s.127(1)2.1, the acquisition of any securities by Canadian Manu cease permanently;

iii. pursuant to the Act s.127(1)3, any exemptions contained in Ontario securities law do not apply to Canadian Manu permanently; and

iv. pursuant to the Act s.127(1)8.5, Canadian Manu is prohibited permanently from becoming or acting as a registrant or promoter.

Dated at Toronto this 3rd day of June, 2020.

“Heather Zordel”

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Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Harborside Inc.	June 8, 2020	June 22, 2020		

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
North Bud Farms Inc.	June 2, 2020	
Point Loma Resources Ltd.	June 5, 2020	
Pushfor Investments Inc.	May 25, 2020	June 2, 2020
Ravenquest Biomed Inc.	June 3, 2020	

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
North Bud Farms Inc.	March 31, 2020	June 2, 2020
North Bud Farms Inc.	May 12, 2020	June 2, 2020

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		

Company Name	Date of Order	Date of Lapse
North Bud Farms Inc.	March 31, 2020	June 2, 2020
North Bud Farms Inc.	May 12, 2020	June 2, 2020
DATA Communications Management Corp.	May 15, 2020	
DATA Communications Management Corp.	May 29, 2020	

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Chapter 7

Insider Reporting

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

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 11

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
The Bitcoin Fund
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated June 3, 2020
NP 11-202 Preliminary Receipt dated June 4, 2020
Offering Price and Description:
Maximum Issue: US$*- *-* Class A Units and/or Class F Units
Price: US$□ per Class A Unit US$□ per Class F Unit
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Echelon Wealth Partners Inc.
Leede Jones Gable Inc.
Mackie Research Capital Corporation
PI Financial Corp.
Promoter(s):
N/A
Project #3068804

Issuer Name:
Guardian Directed Equity Path ETF
Guardian Directed Premium Yield ETF
Guardian i3 Global Quality Growth ETF
Guardian i3 Global REIT ETF
Guardian i3 US Quality Growth ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Jun 8, 2020
NP 11-202 Preliminary Receipt dated Jun 8, 2020
Offering Price and Description:
Hedged Units and Unhedged Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3069727

Issuer Name:
CIBC Global Growth ETF
CIBC International Equity ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Jun 5, 2020
NP 11-202 Preliminary Receipt dated Jun 5, 2020
Offering Price and Description:
Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3069329

Issuer Name:
Mackenzie Global Low Volatility Equity Fund
Mackenzie US Core Equity Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Jun 2, 2020
NP 11-202 Preliminary Receipt dated Jun 3, 2020 June 3, 2020
Offering Price and Description:
Series IG securities
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3068377

Issuer Name:
CI Canadian Small/Mid Cap Fund
Principal Regulator - Ontario
Type and Date:
Amendment #6 to Final Simplified Prospectus dated June 3, 2020
NP 11-202 Final Receipt dated Jun 4, 2020
Offering Price and Description:
Class A units, Class E units, Class EF units, Class F units, Class I units, Class O units and Class P units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2924573

Issuer Name:
CI First Asset Active Credit ETF
Principal Regulator - Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated June 3, 2020
NP 11-202 Final Receipt dated Jun 3, 2020
Offering Price and Description:
Common Units, US$ Common Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3030682

Issuer Name:
Fidelity Canadian Short Term Income Class
Principal Regulator - Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated June 1, 2020
NP 11-202 Final Receipt dated Jun 4, 2020
Offering Price and Description:
Series A shares, Series B shares, Series E1 shares, Series E2 shares, Series E3 shares, Series E4 shares, Series F shares, Series P1 shares, Series P2 shares, Series P3 shares and Series P4 shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3018443

Issuer Name:
Fidelity Canadian Money Market Fund
Fidelity U.S. Money Market Fund
Fidelity Premium Money Market Private Pool
Principal Regulator - Ontario
Type and Date:
Amendment #5 to Final Annual Information Form dated June 1, 2020
NP 11-202 Final Receipt dated Jun 4, 2020
Offering Price and Description:
Series A units, Series B units, Series C units, Series D units, Series E1 units, Series E2 units, Series E3 units, Series E4 units, Series E5 units, Series F units, Series I Units, Series O units, Series P1 units, Series P2 units, Series P3 units, Series P4 units and Series P5 units

Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2967181

Issuer Name:
Invesco Allocation Fund
Invesco Canada Money Market Fund
Invesco Canadian Interest Fund
Invesco Short-Term Income Class
Invesco Canadian Core Plus Bond Class
Invesco Global Diversified Income Fund
Invesco FTSE RAFI Global+ ETF Fund
Invesco Global Companies Fund
Invesco Global Dividend Class
Invesco Emerging Markets Class
Invesco Emerging Markets Select Pool
Invesco Europlus Fund
Invesco Indo-Pacific Fund
Invesco Energy Class
Invesco Resources Fund
Principal Regulator - Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus and Amendment #3 to AIF dated May 22, 2020
NP 11-202 Final Receipt dated Jun 4, 2020
Offering Price and Description:
Series A shares, Series B shares, Series D shares, DCA Heritage units, Series DCA units, Series DSC units, Series F shares, Series F4 shares, Series F6 shares, Series FDCA units, Series FH shares, Series H shares, Series I units, Series O units, Series P shares, Series PH shares, Series PT4 shares, Series PT6 shares, Series PT8 shares, Series PTF shares, Series PTFU units, Series SC units, Series T4 shares, Series T6 shares, Series T8 shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2921461

Issuer Name:
AGF Global Growth Balanced Fund (formerly, AGF Global Strategic Balanced Fund)
Principal Regulator - Ontario
Type and Date:
Amendment #1 to Final Simplified Prospectus dated May 29, 2020
NP 11-202 Final Receipt dated Jun 2, 2020
Offering Price and Description:
MF Series Securities, Series F Securities, Series FV Securities, Series O Securities, Series Q Securities, Series T Securities, Series V Securities and Series W Securities
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3028319

Issuer Name:
Mackenzie US Small-Mid Cap Growth Class* (formerly Mackenzie US Mid Cap Growth Class)
Principal Regulator - Ontario
Type and Date:
Amendment #2 to Final Simplified Prospectus and Amendment #3 to AIF dated May 28, 2020
NP 11-202 Final Receipt dated Jun 2, 2020
Offering Price and Description:
Series LB securities, Series LF securities and Series LW securities
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2972290

NON-INVESTMENT FUNDS

Issuer Name:
Algernon Pharmaceuticals Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 1, 2020
NP 11-202 Preliminary Receipt dated June 3, 2020
Offering Price and Description:
$6,861,849.00
19,605,285 Units Issuable upon Exercise of 19,605,285 Special Warrants
Underwriter(s) or Distributor(s):
Mackie Research Capital Corporation
Promoter(s):
-
Project #3068014

Issuer Name:
Ascot Resources Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 2, 2020
NP 11-202 Preliminary Receipt dated June 2, 2020
Offering Price and Description:
C$25,000,200.00 - 29,412,000 Common Shares
Price: C$0.85 per Offered Share
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3064036

Issuer Name:
Ballard Power Systems Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated June 5, 2020
NP 11-202 Preliminary Receipt dated June 8, 2020
Offering Price and Description:
US$750,000,000
Common Shares
Preferred Shares
Warrants
Debt Securities, Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3069483

Issuer Name:
Bank of Montreal
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated May 28, 2020
NP 11-202 Preliminary Receipt dated June 2, 2020
Offering Price and Description:
$10,000,000,000.00
Debt Securities (subordinated indebtedness)
Common Shares
Class A Preferred Shares
Class B Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3064841

Issuer Name:
dynaCERT Inc. (formerly Dynamic Fuel Systems Inc.)
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated June 2, 2020
NP 11-202 Preliminary Receipt dated June 2, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
Eight Capital
PI Financial Corp.
Promoter(s):
-
Project #3068182

Issuer Name:
dynaCERT Inc. (formerly Dynamic Fuel Systems Inc.)
Principal Regulator - Ontario
Type and Date:
Amendment dated June 3, 2020 to Preliminary Short Form Prospectus dated June 2, 2020
NP 11-202 Preliminary Receipt dated June 4, 2020
Offering Price and Description:
$7,276,000.00 - 10,700,000 Units
Price: $0.68 per Unit
Underwriter(s) or Distributor(s):
Eight Capital
PI Financial Corp.
Promoter(s):
-
Project #3068182

Issuer Name:
Fusion Pharmaceuticals Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated June 5, 2020
NP 11-202 Preliminary Receipt dated June 8, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
MORGAN STANLEY CANADA LIMITED
JEFFERIES SECURITIES, INC.
Promoter(s):
-
Project #3069595

Issuer Name:
Hamilton Thorne Ltd.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated June 4, 2020
NP 11-202 Preliminary Receipt dated June 8, 2020
Offering Price and Description:
$60,000,000.00 - Common Shares, Preferred Shares, Warrants, Units, Subscription Receipts, Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3069460

Issuer Name:
Harvest Health & Recreation Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated June 2, 2020
NP 11-202 Preliminary Receipt dated June 2, 2020
Offering Price and Description:
$300,000,000.00
Subordinate Voting Shares Multiple Voting Shares
Debt Securities
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3068153

Issuer Name:
Medicenna Therapeutics Corp.
Principal Regulator - Ontario
Type and Date:
Preliminary Shelf Prospectus dated June 3, 2020
NP 11-202 Preliminary Receipt dated June 3, 2020
Offering Price and Description:
$100,000,000.00
Common Shares
Preferred Shares
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3068592

Issuer Name:
Northern Dynasty Minerals Ltd.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated June 3, 2020
NP 11-202 Preliminary Receipt dated June 4, 2020
Offering Price and Description:
US$50,000,000.00
Common Shares
Warrants
Subscription Receipts
Debt Securities
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3068835

Issuer Name:
Oncolytics Biotech Inc.
Principal Regulator - Alberta
Type and Date:
Preliminary Shelf Prospectus dated June 5, 2020
NP 11-202 Preliminary Receipt dated June 5, 2020
Offering Price and Description:
Cdn.$150,000,000.00
Common Shares
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3069475

Issuer Name:
Pretium Resources Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Shelf Prospectus dated June 5, 2020
NP 11-202 Preliminary Receipt dated June 5, 2020
Offering Price and Description:
US$600,000,000.00
Common Shares
Debt Securities
Warrants
Units
Subscription Receipts
Share Purchase Contracts
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3069503

Issuer Name:
StageZero Life Sciences Ltd.
Principal Regulator - Ontario
Type and Date:
Amendment dated June 2, 2020 to Preliminary Short Form Prospectus dated June 1, 2020
NP 11-202 Preliminary Receipt dated June 3, 2020
Offering Price and Description:
Minimum Offering: $3,500,000.00 (50,000,000 Units)
Maximum Offering: $8,000,000.00 (114,285,714 Units)
$0.07 per Unit
Underwriter(s) or Distributor(s):
ECHELON WEALTH PARTNERS INC.
CLARUS SECURITIES INC.
Promoter(s):
-
Project #3067053

Issuer Name:
Vizsla Resources Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated June 2, 2020
NP 11-202 Preliminary Receipt dated June 2, 2020
Offering Price and Description:
$4,020,500.00 -9,350,000 Common Shares
Price: $0.43 per Common Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Promoter(s):
-
Project #3066715

Issuer Name:
WSP Global Inc.
Principal Regulator - Quebec
Type and Date:
Preliminary Shelf Prospectus dated June 3, 2020
NP 11-202 Preliminary Receipt dated June 3, 2020
Offering Price and Description:
$3,000,000,000.00 - Common Shares
Preferred Shares
Debt Securities
Warrants
Subscription Receipts Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3068002

Issuer Name:
Denison Mines Corp.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated June 2, 2020
NP 11-202 Receipt dated June 2, 2020
Offering Price and Description:
C$175,000,000.00
Common Shares
Subscription Receipts
Units
Debt Securities
Share Purchase Contracts
Warrants
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3055467

Issuer Name:
Euro Sun Mining Inc. (formerly Carpathian Gold Inc.)
Principal Regulator - Ontario
Type and Date:
Final Short Form Prospectus dated June 2, 2020
NP 11-202 Receipt dated June 2, 2020
Offering Price and Description:
$20,000,000.28 - 51,282,052 Units
PRICE: $0.39 PER UNIT
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3060243

Issuer Name:
InnoCan Pharma Corporation
Principal Regulator - Alberta
Type and Date:
Final Short Form Prospectus dated June 4, 2020
NP 11-202 Receipt dated June 4, 2020
Offering Price and Description:
Minimum: $2,500,000.00 - Maximum: $10,000,000
Price $0.18 per Unit
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3056165

Issuer Name:
New Pacific Metals Corp.
Principal Regulator - British Columbia
Type and Date:
Final Short Form Prospectus dated June 3, 2020
NP 11-202 Receipt dated June 3, 2020
Offering Price and Description:
$25,004,200.00 - 4,238,000 Common Shares
Price $5.90 per Common Share
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
Promoter(s):
-
Project #3062107

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Voluntary Surrender	Clearpool Execution Services (Canada) Limited	Investment Dealer	May 28, 2020
New Registration	XFO Private Asset Solutions LP	Portfolio Manager, Investment Fund Manager and Exempt Market Dealer	June 3, 2020
Voluntary Surrender	Aptitude Investment Management LP	Investment Fund Manager, Portfolio Manager, Exempt Market Dealer	June 5, 2020
Suspended (Regulatory Action)	PACE Securities Corp.	From: Investment Dealer and Investment Fund Manager To: Investment Fund Manager	May 21, 2020
Suspended (Regulatory Action)	PACE Securities Corp.	Investment Fund Manager	June 5, 2020

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 TSX Inc. – Notice of Proposed Amendments and Request for Comments

TSX INC.

NOTICE OF PROPOSED AMENDMENTS AND REQUEST FOR COMMENTS

TSX Inc. ("**TSX**") is publishing this Notice of Proposed Amendments and Request for Comments in accordance with the "Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto".

Market participants are invited to provide comments on the proposed changes. Comments should be in writing and delivered by July 27, 2020 to:

Denno Chen
Director, Regulatory Affairs
TMX Group
100 Adelaide Street West, Suite 300
Toronto, Ontario M5H 1S3
Email: tsxrequestforcomments@tsx.com

A copy should also be provided to:

Market Regulation Branch
Ontario Securities Commission
20 Queen Street West
Toronto, Ontario M5H 3S8
Email: marketregulation@osc.gov.on.ca

Comments will be made publicly available unless confidentiality is requested. Upon completion of the review by Commission staff, and in the absence of any regulatory concerns, a notice will be published to confirm Commission approval.

Background

TSX is proposing to post for trading sustainable bonds ("**Sustainable Bonds**") that satisfy the eligibility criteria set by TSX. The eligibility criteria is set forth in the table below in the row titled "Eligible Securities". It is anticipated that TSX will post for trading Sustainable Bonds issued in Canadian or US dollars, and the Sustainable Bonds will trade in the currency in which they are issued. TSX anticipates initially posting for trading approximately 30 Sustainable Bonds.

The posting of Sustainable Bonds for trading on TSX is intended to increase the accessibility and transparency of these securities to Canadian investors.

TSX is proposing changes to the TSX Rule Book and to certain TSX marketplace functionality (collectively, the "**Proposed Amendment**") to accommodate trading of Sustainable Bonds on TSX. The Sustainable Bonds will not be listed by TSX, but will only be posted for trading similar to how a Canadian ATS posts TSX-listed securities for trading today.

Proposed Amendment

The following table outlines the key features of trading Sustainable Bonds on TSX. As Sustainable Bonds are intended to trade and clear through existing TSX and The Canadian Depository for Securities Limited ("**CDS**") infrastructure and processes, the trading functionality and processes associated with these securities will generally mirror those associated with trading TSX-listed securities on TSX (including listed notes and debentures).

TSX Participating Organizations ("TSX POs") Access	• No new connections required to access trading in Sustainable Bonds as all trading will be conducted on the TSX trading platform and through existing TSX PO connections/sessions. • TSX POs will automatically have access to trading in Sustainable Bonds so long as they have acknowledged receipt of certain risk disclosures required to be made prior to the TSX PO's first order of a Sustainable Bond. If acknowledgement of receipt is not obtained, TSX will not allow the TSX PO to trade the Sustainable Bonds.
Eligible Securities	• TSX will post for trading Sustainable Bonds that satisfy the criteria set by TSX, which criteria includes: o the Sustainable Bonds must be issued in Canadian or US dollars; o the Sustainable Bonds must be CDS-eligible; o the Sustainable Bonds issue size must be Cdn$75 million or greater; o the Sustainable Bonds must have received a "second opinion" from an independent third party Environmental, Social and Governance research and rating service provider; and o the Sustainable Bonds must not be subject to any resale restrictions under National Instrument 45-102 – *Resale of Securities.* • TSX will not post for trading Sustainable Bonds issued by any corporate issuer (including TSX-listed issuers) other than quasi-governmental corporations.
Symbology	• TSX will assign a unique symbol and adding the extension ".SB", followed by an alpha character to denote the specific issue. For Sustainable Bonds denominated in USD, the alpha character will be "U" for the first issue and subsequent letters as needed for additional issues (e.g. ONT.SB.U, ONT.SB.V).
Trading Functionality	• Not a new trading destination. Same destination tag as applicable for TSX. • Orders are to be entered with a price denominated in Canadian Dollars ("**CAD**") or United States Dollars ("**USD**") depending on which currency the Sustainable Bonds are issued in. Orders will be posted, displayed and traded in CAD or USD, as the case may be. • Standard TSX trading functionality applies, subject to the following exceptions: o No Must-Be-Filled ("**MBF**") session or closing auction o No odd lot book o No dark orders o No formal market making program • TSX will apply its existing volatility control mechanisms. • Given the expected retail nature of the Sustainable Bonds, bid/ask tick limits will be set tighter compared to TSX-listed stocks to protect market orders from executing too far away from the best price at the time of entry.
Data	• No new real-time data feeds. • Real-time order and trade data regarding Sustainable Bonds will be disseminated through the existing real-time data feed products for TSX-listed securities. • Sustainable Bonds will be identified with product type of "Bond" on the symbol status messages.
Clearing and Settlement	• Only Sustainable Bonds that are CDS-eligible will be permitted to trade on TSX. • Clearing and settlement will be the same as currently listed notes and debentures. • As all executed trades in Sustainable Bonds will be between TSX POs and for securities that are CDS-eligible, they will clear and settle through the same CDS infrastructure and processes applicable to trades in TSX-listed securities.

Please see **Appendix A** for a blackline of the Proposed Amendments. The Proposed Amendments and their rationale are outlined in more detail below.

Details and Rationale

1. Expansion of the security types that can be traded on TSX to include Sustainable Bonds

Although TSX currently has the option to post for trading securities that are not listed by TSX, this is limited to securities that are listed by another recognized exchange in Canada. The Proposed Amendments would expand this limitation to allow for the trading of Sustainable Bonds.

Sustainable Bonds are debt securities where the proceeds are used to fund projects for environmental and/or socio-economic benefits. Sustainable Bonds are not new to the Canadian marketplace. In Canada, the majority of Sustainable Bonds are typically distributed to institutional investors. While Canadian retail investors are already able to trade Sustainable Bonds through their Canadian registered dealers, such trade occurs over-the-counter. This over-the-counter trading often involves a lack of transparency.

By permitting marketplace participants to trade Sustainable Bonds directly on TSX, Canadians will have increased accessibility and transparency to trade such securities. This will leverage the existing TSX trading ecosystem that retail clients already have access to in order to trade TSX-listed securities.

All current TSX trading functionality will be available for Sustainable Bonds other than a few features not applicable to bonds, including a MBF session, closing auction, dark orders and odd lots. Given the expected retail nature of the Sustainable Bonds, TSX will enforce tighter bid/ask tick limits that will prevent the trading of market orders through too many price levels to protect orders from adverse pricing.

See the Proposed Amendments in Appendix A to Rule 4-1201 to allow for the trading of "Other Securities," such as Sustainable Bonds, on TSX.

2. Opening mechanisms for Sustainable Bonds on TSX

All TSX-listed securities are currently eligible to trade in the opening call auction. Sustainable Bonds will also be eligible for the opening call auction. The Proposed Amendments introduce the term "Opening Eligible Securities" to delineate all securities eligible for the opening call auction. In the future, TSX may determine that certain securities would benefit from alternative opening mechanisms.

See the Proposed Amendments in Appendix A to TSX Rules 4-701 and 4-702 that define the application of the current TSX opening mechanism to Opening Eligible Securities. New Rule 4-703 is also being proposed to introduce a framework to allow for the future introduction of a separate opening mechanism for securities that are not Opening Eligible Securities.

3. Ancillary Amendments

The following additional change to the TSX Rules will be necessary to accommodate the trading of Sustainable Bonds on TSX:

- Removal of references to 'listed' securities where the TSX Rules would otherwise apply to any security posted for trading on TSX. (TSX Rules 4-1103, 5-203 and 5-302)

Expected Date of Implementation

The Proposed Amendment is expected to be implemented following receipt of regulatory approval. Trading of Sustainable Bonds is expected to commence in Q4 2020.

Expected Impact

As described above, the Proposed Amendment is expected to increase the accessibility of Sustainable Bonds to Canadian retail investors and increase transparency in the sustainable bond market.

In support of TSX's public interest mandate, TSX will apply various mechanisms to help increase transparency, minimize confusion and avoid negative outcomes for investors. For example, to help facilitate increased transparency for investors, TSX will devote a section of its website to display information about the Sustainable Bonds and its issuers. Transparency of order and trade data will be achieved through dissemination of order and trade data through the existing TSX real-time market data feeds.

Expected Impact of Proposed Amendment on TSX's Compliance with Ontario Securities Law

The Proposed Amendment will not impact TSX's compliance with Ontario securities law and in particular the requirements for fair access and maintenance of fair and orderly markets. TSX notes that once Sustainable Bonds are posted for trading on TSX, all TSX POs will automatically have access to trading in Sustainable Bonds in the same manner as they currently access trading on TSX for TSX-listed securities, except to the extent that access is not permitted under securities law because the TSX PO has not acknowledged receipt of certain risk disclosures. Further, because the trading functionality for Sustainable Bonds will generally mirror the current functionality for trading in TSX-listed securities (including listed notes and debentures), TSX is of the view that the Proposed Amendment will not negatively impact the maintenance of fair and orderly markets.

Risk Disclosure for Trades in Sustainable Bonds

It is TSX's intention that the Sustainable Bonds will be marketed as a separate offering of securities that are not listed but rather are posted for trading on TSX. This will be clearly identified and explained to the public on TSX's website.

From time to time, certain of the Sustainable Bonds may be listed on a marketplace outside of Canada, and may constitute "foreign-exchange traded securities"[1] under National Instrument 21-101 – *Marketplace Operation* ("**NI 21-101**"). NI 21-101 currently contemplates that a marketplace may trade "foreign-exchange traded securities" subject to certain requirements. It is anticipated that TSX will provide TSX POs with a risk disclosure, similar to the disclosure required by NI 21-101, prior to permitting trading in any Sustainable Bonds.

TSX does not expect the risk profile for Canadian clients to significantly change by the introduction of Sustainable Bonds on TSX. Canadian clients today are already able to trade Sustainable Bonds through their registered dealers. It is anticipated that Sustainable Bonds posted for trading will be issue with an issue size of Cdn$75 million or greater. As part of their regulatory obligations, TSX expects that such dealers would already have to consider know-your-client, know-your-product, and suitability requirements prior to permitting a client access to trading of Sustainable Bonds.

Order Protection Rule

As it relates to compliance with regulatory requirements by TSX POs, TSX notes that the Order Protection Rules ("**OPR**") under National Instrument 23-101 – *Trading Rules* ("**NI 23-101**") will not apply on the basis that OPR applies to 'exchange-traded securities'.[2] To the extent that more than one Canadian marketplace is displaying orders on the same Sustainable Bonds, TSX understands that these orders will therefore not be protected from being 'traded-through' (as such term is defined in NI 23-101). TSX will, however, apply its OPR trade-through prevention mechanisms in the same way as it does currently for TSX-listed securities to provide consistent outcomes for dealer routers and algorithms should another Canadian marketplace trade the same symbols. Best execution obligations will continue to apply, and TSX expects that it will apply in the same way as is applicable for trading on an unprotected market.

TSX understands that all requirements under Universal Market Integrity Rules ("**UMIR**") not otherwise specifically limited to 'listed securities' will also apply.[3] This would mean that core UMIR requirements will continue to apply.

Despite the foregoing, TSX understands that dealers are not obligated to trade Sustainable Bonds on TSX since OPR does not apply to the Sustainable Bonds, and because dealers will continue to be allowed to trade these securities pursuant over-the-counter pursuant to the 'Unlisted or Non-Quoted Security' exception under Subsection 6.4(2)(a) of UMIR. TSX also understands that the continued application of this off-marketplace trading exception also means that order exposure requirements under Section 6.3 of UMIR do not apply.

Estimated Time Required by Members and Service Vendors to Modify Their Own Systems after Implementation of the Proposed Amendment

The introduction of the Proposed Amendment is being implemented in a way that leverages existing TSX trading and CDS clearing infrastructure in order to minimize impact on dealers and vendors.

Dealers choosing to trade Sustainable Bonds on TSX may need to consider changes to incorporate these into trading input systems and routing logic. However, TSX expects dealers will likely handle orders for Sustainable Bonds in a manner that is

1 Under NI 21-101, "foreign exchange-traded security" is defined as "a security that is listed on an exchange, or quoted on a quotation and trade reporting system, outside of Canada that is regulated by an ordinary member of the International Organization of Securities Commissions and is not listed on an exchange or quoted on a quotation and trade reporting system in Canada."

2 Under NI 21-101, "exchange-traded security" is defined as "a security that is listed on a recognized exchange or is quoted on a recognized quotation and trade reporting system or is listed on an exchange or quoted on a quotation and trade reporting system that is recognized for the purposes of this Instrument and NI 23-101." [Emphasis added]

3 "Listed securities" are defined under UMIR as securities "listed on an Exchange". [Emphasis added] Such definition of "listed securities" therefore does not include Sustainable Bonds that are not listed on a Canadian recognized exchange.

similar to how they currently treat orders for bonds or debentures listed on TSX, other than for any differences that arise due to the fact that OPR will not apply and there will be no obligation under Section 6.4 of UMIR to trade these on TSX. TSX expects that systems changes on the part of the broker and access vendors to handle trading of Sustainable Bonds will be minimal.

Does the Proposed Amendment Currently Exist in Other Markets or Jurisdictions

In December 2010, the Ontario Securities Commission approved a proposal by Omega ATS to post "select unlisted Government of Canada Debt securities and Canadian corporate (public corporations), listed and unlisted debt securities" for trading.[4]

Outside of Canada, bonds are posted for trading (but not listed) on the Vienna Stock Exchange and the Prague Stock Exchange.

[4] Please see: https://www.osc.gov.on.ca/en/Marketplaces_ats_20100903_rfc-omega.htm IE: https://www.investmentexecutive.com/news/industry-news/omega-to-trade-canadian-debt-u-s-equities/

APPENDIX A

BLACKLINE OF AMENDMENTS TO TSX RULE BOOK

PART 1 - INTERPRETATION

Rule 1-101 Definitions (Amended)

[…]

(2) In all Exchange Requirements, unless the subject matter or context otherwise requires:

[…]

"**eligible foreign exchange-traded security**" means a foreign exchange-traded security as defined in National Instrument 21-101 – *Marketplace Operation* which has been posted for trading on the Exchange.

Added ([•], 2020)

[…]

"**Opening Eligible Securities**" means securities in respect of which opening trades may be executed at the calculated opening price as designated by the Exchange.

Added ([•], 2020)

"**opening time**" means the time fixed by the Board for the opening of Sessions of trading in ~~listed~~securities.

Amended ([•], 2020)

"**Other Security**" means a security that is posted for trading on the Exchange, but not listed by the Exchange, which may include eligible foreign exchange-traded securities.

~~[…]~~**Added ([•], 2020)**

"**security**" when used to describe a security that trades on the Exchange means:

(a) a listed security (as such term is defined herein); and

(b) ~~**a security that is posted for trading on the Exchange, but not listed by the Exchange.**~~ an Other Security.

~~**Added**~~**Amended (February 24, 2012 and [•], 2020)**

[…]

DIVISION 7 - OPENING

Rule 4-701 Execution of Trades at the Opening for Opening Eligible Securities

(1) Subject to Rule 4-702, ~~securities~~Opening Eligible Securities shall open for trading at the opening time, and any opening trades shall be at the calculated opening price.

Amended (February 24, 2012 and [•], 2020)

[…]

Rule 4-702 Delayed Openings for Opening Eligible Securities (Amended)

(1) ~~A security~~ An Opening Eligible Security shall not open for trading if, at the opening time:

(a) orders that are guaranteed to be filled pursuant to Rule 4-701 cannot be completely filled by offsetting orders; or

(b) the COP exceeds price volatility parameters set by the Exchange.

Amended ([•], 2020)

(2) A Market Maker or Market Surveillance Official may delay the opening of ~~a security~~an Opening Eligible Security for trading on the Exchange if:

(a) the COP differs from the previous closing price for the security or from the anticipated opening price on any other recognized stock exchange where the security is listed by an amount greater than the greater of 5% of the previous closing price for the security and $0.05;

(b) the opening of another recognized exchange where the security is listed for trading has been delayed; or

(c) the COP is less than the permitted difference from the previous closing price for the security, but is otherwise unreasonable.

Amended ([•], 2020)

(3) Repeal proposed August 9, 2002 (pending regulatory approval)

(4) If the opening of the ~~security~~Opening Eligible Security is delayed, the Market Maker or Market Surveillance Official, as the case may be, shall open the security for trading according to Exchange Requirements.

Amended (February 24, 2012 ~~and~~, November 27, 2017 and [•], 2020)

Rule 4-703 Securities that are not Opening Eligible Securities

(1) Subject to Rule 3-103, securities that are not Opening Eligible Securities shall open for trading at the opening time and shall trade in the Regular Session using the normal rules of priority and allocation.

Added ([•], 2020)

DIVISION 11 - SPECIAL TERMS

[…]

Rule 4-1103 Exchange for Physicals and Contingent Option Trades

Orders which are conditional upon a simultaneous trade in a derivative on another exchange shall be special terms trades and shall be traded in accordance with the prescribed procedures and conditions.

Policy 4-1103 Exchange for Physicals and Contingent Option Trades

[…]

(3) Procedure for Exchange for Physicals

If a person to whom this Policy applies seeks to exchange a futures contract for the equivalent number of securities underlying the futures contract (including an equivalent number of units of the applicable Index Participation Fund or mutual fund), the following provisions shall apply:

(a) the trade in the security and the trade in the futures contract must be for the same account;

(b) the equities component may be made as a cross or as a trade between persons with trading access on the Exchange;

(c) the futures portion of the trade must be approved by a floor governor or other exchange official of the stock exchange on which the future is listed and such approval shall be evidenced by the initials of the governor or official on the futures trade ticket;

(d) the futures trade ticket shall be time stamped;

(e) the person shall telephone Trading and Client Services of the Exchange at (416) 947-4440 and provide the details of the exchange including the name of the person with trading access to the Exchange with whom the exchange has been made;

(f) the trade in the ~~listed~~ securities made during the Regular Session will be at the bid price of the ~~listed~~ securities on the Exchange at the time of the telephone call to Trading and Client Services and the trade in securities made after the end of the Regular Session will be at the last sale price of the securities on the Exchange provided that where the last sale price is outside of the closing quotes for any security the price for that security shall be the bid or offer which is closest to the last sale price;

(g) a copy of the futures trade ticket as initialled by a floor governor or exchange official and time stamped shall be provided ~~by facsimile transmission~~ to Trading and Client Services ~~at (416) 947-4280~~ within ten minutes following the time stamp on the ticket; and

provided the trade has been made and reported in accordance with the above rules, the Exchange shall manually execute the trade in the securities as a special terms trade with the marker "MS" effective as of the time stamped on the futures trade ticket.

Amended (February 24, 2012~~)~~ and [•], 2020)

DIVISION 12 - TRADING OF SECURITIES NOT LISTED BY THE EXCHANGE

Rule 4-1201 Requirements

(1) The Exchange, in its discretion, may post for trading ~~securities that are listed by another exchange recognized in a jurisdiction in Canada~~Other Securities.

(2) The Exchange may remove a posted security from trading at any time without prior notice.

(3) The Exchange will halt the trading of a posted security if:

(a) the security is subject to a regulatory halt; or

(b) if applicable, the security is no longer listed by ~~a recognized~~an exchange or is suspended from trading by the ~~recognized~~ exchange.

~~Added~~**Amended (February 24, 2012 and [•], 2020)**

PART 5 - CLEARING AND SETTLEMENT OF TRADES IN SECURITIES

[…]

Rule 5-203 Certificates Not Good Delivery

Delivery of any of the following certificates shall be deemed not to be good delivery:

(a) a defaced or torn certificate;

(b) a certificate registered in the name of a firm or company that has made an assignment for the benefit of creditors or has been declared bankrupt;

(c) a certificate on which the form of power of attorney to transfer has been signed by:

(i) a trustee, or

(ii) an executor or administrator;

(d) a certificate with document attached;

(e) a certificate of a company maintaining share registers in Ontario and elsewhere that is registered only on a register located outside of Ontario and is therefore not transferable on the Ontario register except after transfer to the Ontario register;

(f) a certificate indicating that subsequent transfer by the purchaser is restricted in any way, unless the entire class of ~~listed~~ securities traded on the Exchange is subject to the same restriction or unless the trade was made subject to that restriction; or

(g) a certificate not acceptable as good transfer by the transfer agent.

Amended ([•], 2020)

[…]

Rule 5-302 Special Provisions for Buy-Ins from Securities Loans and Other Failed Positions

In connection with a buy-in that is the result of a default pursuant to Rules 5-301(2) or (3), the following rules shall apply in addition to the provisions of Rule 5-301:

1. If the Participating Organization in default wishes to dispute the claim, the Participating Organization shall file a dispute in writing with the Exchange before 1:00 p.m. on the day that the Notice is effective and if the dispute is not resolved by agreement between the Participating Organizations or the buy-in is disapproved by a Market Surveillance Official, the dispute shall be determined by arbitration in accordance with Rule 2-308.

2. Where the Participating Organization in default delivers the securities subject to the Buy-In Notice prior to execution of the buy-in, the Participating Organization in default shall notify the Exchange and the buy-in will be cancelled upon confirmation by the Exchange of the delivery of the ~~listed~~ securities.

3. The Participating Organization which has issued a Buy-In Notice may extend the buy-in by delivering a notice of extension in writing to the Exchange before 3:00 p.m. on the day the buy-in is to be executed.

4. Failure to settle a trade that is the result of a buy-in that is the result of a default in accordance with the terms of the buy-in, if not resolved by the Participating Organizations concerned, shall be resolved by cancellation of the buy-in contract and issuance of a further buy-in and, in such case, the Participating Organization selling to the original buy-in shall be liable for any loss or damage resulting from failure to deliver.

5. Following execution of a buy-in, the Participating Organization that issued the Buy-In Notice shall notify the Participating Organization in default in writing of the amount of the difference between the amount to be paid on the Exchange Contract closed out, and the amount paid on the buy-in, if any, and such difference shall be paid to the Participating Organization entitled to receive the same within 24 hours of receipt of such notice.

6. Where more than one buy-in has been arranged in connection with the same securities, the Market Surveillance Official may combine any number of the trades.

Amended (February 24, 2012 and [•], 2020)

13.2.2 Trumid Financial LLC – Application for Exemptive Relief – Notice of Commission Order

TRUMID FINANCIAL LLC (TRUMID)

APPLICATION FOR EXEMPTIVE RELIEF

NOTICE OF COMMISSION ORDER

On June 8, 2020, the Commission issued an order under section 15.1 of National Instrument 21-101 *Marketplace Operation* (**NI 21-101**), section 12.1 of National Instrument 23-101 *Trading Rules* (**NI 23-101**), and section 10 of National Instrument 23-103 *Electronic Trading and Direct Access to Marketplaces* (**NI 23-103** and, together with NI 21-101 and NI 23-101, the **Marketplace Rules**) exempting Trumid from the application of all provisions of the Marketplace Rules that apply to a person or company carrying on business as an alternative trading system (**ATS**) in Ontario (**Order**), subject to terms and conditions as set out in the Order.

The Commission published Trumid's application and draft exemption order for comment on March 5, 2020 on the OSC website at https://www.osc.gov.on.ca/en/Marketplaces_20200305_rfc-trumid-application-exemption-marketplace-rules.htm and at (2020), 43 OSCB 2282. One comment letter was received from CanDeal.ca Inc. (**CanDeal**). A copy of the comment letter is posted at https://www.osc.gov.on.ca/documents/en/Marketplaces/com_20200421_macintyredr.pdf. We summarize below the main comments and Staff's responses to them. Trumid's response to the comments is included at Appendix A to this Notice. In issuing the Order, no substantive changes were made to the draft order published for comment.

A copy of the Order is published in Chapter 2 of this Bulletin.

Comment	Response
CanDeal comments that Trumid's regulatory regime is not sufficiently like Ontario's to be duplicative and warrant granting the exemption.	As a matter of policy, the Commission's mandate is to provide protection to investors from unfair, improper, or fraudulent practices, to foster fair and efficient capital markets and confidence in capital markets, and to contribute to the stability of the financial system and the reduction of systemic risk. Consistent with past practices granting exemptions for foreign derivatives exchanges, swap execution facilities, and multilateral trading facilities, the Commission permits foreign entities to carry on business in Ontario under an exemption from the applicable requirements, provided it is satisfied that the risks are managed in a manner that is comparable to how they are managed under Ontario securities laws. This approach necessitates that the foreign entity is subject to an appropriate and comparable regulatory oversight regime in their home jurisdiction and that the Commission has information sharing arrangements in place with the home regulator(s). Furthermore, exempt marketplaces are "market participants" as defined in the *Securities Act* (Ontario) and, where appropriate, terms and conditions are imposed in their exemption orders.

APPENDIX A

APPLICATION FOR EXEMPTION FROM MARKETPLACE RULES THAT APPLY TO ALTERNATIVE TRADING SYSTEM ("ATS")

SUMMARY OF COMMENTS AND RESPONSES

One comment letter was received from CanDeal.ca Inc.

Summarized Comments Received	Trumid Financial LLC Response
Regulation of Trumid's ATS The commenter suggested that Trumid fails to discuss how it complies with requirements under the equivalent U.S. law. The commenter stated that Trumid provides inadequate explanation in the following circumstances: a) **Oversight of the ATS operation:** The commenter referenced section 2.1.1 of the Application and stated that Trumid asserts in a "mere two sentences that it exercises effective oversight of its operations." The commenter noted that this is particularly important since Trumid is exempt under U.S. law from compliance with important rules applicable to bigger ATSs. b) **Decisions and public interest mandate:** The commenter referenced section 2.1.2 of the Application and suggested that while Trumid states that its business and regulatory decisions are in keeping with its public interest mandate because it is subject to U.S. requirements, in fact, the application of the rules is limited by Trumid's size. c) **Board of Directors:** The commenter referenced section 2.1.4 and suggested that there are no details about the independence, skill set or diversity of the board or the criteria applied in selecting them. Further, the commenter stated that the Application does not explain how the managers are supervised in a meaningful way by the board of Trumid.	Trumid's application for exemptive relief describes: overall regulation by a foreign regulator, governance structure and arrangements that provide effective oversight of the ATS' operations, policies and procedures to identify and manage conflicts of interest, regulation of products through appropriate review and approval processes, oversight of product specifications and measurement, management and mitigation of any associated risks, transparent and fair requirements with respect to access to an ATS, appropriate authority and procedures for oversight of an ATS, including the detection and deterrence of abusive trading practices, market manipulation, and other unfair trading practices or disruptions of the market, and transparency and reporting. In addition to these obligations, Trumid has demonstrated how it exercises oversight via independent departments handling product development, testing, change management (code deployment), infrastructure and system operation. Trumid also employs real-time monitoring of the ATS with end of day checks by management. Trades, and trading in employee personal accounts, are regularly reviewed by a third-party, compliance consulting firm. While certain ATSs are subject to additional requirements based on the volume of trading, Trumid is nevertheless comprehensively governed and regulated in the U.S. In addition to this U.S. regulation, Trumid's operations in Ontario are also subject to the terms and conditions set out in its exemptive relief order. We note that the governance requirements applicable to ATSs in the Marketplace Rules are quite limited. That said, other than ordinary course of business decisions, the board of directors of Trumid have oversight and decision-making authority. Board decisions require majority approval, including the approval of at least one of its external directors in all circumstances. As noted in section 2.1.4 of the application, the directors appointed have a diverse range of skills and experience, including significant experience related to securities markets and debt trading.
Products Traded The commenter suggested that there is a lack of pertinent detail on the methods employed to measure and mitigate the risks associated with trading products that Trumid offers in section 3.3 of the Application.	Trumid allows for and permits the trading of only TRACE-eligible, U.S. corporate bonds and other fixed income securities included in Trumid's eligible-to-trade, security-master list. Trumid complies with criteria established by the SEC and FINRA that are required to be satisfied before any new product is admitted for trading, including that new products must be capable of being traded in a fair, orderly and efficient manner and that the ATS must be designed to allow for orderly pricing. Provisions to measure, manage and mitigate the risks associated with trading products on

	Trumid's platform are appropriate to the nature of products traded, and include conformance to daily trading limits, market access controls and internal controls as described in Appendix B to the application.
Access: Ongoing supervision The commenter stated that section 4.1.7 of the Application does not describe in meaningful detail Trumid's reliance on third party compliance consultants and its compliance system.	Third-party compliance consultants have been engaged to, among other things, provide compliance monitoring and review with respect to electronic correspondence, employee trading, and the Office of Foreign Asset Control or "OFAC" compliance. Additionally, the third-party consultants audit Trumid's anti-money laundering and compliance programs.
Regulation of Participants on the ATS The commenter referenced section 5 of the Application where Trumid addresses the regulation of its participants. The commenter stated that if the conduct of participants was meaningfully regulated by Trumid's rule book, Trumid would not qualify as an ATS for the purpose of Canadian rules and a fundamental premise of the Application would be put in doubt.	As outlined in paragraph 5.3.1 of the Application, Trumid does not regulate the conduct of participants, nor does it discipline participants in any manner other than by exclusion from trading.
Fees The commenter referenced section 12.1.1 of the Application and indicated that, beyond a reference to Trumid's fee schedule, the Application does not include any information about the process to set fees.	Trumid's description of its fees is set out in s. 7.1.17 of the Application. Furthermore, and as noted in s. 12.1 of the Application, Trumid's fees have been designed to be fair, transparent and non-discriminatory, as required by applicable U.S. regulation.

13.3 Clearing Agencies

13.3.1 CDS Clearing and Depository Services Inc. – Amendments to CDS Participant Rules – Clean-up Review – Request for Comments

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS)

AMENDMENTS TO
CDS PARTICIPANT RULES (the "RULES")

CLEAN-UP REVIEW

REQUEST FOR COMMENTS

A. DESCRIPTION OF THE PROPOSED AMENDMENTS

Material Rules

The following proposed amendments ("**Rule 5 Amendments**") to CDS Participant Rules (the "**Rules**") fall within the meaning of material rules ("**Material Rules**"), as defined under Appendix A of the Recognition Order issued by the Ontario Securities Commission on July 4, 2012, as amended (the "**Recognition Order**"):

> In Rules 5.10.11, 5.10.15, and 5.12.4(a), the involvement of the Canadian Bankers Association ("**CBA**") in the adjustments of the System-Operating Cap of an Extender has been replaced by the Extenders' Council. These proposed amendments are to reflect the passive nature of the current role played by the CBA in relation to the participation and activities of Extenders, who are members of the CBA, in CDSX.

Appendix A contains the text of the proposed Rule 5 marked to reflect the Rule 5 Amendments as well as clean text of the proposed Rule 5 reflecting the adoption of the Rule 5 Amendments. For the avoidance of doubt, the technical changes as outlined below are incorporated in the text of the proposed Rule 5 in Appendix A but are not, except for the rule numbering, marked in Appendix A.

Technical Rules

CDS is of the view that, except for the Material Rules outlined above, the other proposed amendments to the Rules are:

(a) matters of a technical nature in routine operating procedures and administrative practices relating to the CDS services;

(b) consequential amendments intended to implement a material rule that has been published for comment which only contain material aspects already contained in the material rule or disclosed in the notice accompanying the material rule;

(c) the correction of spelling, punctuation, typographical or grammatical mistakes or inaccurate cross-referencing; and

(d) stylistic formatting, including changes to headings or paragraph numbers.

These proposed amendments fall within the meaning of a technical rule ("**Technical Rule**"), as defined in the Recognition Order.

Materials Available for Review

1. The clean versions of Rules 1 to 13, which have incorporated all the proposed amendments (the "**Revised Rules**");

2. The blacklined versions of the Revised Rules, which track all the proposed amendments made from the current Rules; and

3. An Amendment Map for each of Rules 1 to 13, which provides:

   (i) a mapping of the current Rule numbering to the Revised Rule numbering that indicates where the content of the current Rule is located under the Revised Rule; and

   (ii) additional commentaries in respect of some of the proposed amendments;

are made available by CDS for review at the following link to CDS's website:

https://www.cds.ca/newsroom/publications/proposed-changes-to-cds-participant-rules

B. NATURE AND PURPOSE OF THE PROPOSED CDS RULE AMENDMENTS

The Rules, in their current form, were enacted when CDSX was implemented (2003-2004), and have been expanded and amended significantly since their original implementation. The ongoing Post-Trade Modernization ("**PTM**") project will result in certain amendments to the Rules ("**PTM Changes**"). In advance of the foregoing, however, CDS proposes to remove outdated provisions, to correct typos, and to improve the clarity and readability of the Rules (the "**Clean-Up**"). The objective of the Clean-up is to improve the quality of the Rules from a technical perspective without materially or adversely affecting the rights of CDS and of Participants generally.

CDS is circulating the proposed amendments from the Clean-up under this Notice (the "**Clean-up Changes**"), prior to and separate from the PTM Changes. CDS believes that such an approach will meaningfully facilitate the preparation, review and approval of both the current proposed amendments and, subsequently, of the PTM Changes by all stakeholders.

C. IMPACT OF THE PROPOSED CDS RULE AMENDMENTS ON CDS AND CDS PARTICIPANTS

Under the Rule 5 Amendments, the Extenders' Council will replace the CBA in coordinating the request of an Extender to temporarily increase its own System-Operating Cap, and the request of an Extender to decrease the System-Operating Cap of another Extender. It is noted that members of the Extenders' Council are members of the CBA. Hence, despite the replacement of the CBA by the Extenders' Council, the constituents of the party coordinating such a request remain the same.

Other than as outlined above, CDS is of the view that the Rule 5 Amendments will have no material impact on CDS, Participants, other market participants and the securities and financial markets in general.

C.1 Competition & Conflict of Interest Analysis

The Rule 5 Amendments will apply to all Participants in that category of Participant. As concerns for fair access and conflict of interest issues, no Participants will be disadvantaged or otherwise prejudiced by the introduction of the proposed amendments.

C.2 Risks and Compliance Costs

The Rule 5 Amendments are not expected to result in any direct compliance costs for CDS, Participants, or other market participants.

C.3 Comparison to International Standards – (a) The Committee on Payments and Market Infrastructures of the Bank for International Settlements, (b) Technical Committee of the International Organization of Securities Commissions, and (c) the Group of Thirty

Observance of PFMI standards is a requirement under CDS's Recognition Order as well as under National Instrument 24-102 (Clearing Agency Requirements) and related Companion Policy 24-102CP. The Rule 5 Amendments have been evaluated against, and do not affect CDS's observance of and compliance with, these standards.

D. DESCRIPTION OF THE RULE DRAFTING PROCESS

D.1 Development Context

The Clean-up Changes were prepared by CDS Legal.

D.2 Rule Drafting Process

During the drafting process, CDS consulted different functions within CDS, including Risk Management, Operations and Finance.

The Clean-up Changes were presented to CDS's Legal Drafting Group (the "**LDG**") in four (4) tranches from early February to early April, 2020.[1] Four (4) meetings were convened to review the proposed amendments to the Rules, discuss feedback received from LDG members and address any questions or other comments that LDG members may have had.

[1] The LDG is an ad hoc advisory committee composed of legal and business representatives of Participants.

D.3 Issues Considered

In drafting the Clean-up Changes, CDS's primary purpose is to conduct a housekeeping review of the existing Rules to ensure that they remain reflective of the CDS's practices and processes.

D.4 Consultation

The Clean-up Changes were presented to the LDG over the course of four (4) meetings in Q1 2020. Please refer to Section D.2 above. CDS presented the proposed amendments to the CDS Board of Directors (the "**Board**") in the second half of April 2020, and obtained its approval at the Board meeting on May 7, 2020.

D.5 Alternatives Considered

In light of the nature of the Clean-up Changes, no alternatives were considered.

D.6 Implementation Plan

CDS is recognized as a clearing agency by the Ontario Securities Commission pursuant to section 21.2 of the *Securities Act* (Ontario), by the British Columbia Securities Commission pursuant to Section 24(d) of the *Securities Act* (British Columbia) and by the Autorité des marchés financiers ("AMF") pursuant to section 169 of the *Securities Act* (Québec). In addition, CDS is deemed to be the clearing house for CDSX®, a clearing and settlement system designated by the Bank of Canada pursuant to section 4 of the *Payment Clearing and Settlement Act*. The Ontario Securities Commission, the British Columbia Securities Commission, the Autorité des marchés financiers and the Bank of Canada will hereafter be collectively referred to as the "**Recognizing Regulators**".

The Clean-up Changes will come into effect on a date to be determined by CDS, such date (expected to be in Q4 2020) will be after the required public notice and comment period, approval of the proposed amendments by the Recognizing Regulators, and publication of notice of approval to Participants.

E. TECHNOLOGICAL SYSTEM CHANGES

The Rule 5 Amendments are not expected to have an impact on technological systems, or require changes to such systems for CDS, Participants, or other market participants.

F. COMPARISON TO OTHER CLEARING AGENCIES

The Rule 5 Amendments and its purpose do not deviate from the standards and practices of [other] international clearing agencies that are comparable to CDS, such as the Depository Trust & Clearing Corporation ("**DTCC**") and its subsidiary National Securities Clearing Corporation ("**NSCC**") in the United States.

G. PUBLIC INTEREST ASSESSMENT

CDS believes that the Rule 5 Amendments are not contrary to the public interest.

H. COMMENTS

Comments on the Clean-up Changes must be made in writing and submitted by July 31, 2020 to:

CDS Clearing and Depository Services Inc.
Attn: Legal Department, Tony Hoffmann, Senior Legal Counsel
100 Adelaide Street West – Suite 300
Toronto, Ontario, M5H 1S3
Email: tony.hoffmann@tmx.com

with a copy to Paula Jon, Legal Counsel
Email: paula.jon@tmx.com

Copies should also be provided to the Autorité des marchés financiers, British Columbia Securities Commission and the Ontario Securities Commission by forwarding a copy to each of the following individuals:

Philippe Lebel
Corporate Secretary and
Executive Director, Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640 Laurier boulevard, suite 400
Québec (Québec) G1V 5C1
Fax : (514) 864-8381
E-mail: consultation-en-cours@lautorite.qc.ca

Aaron Ferguson, Market Regulation
Market Regulation Branch
Ontario Securities Commission
Suite 2200
20 Queen Street West
Toronto, Ontario, M5H 3S8
Fax: 416-595-8940
e-mail: marketregulation@osc.gov.on.ca

Doug MacKay
Manager, Market and SRO Oversight
British Columbia Securities Commission
701 West Georgia Street
P.O. Box 10142, Pacific Centre
Vancouver, B.C. V7Y 1L2
Fax: 604-899-6506
Email: dmackay@bcsc.bc.ca

Zach Masum
Manager, Legal Services
British Columbia Securities Commission
701 West Georgia Street
P.O. Box 10142, Pacific Centre
Vancouver, B.C., V7Y 1L2
Fax: 604-899-6506
Email: zmasum@bcsc.bc.ca

CDS will make available to the public, upon request, all comments received during the comment period.

APPENDIX A

The Rule 5 Amendments

~~5.10.~~5.4. SYSTEM-OPERATING CAP	**5.4. SYSTEM-OPERATING CAP**
~~5.10.11.~~5.4.5. Voluntary Adjustment of System-Operating Cap	**5.4.5. Voluntary Adjustment of System-Operating Cap**
(i) Extenders	(i) Extenders
At any time during a Business Day, an Extender may request a temporary increase in its System-Operating Cap to an amount not greater than 125% of its existing System-Operating Cap. The request shall be made in writing by an authorized officer of the Extender, delivered to all the other Extenders and to the ~~duly appointed officer of the CBA~~Extenders' Council, setting out the reason for the request and the amount of increase requested, and such other information as required by CDS in the prescribed form in effect at the time. Within a reasonable time after receiving the request in proper form, each Extender shall inform the ~~CBA~~Extenders' Council in writing whether it approves or disapproves of the requested increase. If all the Extenders approve the increase, the ~~CBA~~Extenders' Council shall immediately inform CDS and Bank of Canada of the amount of the temporary increase to be permitted to the requesting Extender and the required increase of Collateral Pool Contribution, which shall be not less than 15% of the increase in its System-Operating Cap. CDS shall increase the Extender's System-Operating Cap in accordance with the communication from the ~~CBA~~Extenders' Council, provided that the corresponding increase in its Collateral Pool Contribution required pursuant to Rule 5.10.4 has been made. CDS shall return the System-Operating Cap of the Extender to its normal level before the start of business on the next Business Day. Any excess Collateral Pool Contribution shall be returned in accordance with Rule 5.10.8.	At any time during a Business Day, an Extender may request a temporary increase in its System-Operating Cap to an amount not greater than 125% of its existing System-Operating Cap. The request shall be made in writing by an authorized officer of the Extender, delivered to all the other Extenders and to the Extenders' Council, setting out the reason for the request and the amount of increase requested, and such other information as required by CDS in the prescribed form in effect at the time. Within a reasonable time after receiving the request in proper form, each Extender shall inform the Extenders' Council in writing whether it approves or disapproves of the requested increase. If all the Extenders approve the increase, the Extenders' Council shall immediately inform CDS and Bank of Canada of the amount of the temporary increase to be permitted to the requesting Extender and the required increase of Collateral Pool Contribution, which shall be not less than 15% of the increase in its System-Operating Cap. CDS shall increase the Extender's System-Operating Cap in accordance with the communication from the Extenders' Council, provided that the corresponding increase in its Collateral Pool Contribution required pursuant to Rule 5.10.4 has been made. CDS shall return the System-Operating Cap of the Extender to its normal level before the start of business on the next Business Day. Any excess Collateral Pool Contribution shall be returned in accordance with Rule 5.10.8.
~~5.10.15.~~5.4.6. Mandatory Adjustment of System-Operating Cap	**5.4.6. Mandatory Adjustment of System-Operating Cap**
(i) Extenders	(i) Extenders
At any time during a Business Day, an Extender may request the ~~CBA~~Extenders' Council to consult with the Members of its Category Credit Ring regarding a decrease in the System-Operating Cap of another Extender. The ~~CBA~~Extenders' Council shall immediately inform all Extenders other than the affected Extender of the proposed decrease. Each Extender so informed shall, within reasonable time, inform the ~~CBA~~Extenders' Council in writing whether it approves of the proposal. If all Extenders other than the affected Extender approve the decrease, the ~~CBA~~Extenders' Council shall immediately inform CDS of the amount and duration of the temporary decrease. CDS shall decrease the System-Operating Cap of the	At any time during a Business Day, an Extender may request the Extenders' Council to consult with the Members of its Category Credit Ring regarding a decrease in the System-Operating Cap of another Extender. The Extenders' Council shall immediately inform all Extenders other than the affected Extender of the proposed decrease. Each Extender so informed shall, within reasonable time, inform the Extenders' Council in writing whether it approves of the proposal. If all Extenders other than the affected Extender approve the decrease, the Extenders' Council shall immediately inform CDS of the amount and duration of the temporary decrease. CDS shall decrease the System-Operating Cap of the affected Extender immediately upon receipt of the

affected Extender immediately upon receipt of the communication from the ~~CBA~~Extenders' Council, and shall inform the affected Extender of the decrease in its System Operating Cap pursuant to the communication of the ~~CBA~~Extenders' Council.	communication from the Extenders' Council, and shall inform the affected Extender of the decrease in its System Operating Cap pursuant to the communication of the Extenders' Council.
~~5.12.~~5.10. COLLATERAL POOL	**5.10. COLLATERAL POOL**
~~5.12.4~~5.10.4. Increased Collateral Pool Contribution by Extender	**5.10.4. Increased Collateral Pool Contribution by Extender**
~~(a)~~(i) System-Operating Cap Increase	(i) System-Operating Cap Increase
If, at the request of an Extender, its System-Operating Cap is temporarily increased, then for the Business Day on which its System-Operating Cap is increased:	If, at the request of an Extender, its System-Operating Cap is temporarily increased, then for the Business Day on which its System-Operating Cap is increased:
(a) the amount of its Collateral Pool Contribution shall be increased by the amount specified in the communication from the ~~CBA~~Extenders' Council; and	(a) the amount of its Collateral Pool Contribution shall be increased by the amount specified in the communication from the Extenders' Council; and
(b) in the event that the Extender is suspended prior to Payment Exchange, CDS and the Survivors of the Extender's Category Credit Ring shall be entitled to realize only a proportionate amount of the increase in the Collateral Pool Contribution, in the same proportion that the used amount of the Extender's increase in its System-Operating Cap is of the total increase in its System-Operating Cap.	(b) in the event that the Extender is suspended prior to Payment Exchange, CDS and the Survivors of the Extender's Category Credit Ring shall be entitled to realize only a proportionate amount of the increase in the Collateral Pool Contribution, in the same proportion that the used amount of the Extender's increase in its System-Operating Cap is of the total increase in its System-Operating Cap.

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