The Ontario Securities Commission

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

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Chapter 1

Notices

1.2 Notices of Hearing

1.2.1 Douglas John Eley – ss. 8, 21.7

FILE NO.: 2020-35

IN THE MATTER OF
DOUGLAS JOHN ELEY

NOTICE OF HEARING
Sections 8 and 21.7 of the *Securities Act*, RSO 1990, c S.5

PROCEEDING TYPE: Hearing and Review

HEARING DATE AND TIME: October 16, 2020 at 10:00 a.m.

LOCATION: By teleconference

PURPOSE

The purpose of this proceeding is to consider the Application dated October 7, 2020 made by the party named above to review decisions of the Investment Industry Regulatory Organization of Canada dated January 28, 2020 and October 6, 2020.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 6(1) of the Commission's *Practice Guideline*.

REPRESENTATION

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

FAILURE TO ATTEND

IF A PARTY DOES NOT ATTEND, 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 13th day of October, 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.

1.4 Notices from the Office of the Secretary

1.4.1 Majd Kitmitto et al.

FOR IMMEDIATE RELEASE
October 7, 2020

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

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on October 8, 2020 will not proceed as scheduled.

The hearing on the merits will continue on October 9, 2020 at 10:00 a.m.

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 First Global Data Ltd. et al.

FOR IMMEDIATE RELEASE
October 7, 2020

FIRST GLOBAL DATA LTD.,
GLOBAL BIOENERGY RESOURCES INC.,
NAYEEM ALLI,
MAURICE AZIZ,
HARISH BAJAJ, AND
ANDRE ITWARU,
File No. 2019-22

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on October 8, 2020 will not proceed as scheduled.

The hearing on the merits will continue on October 9, 2020 at 9:00 a.m.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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inquiries@osc.gov.on.ca

1.4.3 Canada Cannabis Corporation et al.

FOR IMMEDIATE RELEASE
October 7, 2020

CANADA CANNABIS CORPORATION,
CANADIAN CANNABIS CORPORATION,
BENJAMIN WARD,
SILVIO SERRANO, and
PETER STRANG,
File Nos. 2019-34 and 2020-13

TORONTO – Take notice that a confidential hearing in the Confidential Phase of the Motion and the Application in the above-named matters is scheduled to be heard on November 20, 2020.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

For General Inquiries:

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

1.4.4 Sean Daley and Kevin Wilkerson

FOR IMMEDIATE RELEASE
October 8, 2020

SEAN DALEY and
KEVIN WILKERSON,
File No. 2019-39

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 October 7, 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

1.4.5 Bardya Ziaian

FOR IMMEDIATE RELEASE
October 8, 2020

BARDYA ZIAIAN,
File No. 2020-34

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

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

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

For General Inquiries:

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

1.4.6 Derek F.C. Elliott

FOR IMMEDIATE RELEASE
October 8, 2020

DEREK F.C. ELLIOTT,
File No. 2020-31

TORONTO – Take notice that the attendance in the above named matter scheduled for October 9, 2020 will not proceed as scheduled.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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media_inquiries@osc.gov.on.ca

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inquiries@osc.gov.on.ca

1.4.7 Douglas John Eley

FOR IMMEDIATE RELEASE
October 13, 2020

DOUGLAS JOHN ELEY,
File No. 2020-35

TORONTO – The Office of the Secretary issued a Notice of Hearing is to consider the Application dated October 7, 2020 made by the party named above to review decisions of the Investment Industry Regulatory Organization of Canada dated January 28, 2020 and October 6, 2020.

The hearing will be held on October 16, 2020 at 10:00 a.m.

A copy of the Notice of Hearing dated October 13, 2020 and the Application dated October 7, 2020 are available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Subversive Real Estate Acquisition REIT LP

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Issuer granted relief from certain restricted security requirements under National Instrument 41-101 General Prospectus Requirements, National Instrument 44-101 Short Form Prospectus Distributions, and National Instrument 51-102 Continuous Disclosure Obligations – relief granted subject to conditions.

OSC Rule 56-501 Restricted Shares – Issuer granted relief from certain restricted share requirements under OSC Rule 56-501 – relief granted subject to conditions.

Applicable Legislative Provisions

National Instrument 41-101 General Prospectus Requirements, ss. 12.2, 12.3, 19.1.
Form 41-101F1 Information Required in a Prospectus, ss. 1.13, 10.6.
National Instrument 44-101 Short Form Prospectus Distributions, s. 8.1.
Form 44-101F1 Short Form Prospectus, ss. 1.12, 7.7.
National Instrument 51-102 Continuous Disclosure Obligations, Part 10 and s. 13.1.
OSC Rule 56-501 Restricted Shares, Parts 2 and 3, and s. 4.2.

August 26, 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
SUBVERSIVE REAL ESTATE ACQUISITION REIT LP
(the "Filer")

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, a special purpose acquisition company, in connection with a potential future qualifying transaction (the "**Qualifying Transaction**"), pursuant to which each restricted voting unit of the Filer ("**Restricted Voting Unit**") will, unless previously redeemed, be automatically renamed as a "Limited Partnership Unit" ("**Limited Partnership Unit**") (the "**Unit Renaming**").

In connection with the Qualifying Transaction and the Unit Renaming, the Filer has applied for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") that the requirements under:

(i) section 12.2 of National Instrument 41-101 – *General Prospectus Requirements* ("**NI 41-101**") relating to the use of restricted security terms, and sections 1.13 and 10.6 of Form 41-101F1 – *Information Required in a Prospectus* ("**Form 41-101F1**") and sections 1.12 and 7.7 of Form 44-101F1 – *Short Form Prospectus* ("**Form 44-101F1**") relating to restricted security disclosure (the "**Prospectus Disclosure Exemption**"), in connection with the Filer's future prospectuses that may be filed by the Filer under NI 41-101, National Instrument 44-101 – *Short Form Prospectus Distributions* ("**NI 44-101**"), including a prospectus filed under National Instrument 44-102 – *Shelf Distributions*;

(ii) part 10 of National Instrument 51-102 – *Continuous Disclosure Obligations* ("**NI 51-102**") relating to the use of restricted security terms and restricted security disclosure (the "**CD Disclosure Exemption**") in connection with continuous disclosure documents (the "**CD Documents**") that may be filed by the Filer under NI 51-102; and

(iii) part 2 of OSC Rule 56-501 relating to the use of restricted share terms and restricted share disclosure (the "**OSC Rule 56-501 Disclosure Exemption**") in connection with dealer and adviser documentation, rights offering circulars and offering memoranda of the Filer;

shall not apply to the Filer in connection with the Qualifying Transaction and any future distributions of Limited Partnership Units, proportionate voting

units of the Filer ("**PV Units**"), or distributions of securities that are, directly or indirectly, convertible into, or exercisable or exchangeable for, Limited Partnership Units or PV Units.

The Prospectus Disclosure Exemption, together with the OSC Rule 56-501 Disclosure Exemption and the CD Disclosure Exemption will be referred to herein as the "**Disclosure Exemptions**".

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 (the "Principal Regulator"); 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 British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon and Nunavut (together with Ontario, the "**Jurisdictions**") in respect of the Prospectus Disclosure Exemption and the CD Disclosure Exemption.

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.

Representations

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

The Filer

1. The Filer is a limited partnership formed under the *Limited Partnerships Act* (Ontario) on November 12, 2019. Its head office is located at 135 Grand Street, 2nd Floor, New York, New York 10013 and its registered office is located at 333 Bay Street, Suite 3400, Toronto, Ontario, M5H 2S7. The head office of the Filer's general partner, Subversive Real Estate Acquisition REIT (GP) Inc. (the "**General Partner**"), is located at 135 Grand Street, 2nd Floor, New York, New York 10013 and the General Partner's registered office is located at 700 West Georgia Street, Suite 2500, Vancouver, British Columbia V7Y 1B3.

2. The Filer is a reporting issuer in the Jurisdictions and is not in default under the securities legislation in force in any of the Jurisdictions.

3. The "**Class A Restricted Voting Units**" were offered to the public pursuant to an initial public offering (the "**IPO**") under the Prospectus. On January 8, 2020, the Filer announced that it raised US$200,000,000 from the sale of Class A Restricted Voting Units under the IPO. On January 23, 2020, the Filer announced that it raised an additional US$25,000,000 from the sale of Class A Restricted Voting Units under the partial exercise of its over-allotment option. Each Class A Restricted Voting Unit consisted of one Restricted Voting Unit and one Right ("**Right**"), with each Right entitling the holder, upon closing of the Qualifying Transaction, to receive one-eighth (1/8) of a Restricted Voting Unit (which at such time will represent one-eighth (1/8) of a Limited Partnership Unit), subject to adjustment under the terms of the Qualifying Transaction.

4. As at the date hereof, the Filer had outstanding 22,500,000 Restricted Voting Units, 23,024,500 Rights and 62,806 PV Units. The Filer has no other units or rights outstanding.

5. The Class A Restricted Voting Units were listed and posted for trading in Canada on the Neo Exchange Inc. (the "**NEO**") under the symbol "SVX.UN". The Restricted Voting Units and the Rights comprising the Class A Restricted Voting Units were initially trading as a unit but the Restricted Voting Units and the Rights began trading separately on February 18, 2020, under the symbols "SVX.U" and "SVX.RT.U", respectively. The Class B Units also split into the Rights and PV Units that were underlying the Class B Units on February 18, 2020. The Class B Units are not listed or posted for trading on any stock exchange, nor is it anticipated that the Class B Units will be listed or posted for trading on any exchange in the future.

6. As disclosed in the Prospectus, 100% of the gross proceeds from the sale of the Class A Restricted Voting Units are held in escrow by Olympia Trust Company, pending the completion of a Qualifying Transaction (the "**Escrow Amount**").

7. The authorized capital of the Filer consists of an unlimited number of Restricted Voting Units and an unlimited number of PV Units.

The Filer's Capital Structure – Pre Qualifying Transaction

8. As disclosed in the Prospectus, the Restricted Voting Units are entitled to one vote per unit, other than on matters relating to the election and/or removal of the directors of the General Partner and auditors of the Filer prior to the closing of the Qualifying Transaction. It is not currently expected that any meetings involving the holders of Restricted Voting Units will take place.

9. The PV Units are entitled to 100 votes per unit and will receive notice of all unitholder meetings. The holders of PV Units are not entitled to access, or benefit from, the Escrow Amount. The holders of PV Units are the "Founders" (as such term is defined in the Prospectus) of the Filer, and as such, are involved in the Filer's management.

10. The pre-Qualifying Transaction dual unit structure (i.e. the Restricted Voting Units and the PV Units) has been adopted to provide appropriate treatment for the holders of Class A Restricted Voting Units in the event that (1) a Qualifying Transaction is not completed within the required time frame; or (2) the Redemption Right (as defined below) is exercised by holders of Restricted Voting Units.

11. Prior to the closing of the Qualifying Transaction, the Filer will not issue any additional securities other than as permitted by the rules of the NEO.

The Qualifying Transaction

12. The Filer was created for the purposes of effecting, directly or indirectly, an acquisition of one or more cannabis related real estate businesses or assets. The Filer is specifically focusing its search of the noted acquisition on real estate assets in the cannabis industry and/or those closely associated with the cannabis industry; however, the Filer is not limited to the acquisition of cannabis related real estate businesses and/or assets or to a particular geographic region and may acquire other classes of real estate assets and/or non-real estate assets or businesses for the purposes of the Qualifying Transaction.

13. As the Filer has deposited 100% of the proceeds from the sale of the Class A Restricted Voting Units into escrow, pursuant to the rules of the NEO, the Filer is not required to hold a unitholder meeting to consider the approval of the Qualifying Transaction. However, notwithstanding that no unitholder meeting will be held, holders of Restricted Voting Units will be able to redeem their securities (except for holders of more than 15% of the number of Restricted Voting Units issued and outstanding, who will be subject to a 15% limit of the number of Restricted Voting Units issued and outstanding) and effectively receive back their original purchase price for the Restricted Voting Units plus any interest earned on the amount, minus all applicable taxes and expenses directly related to the redemption (the "**Redemption Right**"). The PV Units do not have any redemption rights.

14. In connection with the Qualifying Transaction, the Filer will:

    (a) prepare and file a long form prospectus containing disclosure about the Qualifying Transaction (the "**Qualifying Transaction Prospectus**");

    (b) mail a notice of redemption to the holders of the Restricted Voting Units at least 21 days prior to the redemption deadline; and

    (c) send by prepaid mail or otherwise deliver the Qualifying Transaction Prospectus to the holders of the Restricted Voting Units no later than midnight (Toronto time) on the second business day prior to the deadline for redemption, which delivery may be effected electronically.

15. Pursuant to the Redemption Right, holders of Class A Restricted Voting Units will be able to choose whether to remain invested in the Filer or redeem all or a portion of their Restricted Voting Units. Should a holder of Restricted Voting Units choose to redeem, the amount payable per Restricted Voting Unit redeemed will equal their pro-rata portion of the Escrow Amount (including any interest earned on the amount), minus all applicable taxes and expenses directly related to the exercise of the Redemption Right, as further discussed in the Prospectus.

The Filer's Capital Structure – Post Qualifying Transaction

16. As disclosed in the Prospectus (and as will be disclosed in the Qualifying Transaction Prospectus), upon closing of the Qualifying Transaction, the Unit Renaming will occur.

17. Each PV Unit entitles the holder thereof to 100 votes at subsequent unitholder meetings. Each PV Unit is convertible, at the option of the holder and with the consent of the Filer, at a ratio of one PV Unit for 100 Limited Partnership Units.

18. The ability for holders of PV Units to convert their units to Limited Partnership Units is subject to certain conditions in order to maintain the Filer's status as a "foreign private issuer" under U.S. securities laws. The PV Units were established for the purpose of maintaining the Filer's status as a "foreign private issuer" under U.S. securities laws.

19. Further, pursuant to the Unit Renaming, the Filer will rename each Restricted Voting Unit not otherwise redeemed pursuant to the Redemption Right as a Limited Partnership Unit. Each Limited Partnership Unit entitles the holder thereof to one (1) vote at subsequent unitholder meetings.

20. Following the closing of the Qualifying Transaction, each Right will entitle the holder to receive one-eighth (1/8) of a Restricted Voting Unit (which at such time will represent one-eighth

(1/8) of a Limited Partnership Unit), subject to adjustment under the terms of the Qualifying Transaction.

21. The Prospectus provides detailed disclosure on the terms of the Class A Restricted Voting Units, the Limited Partnership Units and the PV Units and the renaming of the Restricted Voting Units to Limited Partnership Units in connection with the Qualifying Transaction. The Prospectus also discloses the possibility of future issuance of PV Units upon the approval of the board of directors of the General Partner.

22. The PV Units are not expected to be listed or posted for trading on any exchange.

Takeover Bid Protection

23. If an offer is being made for PV Units (a "**PVU Offer**") where: (i) by reason of applicable securities legislation or stock exchange requirements, the offer must be made to all holders of the class of PV Units; and (ii) no equivalent offer is made for the Limited Partnership Units, the holders of Limited Partnership Units have the right, pursuant to the Amended and Restated Limited Partnership Agreement of the Issuer, at their option, to convert their Limited Partnership Units into PV Units for the purpose of allowing the holders of the Limited Partnership Units to tender to such PVU Offer, provided that such conversion into PV Units will be solely for the purpose of tendering the PV Units to the PVU Offer in question and that any PV Units that are tendered to the PVU Offer but that are not, for any reason, taken up and paid for by the offeror will automatically be reconverted into the Limited Partnership Units that existed prior to such conversion.

24. In the event that holders of Limited Partnership Units are entitled to convert their Limited Partnership Units into PV Units in connection with a PVU Offer pursuant to (ii) above, holders of an aggregate of Limited Partnership Units of less than 100 (an "**Odd Lot**") will be entitled to convert all but not less than all of such Odd Lot of Limited Partnership Units into an applicable fraction of one PV Unit, provided that such conversion into a fractional PV Unit will be solely for the purpose of tendering the fractional PV Unit to the PVU Offer in question and that any fraction of a PV Unit that is tendered to the PVU Offer but that is not, for any reason, taken up and paid for by the offeror will automatically be reconverted into the Limited Partnership Units that existed prior to such conversion.

Prospectus Disclosure Exemption

25. The Limited Partnership Units will be "restricted securities" within the meaning of NI 41-101 and the PV Units will be "subject securities" within the meaning of NI 41-101.

26. Section 12.2 of NI 41-101 requires a class of securities that is or may become restricted securities to be referred to in a prospectus using a term or a defined term that includes the appropriate restricted security term.

27. Sections 1.13 and 10.6 of Form 41-101F1 and sections 1.12 and 7.7 of Form 44-101F1 require that an issuer provide certain restricted security disclosure.

OSC Rule 56-501 Disclosure Exemption

28. The Limited Partnership Units will be "restricted shares" and the PV Units will be "subject securities", each within the meaning of OSC Rule 56-501.

29. Section 2.2 of OSC Rule 56-501 requires dealer and adviser documentation to include the appropriate restricted share term if restricted shares and the appropriate restricted share term or a code reference to restricted shares or the appropriate restricted share term are included in a trading record published by the NEO or other exchange listed in OSC Rule 56-501.

30. Section 2.3 of OSC Rule 56-501 requires that a rights offering circular or offering memorandum for a stock distribution prepared for a reporting issuer comply with certain requirements including, among others, that each class of securities that is or may become restricted shares shall be referred to using a term or a defined term that includes the appropriate restricted share term.

The CD Disclosure Exemption

31. The Limited Partnership Units will be "restricted securities" within the meaning of NI 51-102.

32. Section 10.2 of NI 51-102 sets out the procedure to be followed with respect to the dissemination of disclosure documents to holders of restricted securities and includes prohibitions on the language that can be used to describe the restricted securities.

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 Disclosure Exemptions are granted provided that:

(a) the representations in paragraphs 7-24, above, continue to apply;

(b) prior to the closing of the Qualifying Transaction:

i. the Filer has no restricted securities or restricted shares issued and outstanding, other than Restricted Voting Units (which, following the Qualifying Transaction, will be automatically renamed "Limited Partnership Units"); and

ii. the Filer has no subject securities issued and outstanding, other than PV Units; and

(c) following the closing of the Qualifying Transaction, the Filer will have no restricted shares (as defined in section 1.1 of OSC Rule 56-501) issued and outstanding other than the Limited Partnership Units.

"Winnie Sanjoto"
Manager, Corporate Finance
Ontario Securities Commission

2.1.2 Fidelity Investments Canada ULC

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from short selling restrictions in NI 81-102 to permit alternative mutual funds to physically short sell securities, other than "government securities", as defined in NI 81-102, up to 100% of NAV – relief subject to conditions.

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from short selling restrictions in NI 81-102 to permit alternative mutual funds to short sell "government securities", as defined in NI 81-102, up to 300% of NAV – relief subject to conditions.

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from issuer concentration restrictions in subsection 2.1(1.1) of NI 81-102 to permit an alternative mutual fund to invest up to 35% of its NAV in securities issued or guaranteed by a foreign government or supranational agency – relief subject to conditions.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.6.1(1)(c)(v), 2.6.2, 2.1(1.1), 19.1.

October 2, 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
FIDELITY INVESTMENTS CANADA ULC
(the Fidelity)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Fidelity, or an affiliate of Fidelity (collectively, the **Filer**), on behalf of the alternative mutual funds it manages, or will in the future manage (**Alternative Funds**), for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**), for an exemption pursuant to section 19.1 of National

Instrument 81-102 *Investment Funds* (**NI 81-102**), exempting the Alternative Funds from the provisions of:

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

(ii) section 2.6.2 of NI 81-102, which prohibits an alternative mutual fund from borrowing cash or selling securities short if, immediately after entering into a cash borrowing or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the fund would exceed 50% of the fund's NAV

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

in order to permit each Alternative Fund to short sell (I) securities having an aggregate market value (together with the aggregate value of any cash borrowed by the Alternative Fund) of up to 100% of the Alternative Fund's NAV (the **Short Selling Relief**) and (II) "government securities" (as defined in NI 81-102) up to a maximum of 300% of an Alternative Fund's NAV (the **Government Securities Short Selling Relief**);

(iii) subsection 2.1(1.1) of NI 81-102 which prohibits an alternative mutual fund from purchasing a security of an issuer or entering into a specified derivatives transaction, if, immediately after the transaction, more than 20% of the alternative mutual fund's NAV would be invested in securities of any one issuer, other than a "government security" (as defined in NI 81-102) (the **Concentration Restriction**) in order to permit each Alternative Fund to invest up to 35% of its net assets in Foreign Government Securities (as defined below) (the **Concentration Restriction Relief**)

(collectively, the **Requested Relief**).

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

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

(ii) the Filer has provided notice that sub-section 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.

Interpretation

Unless expressly defined herein, terms used in this Application have the respective meanings given to them in MI 11-102, National Instrument 14-101 *Definitions*, National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) and NI 81-102. In addition to the defined terms used in this Application, capitalized terms used in this Application have the following meanings:

Derivatives Strategy means a strategy that synthetically creates a strategy similar to a short hedging strategy through the use of derivative instruments.

Foreign Government Securities means evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada or the government of a jurisdiction in Canada, or the government of the United States of America and are rated "AAA" by Standard & Poor's ("S&P") or its DRO affiliate, or have an equivalent rating by one or more other designated rating organizations or their DRO affiliates.

NAV means net asset value.

Short Hedging Strategy means a strategy aimed at reducing interest rate risk by simultaneously buying a corporate bond long and selling a closely matched, highly liquid government bond short.

Representations

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

The Filer

1. Fidelity is a corporation continued under the laws of the Province of Alberta with its head office located in Toronto, Ontario.

2. Fidelity is registered as an investment fund manager in Ontario, Québec and Newfoundland and Labrador, as a portfolio manager in each of the Jurisdictions, as a commodity trading manager in Ontario and as a mutual fund dealer in each of the Jurisdictions.

3. The Filer is, or will be, the investment fund manager of certain alternative mutual funds (the **Alternative Funds**) and the Filer or a third party portfolio manager retained by the Filer is, or will be, the portfolio manager of the Alternative Funds.

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

The Alternative Funds

5. The Alternative Funds will be alternative mutual funds governed by the laws of a Jurisdiction or the laws of Canada.

6. The Alternative Funds are, or will be, governed by the provisions of NI 81-102, subject to any

exemption therefrom that has been, or may be, granted by the securities regulatory authorities.

7. As part of their investment strategies, the Alternative Funds may enter into specified derivatives transactions, borrow cash and/or sell short securities, provided that, in accordance with section 2.9.1 of NI 81-102, the Alternative Fund's aggregate exposure to such cash borrowing, short selling and specified derivatives transactions will not exceed 300% of its NAV.

Short Selling Relief

8. The investment strategies of each Alternative Fund will clearly disclose the short selling strategies of each Alternative Fund that are outside the scope of NI 81-102, including that the aggregate market value of all securities sold short by each Alternative Fund may exceed 50% of the net asset value of each Alternative Fund. The prospectus will also contain appropriate risk disclosure, alerting investors of any material risks associated with such investment strategies.

9. The investment strategies of each Alternative Fund will permit it to sell securities short, provided that at the time each Alternative Fund sells a security short (a) the aggregate market value of securities of any one issuer (other than "government securities" as defined in NI 81-102) sold short by each Alternative Fund does not exceed 10% of the net asset value of each Alternative Fund, and (b) the aggregate market value of all securities (other than "government securities" as defined in NI 81-102) sold short by each Alternative Fund does not exceed 100% of its net asset value.

10. The investment strategies of each Alternative Fund will permit each Alternative Fund to enter into a cash borrowing or short selling transaction, provided that the aggregate value of cash borrowed combined with the aggregate market value of the securities (other than "government securities" as defined in NI 81-102) sold short by each Alternative Fund does not exceed 100% of each Alternative Fund's net asset value (the **Total Borrowing and Short Sales Limit**). If Total Borrowing and Short Sales Limit is exceeded, each Alternative Fund shall, as quickly as commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate value of market value of securities sold short to be within the Total Borrowing and Short Sales Limit.

11. The investment strategies of each Alternative Fund will permit each Alternative Fund to borrow cash, enter into specified derivative transactions or sell securities short, provided that immediately after entering into a cash borrowing, specified derivative or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by each Alternative Fund and the aggregate notional amount of each Alternative Fund's specified derivatives positions (other than positions held for hedging purposes, as defined in NI 81-102) would not exceed three times each Alternative Fund's net asset value (the **Leverage Limit**). If the Leverage Limit is exceeded, each Alternative Fund shall, as quickly as commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short and aggregate notional amount of each Fund's specified derivatives position to be within the Leverage Limit.

12. Any short position entered into by each Alternative Fund will be consistent with the investment objective and strategies of each Alternative Fund.

13. The Filer maintains internal controls regarding physical short sales including written policies and procedures, risk management controls and proper books and records

14. Each Alternative Fund will implement the following controls when conducting a short sale:

    (a) Each Alternative Fund will assume the obligation to return to the borrowing agent the securities borrowed to effect the short sale;

    (b) each Alternative 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 each Alternative Fund at least as frequently as daily;

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

    (e) each Alternative 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 each Alternative Fund will keep proper books and records of short sales and all of its assets deposited with borrowing agents as security.

15. Where deemed appropriate and in the best interest of each Alternative Fund, the Filer is seeking latitude to enter into physical short positions rather than the use of synthetic short positions in order to achieve the investment objective and strategies of each Alternative Fund.

16. The Filer believes that since the underlying investment exposure between a physical short position and a synthetic short position is the same, each Alternative Fund will not be subject to any additional risks by entering into a physical short position versus a synthetic short position.

17. The Filer believes there is a greater number of options to borrow securities to short compared to a single counterparty for synthetic shorts resulting in lower borrowing costs to each Alternative Fund. As well, with a greater number of options to borrow securities to short, each Alternative Fund will be exposed to less counterparty risk than with a synthetic short position (e.g. counterparty default, counterparty insolvency, and premature termination of derivatives).

18. The Short Selling Relief will provide the Filer with the necessary flexibility to make timely trading decisions between physical short and synthetic short positions based on what is in the best interest of each Alternative Fund. The Filer, as a registrant and a fiduciary, is in the best position to determine whether each Fund should enter into a physical short position or a synthetic short position, depending on the surrounding circumstances. Accordingly, the Short Selling Relief will permit the Filer to engage in the most effective portfolio management available for the benefit of each Alternative Fund and its unitholders.

Government Securities Short Selling Relief

19. Certain of the Alternative Funds, as part of their investment strategy, will employ a Short Hedging Strategy, whereby the Alternative Funds will enter into long positions in corporate bonds while hedging the interest rate risk of those bonds by taking short positions in government bonds. The short positions in the government bonds can be achieved either through short selling government bonds or by entering into short positions in government bond futures.

20. The Short Selling Restrictions would restrict an Alternative Fund to short selling government securities to no more than 50% of the Alternative Fund's NAV.

21. The only securities proposed to be sold short by an Alternative Fund in excess of 100% of an Alternative Fund's NAV will be "government securities" (as defined in NI 81-102). Subject to the Short Selling Relief and the Government Securities Short Selling Relief, the Alternative 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.

22. NI 81-102 otherwise permits the Alternative Funds to obtain the additional leveraged short exposure through the use of specified derivatives, up to an aggregate exposure of 300% of the Alternative Fund's NAV.

23. The Filer is of the view that it would be in each Alternative Fund's best interest to permit the Alternative Funds to physically short sell government securities up to 300% of the Alternative Fund's NAV, instead of being limited to achieving the same 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 an Alternative Fund's NAV, the use of derivatives is less effective, is more complex, and is riskier than the Short Hedging Strategy. Derivatives typically 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 strategies 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 an Alternative 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.

24. Each Alternative Fund's aggregate exposure to short selling, cash borrowing and specified derivatives transactions will not exceed the Leverage Limit.

25. Each Alternative Fund will implement the following controls when conducting a short sale:

    (a) The Alternative 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 Alternative 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 cause the portfolio manager of the Alternative Fund to monitor the short positions of the Alternative Fund at least as frequently as daily and the Filer, as investment fund manager, will monitor the short positions of the Alternative Fund at least as frequently as monthly;

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

    (e) The Alternative 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 will cause the portfolio manager of the Alternative Fund, on behalf of the Alternative Fund, to keep proper books and records of short sales and all of the Alternative Fund's assets deposited with borrowing agents (as defined in NI 81-102) as security and the Filer, on behalf of the Alternative Fund, will have access to such books and records.

26. Each Alternative Fund's prospectus will contain adequate disclosure of the Alternative Fund's short selling activities, including material terms of the Short Selling Relief.

Concentration Restriction Relief

27. To achieve the investment objective of certain of the Alterative Funds, it is expected that the portfolio manager will employ a variety of fundamentally-driven and systematically-driven investment strategies. These Alternative Funds may invest in long and short positions in corporate and government fixed-income securities and instruments of issuers anywhere in the world.

28. While such Alternative Funds may invest in a diversified portfolio of fixed-income securities, each such Alternative Fund's portfolio manager may seek the discretion to gain exposure to any one issuer of Foreign Government Securities in excess of the Concentration Restriction.

29. Allowing the Alternative Funds to hold highly rated fixed-income securities issued by governments will enable the Alternative Funds to preserve capital in foreign markets during adverse market conditions, to have access to assets with minimal credit risk and will enable the portfolio manager to assess its views on interest rates and duration.

30. The increased flexibility to hold Foreign Government Securities may also yield higher returns than Canadian shorter-term government fixed-income alternatives.

31. Subsection 2.1(1.1) of NI 81-102 prohibits the Fund from purchasing a security of an issuer, other than a "government security" as defined in NI 81-102, if immediately after the purchase more than 20% of the net asset value of the fund, taken at market value at the time of the purchase, would be invested in securities of the issuer.

32. The Foreign Government Securities are not "government securities" as such term is defined in NI 81-102.

33. The Filer believes that the ability to purchase Foreign Government Securities more than the limit in subsection 2.1(1.1) of NI 81-102 will better enable the Alternative Funds to achieve their fundamental investment objectives, thereby benefitting the Alternative Funds' investors.

34. The Alternative Fund will only purchase Foreign Government Securities if the purchase is consistent with the Alternative Fund's fundamental investment objectives.

35. The prospectus for the Alternative Fund will disclose the risks associated with concentration of net assets of the Alternative Fund in securities of a limited number of issuers.

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:

In the case of the Short Selling Relief:

(a) each Alternative Fund may sell a security short or borrow cash only if, immediately after the transaction:

  (i) the aggregate market value of all securities (other than "government securities" as defined in NI 81-102) sold short by each Alternative Fund does not exceed 100% of each Alternative Fund's net asset value;

  (ii) the aggregate value of cash borrowing by each Alternative Fund does not exceed 50% of each Alternative Fund's net asset value; and

  (iii) the aggregate market value of securities (other than "government securities" as defined in NI 81-102) sold short by each Alternative Fund combined with the aggregate value of cash borrowing by each Alternative Fund does not exceed 100% of each Alternative Fund's net asset value.

(b) each short sale made by each Alternative Fund will otherwise comply with all of the short sale requirements applicable to alternative mutual funds under section 2.6.1 and 2.6.2 of NI 81-102;

(c) each Alternative Fund's aggregate exposure to short selling, cash borrowing and specified derivatives will not exceed the Leverage Limit;

(d) each short sale will be made consistent with each Alternative Fund's investment objectives and strategies; and

(e) each Alternative Fund will disclose in its offering documents that each Alternative Fund can short sell securities (other than "government securities" as defined in NI 81-102) up to 100% of each Alternative Fund's NAV, including the material terms of this decision.

In the case of the Government Securities Short Selling Relief:

(a) the only securities which an Alternative Fund will sell short in an amount that exceeds 100% of the Alternative Fund's NAV will be securities that meet the definition of "government security" as such term is defined in NI 81-102;

(b) each short sale by an Alternative 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;

(c) an Alternative Fund's aggregate exposure to short selling, cash borrowing and specified derivatives will not exceed the Leverage Limit;

(d) each short sale will be made consistent with an Alternative Fund's investment objectives and investment strategies; and

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

In the case of the Concentration Relief:

(a) any security that may be purchased under the Concentration Relief is traded on a mature and liquid market;

(b) the acquisition of the securities purchased pursuant to this decision is consistent with the fundamental investment objectives of the Alternative Fund;

(c) the prospectus of the Alternative Fund discloses the additional risk associated with the concentration of the net asset value of the Fund in securities of fewer issuers, such as the potential additional exposure to the risk of default of the issuer in which the Alternative Fund has so invested and the risks, including foreign exchange risks, of investing in the country in which the issuer is located; and

(d) the prospectus of the Alternative Fund discloses, in the investment strategies section, a summary of the nature and terms of the Requested Relief, along with the conditions imposed and the type of securities covered by this decision.

“Darren McKall”
Manager
Investment Funds and Structured Products Branch
Ontario Securities Commission

2.1.3 Fortive Corporation

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from prospectus requirements to allow company to spin off shares of its U.S. subsidiary to investors on a pro rata basis and by way of a dividend in specie – distribution not covered by legislative exemptions – company is a public company in the U.S. but is not a reporting issuer in Canada – company has a de minimis presence in Canada – no investment decision required from Canadian shareholders in order to receive shares of the subsidiary.

Applicable Legislative Provisions

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

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

AND

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

AND

IN THE MATTER OF
FORTIVE CORPORATION
(Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) for an exemption (the **Exemption Sought**) from the prospectus requirement in section 53 of the *Securities Act* (Ontario) in connection with the proposed distribution (the **Spin-Off**) by the Filer of the shares of common stock (**Vontier Shares**) of Vontier Corporation (**Vontier**), a wholly-owned subsidiary of the Filer, by way of a distribution *in specie* to holders (**Filer Shareholders**) of shares of common stock of the Filer (**Filer Shares**) resident in Canada (**Filer Canadian Shareholders**) as of the record date for the distribution.

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.

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.

Representations

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

1. The Filer is a Delaware corporation that is a diversified industrial growth company comprised of Professional Instrumentation and Industrial Technologies businesses. The Filer's principal executive office is located at 6920 Seaway Blvd., Everett, Washington 98203.

2. The Filer is not a reporting issuer, and currently has no intention of becoming a reporting issuer, under the securities laws of any jurisdiction of Canada.

3. The authorized share capital of the Filer consists of 2,000,000,000 Filer Shares, par value $0.01 per share, and 15,000,000 shares of preferred stock, par value $0.01 per share, of which 1,380,000 shares have been designated as 5% Mandatory convertible preferred stock, Series A, par value $0.01 per share (**Convertible Shares**). As of July 21, 2020, 2020, there were 337,071,495 Filer Shares issued and outstanding and 1,380,000 Convertible Shares issued and outstanding. The Filer has no other shares of preferred stock issued and outstanding.

4. The Filer Shares are listed for trading on the New York Stock Exchange (the **NYSE**) under the symbol "FTV" and the Convertible Shares are listed for trading on the NYSE under the symbol "FTV.PRA". Other than the foregoing listings on the NYSE, no securities of the Filer are listed or posted for trading on any exchange or market in Canada or outside of Canada. The Filer has no current intention of listing its securities on any Canadian exchange.

5. The Filer is subject to the United States *Securities Exchange Act of 1934*, as amended (the **1934 Act**) and the rules, regulations and orders promulgated thereunder.

6. According to a registered shareholder report prepared for the Filer by Broadridge Financial Solutions, Inc., as at September 8, 2020, there were 5 registered holders of Filer Shares resident in Canada, representing approximately 0.23% of the registered shareholders of the Filer worldwide

and holding approximately 1,497 Filer Shares, representing approximately 0.18% of the outstanding Filer Shares. The Filer does not expect these numbers to have materially changed since that date.

7. According to a beneficial ownership report prepared for the Filer by Broadridge Financial Solutions, Inc., as at September 8, 2020, there were 10,449 beneficial holders of Filer Shares resident in Canada, representing approximately 4.38% of the beneficial holders of Filer Shares worldwide and holding approximately 2,571,869 Filer Shares, representing approximately 0.75% of the outstanding Filer Shares. The Filer does not expect these numbers to have materially changed since that date.

8. Based on the information above, the number of registered and beneficial Filer Canadian Shareholders and the proportion of Filer Shares held by such shareholders are *de minimis*.

9. Vontier is a Delaware corporation and a wholly-owned subsidiary of the Filer. Vontier's principal executive office is located at 5420 Wade Park Boulevard, Suite 206, Raleigh, North Carolina 27607.

10. All of the issued and outstanding Vontier Shares are held by the Filer. No other securities of Vontier are issued and outstanding.

11. On September 4, 2019 and, subsequently, on September 1, 2020, the Filer announced its intention to separate the business of Vontier from the remainder of its businesses. This separation will be effected by way of a pro rata distribution of 80.1% of the outstanding Vontier Shares to holders of Filer Shares pursuant to the Spin-Off. The Filer will distribute 80.1% of the Vontier Shares to the holders of Filer Shares as of the record date for the distribution at a rate of two Vontier Shares for every five Filer Shares.

12. The distribution agent for the distribution will distribute to each Filer Shareholder entitled to Vontier Shares in connection with the Spin-Off the number of whole Vontier Shares to which the Filer Shareholder is entitled in the form of a book-entry credit. No fractional Vontier Shares will be issued in connection with the Spin-Off. The distribution agent will aggregate fractional shares into whole shares, sell the whole shares in the open market at prevailing prices and distribute the net cash proceeds from the sales *pro rata* to each Filer Shareholder who would otherwise have been entitled to receive a fractional share in the distribution. Recipients of cash in lieu of fractional shares will not be entitled to any interest on the amounts of cash payments made in lieu of fractional shares.

13. Filer Shareholders will not be required to pay any cash, deliver any other consideration or surrender or exchange their Filer Shares or take any other action in order to receive Vontier Shares in connection with the Spin-Off. The Spin-Off will occur automatically without any investment decision on the part of Filer Shareholders.

14. Subject to the satisfaction of certain conditions, including the receipt by the Filer of all necessary approvals of the U.S. Securities and Exchange Commission (SEC), it is currently anticipated that the Spin-Off will become effective on or about October 10, 2020.

15. Following completion of the Spin-Off, Filer Shareholders as of the record date for the Spin-Off will own 80.1% of the Vontier Shares, and Vontier will cease to be a subsidiary of the Filer and it is expected that Vontier will become an independent, publicly-traded company.

16. Following completion of the Spin-Off, the Filer Shares will continue to be listed for trading on the NYSE.

17. It is expected that the Vontier Shares will be listed for trading on the NYSE under the symbol "VNT". A complete listing application has been submitted to the NYSE on behalf of Vontier and on September 15, 2020 Vontier received authorization from the NYSE for listing, subject to compliance with all applicable listing standards on the date it begins trading on the NYSE.

18. Vontier is not a reporting issuer in any jurisdiction of Canada nor are its securities listed on any stock exchange in Canada. Vontier has no current intention of becoming a reporting issuer in any jurisdiction of Canada or to list its securities on any stock exchange in Canada after completion of the Spin-Off.

19. The Spin-Off is being effected as a dividend of Vontier Shares to Filer Shareholders in accordance with the laws of Delaware.

20. Because the Spin-Off will be effected by way of a dividend of Vontier Shares to Filer Shareholders, no shareholder approval of the Spin-Off is required or being sought under the laws of Delaware or any applicable United States federal securities laws.

21. On September 1, 2020, Vontier filed a registration statement on Form 10 with the SEC detailing the proposed Spin-Off (the **Registration Statement**). On September 21, 2020, Vontier filed Amendment No. 1 to the Registration Statement. On September 23, 2020, the SEC declared the Registration Statement, as amended, effective. The Registration Statement can be accessed at https://www.sec.gov/Archives/edgar/data/1786842

/0001193125202366631/0001193125-20-236631-index.htm and Amendment No. 1 can be accessed at https://www.sec.gov/Archives/edgar/data/1786842/000119312520249546/0001193125-20-249546-index.htm.

22. Filer Shareholders will receive a notice of internet availability of an information statement (the **Information Statement**) with respect to Vontier detailing the terms and conditions of the Spin-Off. All materials relating to the Spin-Off sent by or on behalf of the Filer to Filer Shareholders resident in the United States (including the Information Statement) will be sent concurrently to Filer Canadian Shareholders.

23. The Information Statement will contain prospectus-level disclosure about Vontier.

24. Filer Canadian Shareholders who receive Vontier Shares pursuant to the Spin-Off will have the benefit of the same rights and remedies in respect of the disclosure documentation received in connection with the Spin-Off that are available to Filer Shareholders resident in the United States.

25. Following completion of the Spin-Off, Vontier will be subject to the requirements of the 1934 Act and the rules and regulations of the NYSE. Vontier will send concurrently to holders of Vontier Shares resident in Canada the same disclosure materials required to be sent under applicable United States securities laws to holders of Vontier Shares resident in the United States.

26. There will be no active trading market for the Vontier Shares in Canada following the Spin-Off and none is expected to develop. Consequently, it is expected that any resale of Vontier Shares distributed in connection with the Spin-Off will occur through the facilities of the NYSE or any other exchange or market outside of Canada on which the Vontier Shares may be quoted or listed at the time that the trade occurs or to a person or company outside of Canada.

27. The Spin-Off to Filer Canadian Shareholders would be exempt from the prospectus requirement pursuant to subsection 2.31(2) of National Instrument 45-106 *Prospectus Exemptions* but for the fact that Vontier is not a reporting issuer under the securities legislation of any jurisdiction in Canada.

28. Neither the Filer nor Vontier is in default of any securities legislation in any jurisdiction of Canada.

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 the first trade in Vontier Shares acquired pursuant to the Spin-Off will be deemed to be a distribution that is subject to section 2.6 of National Instrument 45-102 **Resale of Securities**.

DATED at Toronto this 2nd day of October, 2020.

"Heather Zordel"
Commissioner
Ontario Securities Commission

"Mary Anne De Monte-Whelan"
Commissioner
Ontario Securities Commission

2.1.4 FRNT Financial Inc.

Headnote

Application for a decision to exempt from the dealer registration requirement and the prospectus requirement certain trades in over-the-counter (OTC) derivatives that are made by the applicant with a "permitted counterparty" or by a permitted counterparty with the applicant.

Decision providing for the exemption defines "permitted counterparties" to consist exclusively of persons or companies that are "permitted clients" as defined in Section 1.1 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Exemption was sought in Ontario as an interim response to current regulatory uncertainty associated with the regulation in Ontario of OTC derivatives, pending the development by the CSA of a uniform framework for the regulation of OTC derivatives in all provinces and territories of Canada – Decision includes terms and conditions, including a "sunset date" that is date that is the earlier of: (i) the date that is four years after the date of the Decision; and (ii) the coming into force in the jurisdiction of legislation or a rule that specifically governs dealer, adviser or other registration requirements applicable to market participants in connection with OTC derivative transactions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 25(1), 53(1), 74.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 1.1 ("permitted client").

October 13, 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
FRNT FINANCIAL INC.
(the Filer)

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the dealer registration requirement and the prospectus requirement in the Legislation that may otherwise be applicable to a trade in or distribution of an OTC Derivative (as defined below) made by either:

(a) the Filer to a Permitted Counterparty (as defined below); or

(b) a Permitted Counterparty to the Filer,

shall not apply to the Filer or the Permitted Counterparties, as the case may be (the **Requested Relief**), subject to certain terms and conditions.

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

(a) the Ontario Securities Commission (**OSC**) 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* is intended to be relied upon in New Brunswick (to the extent that Local Rule 91-501 does not apply), Newfoundland and Labrador, Prince Edward Island, the Northwest Territories, Yukon and Nunavut (the **Passport Jurisdictions** and, together with Ontario, the **Jurisdictions**).

Interpretation

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

The terms **OTC Derivative** and **Underlying Interest** are defined in the Appendix to this decision.

The term **Permitted Counterparty** means a person or company that is a "permitted client", as that term is defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**).

Representations

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

The Filer

1. The Filer is a company formed under the *Canada Business Corporations Act* (R.S.C., 1985, c. C-44). The head office of the Filer is located in Toronto, Ontario.

2. The Filer is a privately held entity. The majority owners are Stephane Ouellette and Adam Rabie, officers of the Filer.

3. The Filer provides technology to institutional investors and dealers to enable them to negotiate and record transactions in OTC derivatives.

4. The Filer intends to establish a business building on its technology to intermediate bilateral OTC Derivative transactions between institutional clients and financial institutions providing liquidity.

5. The Filer is not currently registered in any capacity in Canada, nor is it relying on any exemption from registration in Canada.

Proposed Conduct of OTC Derivatives Transactions

6. The Filer proposes to broker or intermediate bilateral OTC Derivative transactions with counterparties located in all provinces and territories of Canada that consist exclusively of persons or companies that are Permitted Counterparties. The Filer understands that the Permitted Counterparties would be entering into the OTC Derivative transactions for hedging or investment purposes. The Underlying Interest of the OTC Derivatives that are entered into will consist of one of the following: a commodity; an interest rate; a currency, including fiat and cryptocurrency; a foreign exchange rate; a security; an economic indicator, an index; a basket; a benchmark; another variable; another OTC Derivative; or some relationship between, or combination of, one or more of the foregoing.

7. While a Permitted Counterparty may deposit margin or collateral with the Filer in respect of its obligations under an OTC Derivative transaction, the Filer itself will not offer or provide credit or margin to any of its Permitted Counterparties for purposes of an OTC Derivative transaction.

8. The Filer seeks the Requested Relief as an interim, harmonized solution to the uncertainty and fragmentation that currently characterizes the regulation of OTC Derivatives across Canada, pending the development of a uniform framework for the regulation of OTC Derivative transactions in all provinces and territories of Canada. The Filer acknowledges that registration and prospectus requirements may be triggered for the Filer in connection with the derivative contracts under any such uniform framework to be developed for the regulation of OTC Derivative transactions.

Regulatory Uncertainty and Fragmentation Associated with the Regulation of OTC Derivative Transactions in Canada

9. There has generally been a considerable amount of uncertainty respecting the regulation of OTC Derivative transactions as "securities" in the provinces and territories of Canada other than Québec.

10. In each of British Columbia, Prince Edward Island, the Northwest Territories, Nunavut and Yukon, OTC Derivative transactions are regulated as securities on the basis that the definition of the term "security" in the securities legislation of each of these jurisdictions includes an express reference to a "futures contract" or a "derivative".

11. In Alberta, Manitoba, Ontario, New Brunswick, Nova Scotia and Saskatchewan, OTC Derivative transactions are regulated as derivatives; however, certain OTC Derivative transactions also meet the definition of "security".

12. In Newfoundland and Labrador, it is not certain whether, or in what circumstances, OTC Derivative transactions are "securities" because the definition of the term "security" in the securities legislation of this jurisdiction makes no express reference to a "futures contract" or a "derivative" and the definition of "security" does not include any category that would specifically cover OTC Derivative transactions.

13. In October 2009, staff of the OSC published OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario* (**OSC Notice 91-702**). OSC Notice 91-702 states that OSC staff take the view that contracts for differences, foreign exchange contracts and similar OTC Derivative products, when offered to investors in Ontario, engage the purposes of the OSA and constitute "investment contracts" and "securities" for the purposes of Ontario securities law. However, OSC Notice 91-702 also states that it is not intended to address direct or intermediated trading between institutions. OSC Notice 91-702 does not provide any additional guidance on the extent to which OTC Derivative transactions between the Filer and a Permitted Counterparty may be subject to Ontario securities law.

14. In Québec, OTC Derivative transactions are subject to the *Derivatives Act* (Québec), which sets out a comprehensive scheme for the regulation of derivative transactions that is distinct from Québec's securities regulatory requirements.

15. In each of Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Saskatchewan (the **Blanket Order Jurisdictions**) and Québec (collectively, **the OTC Exemption Jurisdictions**), OTC Derivative transactions are generally not subject to securities or derivative regulatory requirements, pursuant to applicable exemptions (the **OTC Derivative Exemptions**), when they are negotiated, bi-lateral contracts that are entered into between sophisticated non-retail parties, referred to as "Qualified Parties" in the Blanket Order Jurisdictions and "accredited counterparties" in Québec.

16. The corresponding OTC Derivative Exemptions are as follows:

Alberta	ASC Blanket Order 91-507 *Over-the-Counter Trades in Derivatives*
British Columbia	Blanket Order 91-501 *Over-the-Counter Derivatives*
Manitoba	Blanket Order 91-501 *Over-the-Counter Trades in Derivatives*
New Brunswick	Local Rule 91-501 *Derivatives*
Nova Scotia	Blanket Order 91-501 *Over the Counter Trades in Derivatives*
Saskatchewan	General Order 91-908 *Over-the-Counter Derivatives*
Québec	Section 7 of the *Derivatives Act* (Québec)

The Evolving Regulation of OTC Derivative Transactions as Derivatives

17. Each of the OTC Exemption Jurisdictions has sought to address the regulatory uncertainty associated with the regulation of OTC Derivative transactions as securities by regulating them as derivatives rather than securities, whether directly through the adoption of a distinct regulatory framework for derivatives in Québec, or indirectly through amendments to the definition of the term "security" in the securities legislation of the other OTC Exemption Jurisdictions and the granting of the OTC Derivative Exemptions.

18. Between 1994 and 2000, the OSC sought to achieve a similar objective by introducing proposed OSC Rule 91-504 *Over-the-Counter Derivatives* (the **Proposed OSC Rule**) for the purpose of establishing a uniform, clearly defined regulatory framework for the conduct of OTC Derivative transactions in Ontario, but the Proposed OSC Rule was returned to the OSC for further consideration by Ontario's Minister of Finance in November, 2000.

19. The Final Report of the Ontario Commodity Futures Act Advisory Committee, published in January, 2007, concluded that OTC Derivative contracts are not suited to being regulated in accordance with traditional securities regulatory requirements and should, therefore, be excluded from the scope of securities legislation because they are used for commercial-risk management purposes and not for investment or capital-raising purposes.

20. Ontario has now established a framework for regulating the trading of derivatives in Ontario (the **Ontario Derivatives Framework**) through amendments to the OSA that were made by the *Helping Ontario Families and Managing Responsibility Act, 2010* (Ontario).

21. The amendments to the OSA establishing the Ontario Derivatives Framework will not become effective until the date on which they are proclaimed in force. These amendments are not expected to be proclaimed in force until an ongoing public consultation on the regulation of OTC Derivatives has been completed. On April 19, 2018, the Canadian Securities Administrators (the **CSA**) published a Notice and Request for Comment on the Proposed National Instrument 93-102 *Derivatives: Registration*, and on June 14, 2018, the CSA published a Notice and Second Request for Comment on the Proposed National Instrument 93-101 *Derivatives: Business Conduct*, which, together, are intended to implement a comprehensive regime for the regulation of persons or companies that are in the business of trading or advising on derivatives.

Reasons for the Requested Relief

22. The Requested Relief would substantially address, for the Filer and its Permitted Counterparties, the regulatory uncertainty and fragmentation that is currently associated with the regulation of OTC Derivative transactions in Canada, by permitting the Filer to broker or intermediate these parties in entering into OTC Derivative transactions in reliance upon exemptions from the dealer registration and prospectus requirements of the Legislation that are comparable to the OTC Derivative Exemptions.

Books, Records and Reporting

23. The Filer will become a "market participant" for the purposes of the OSA if the Requested Relief is granted. For the purposes of the OSA, and as a market participant, the Filer is required by subsection 19(1) of the OSA to: (i) keep such books, records and other documents as are necessary for the proper recording of its business transactions and financial affairs, and the transactions that it executes on behalf of others; and (ii) keep such books, records and documents as may otherwise be required under Ontario securities law.

24. For the purposes of its compliance with subsection 19(1) of the OSA, the books and records that the Filer will keep will include books and records that:

    (a) demonstrate the extent of the Filer's compliance with applicable requirements of securities legislation;

    (b) demonstrate compliance with the policies and procedures of the Filer for establishing a system of controls and supervision sufficient to provide reasonable assurance that the Filer, and each individual acting on its behalf, complies with securities legislation; and

    (c) identify all OTC Derivative transactions brokered or intermediated by the Filer and entered into by each of its clients, including the name and address of all parties to the transaction and its terms.

25. To the extent necessary and in respect of the OTC Derivative transactions, the Filer will comply with the derivatives trade reporting rules and instruments in effect in the provinces and territories of Canada.

26. The Filer will ensure that it is in compliance with the securities laws in all jurisdictions in which it operates. The Filer is not in default of securities, commodity futures or derivatives legislation in any jurisdiction in Canada.

27. The Filer acknowledges that Coinsquare Ltd., an entity that owns 17.4% of the Filer, is subject to an order of the Commission (the **Coinsquare Settlement**).

28. The Filer is aware that pursuant to the Coinsquare Settlement, Cole Diamond and Virgile Rostand (the **Respondents**) are prohibited for a limited time from acting as directors or officers of issuers who are market participants. The Filer will ensure that the Respondents act in a manner that is consistent with the terms of the Coinsquare Settlement.

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 is that the Requested Relief is granted, provided that:

    (a) the counterparty to any OTC Derivative transaction that is brokered or intermediated by the Filer is a Permitted Counterparty;

(b) in the case of any trade brokered or intermediated by the Filer regarding a Permitted Counterparty, the Filer does not offer or provide any credit or margin to the Permitted Counterparty; and

(c) the Requested Relief shall terminate on the date that is the earlier of:

(i) the date that is four years after the date of this decision; and

(ii) the coming into force in the Jurisdiction of legislation or a rule that specifically governs dealer, adviser or other registration requirements applicable to market participants in connection with OTC Derivative transactions.

"Heather Zordel"
Commissioner
Ontario Securities Commission

"Garnet Fenn"
Commissioner
Ontario Securities Commission

APPENDIX

DEFINITIONS

Clearing Corporation means an association or organization through which Options or futures contracts are cleared and settled.

Contract for Differences means an agreement, other than an Option, a Forward Contract, a spot currency contract or a conventional floating rate debt security, that provides for:

(a) an exchange of principal amounts; or

(b) the obligation or right to make or receive a cash payment based upon the value, level or price, or on relative changes or movements of the value, level or price of, an Underlying Interest.

Forward Contract means an agreement, not entered into or traded on or through an organized market, stock exchange or futures exchange and cleared by a Clearing Corporation, to do one or more of the following on terms or at a price established by or determinable by reference to the agreement and at or by a time established by or determinable by reference to the agreement:

(a) make or take delivery of the Underlying Interest of the agreement; or

(b) settle in cash instead of delivery.

Option means an agreement that provides the holder with the right, but not the obligation, to do one or more of the following on terms or at a price determinable by reference to the agreement at or by a time established by the agreement:

(a) receive an amount of cash determinable by reference to a specified quantity of the Underlying Interest of the Option.

(b) purchase a specified quantity of the Underlying Interest of the Option.

(c) sell a specified quantity of the Underlying Interest of the Option.

OTC Derivative means one or more of, or any combination of, an Option, a Forward Contract, a Contract for Differences or any instrument of a type commonly considered to be a derivative, in which:

(a) the agreement relating to, and the material economic terms of, the Option, Forward Contract, Contract for Differences or other instrument have been customized to the purposes of the parties to the agreement and the agreement is not part of a fungible class of agreements that are standardized as to their material economic terms;

(b) the creditworthiness of a party having an obligation under the agreement would be a material consideration in entering into or determining the terms of the agreement; and

(c) the agreement is not entered into or traded on or through an organized market, stock exchange or futures exchange.

Underlying Interest means, for a derivative, the commodity, interest rate, currency, foreign exchange rate, security, economic indicator, index, basket, benchmark or other variable, or another derivative, and, if applicable, any relationship between, or combination of, any of the foregoing, from or on which the market price, value or payment obligations of the derivative are derived or based.

2.2 Orders

2.2.1 Bardya Ziaian

File No. 2020-34

IN THE MATTER OF
BARDYA ZIAIAN

Timothy Moseley, Vice-Chair and Chair of the Panel

October 8, 2020

ORDER

WHEREAS the Ontario Securities Commission held a hearing in writing regarding the Application by Bardya Ziaian (**Ziaian**) to review a decision of the Investment Industry Regulatory Organization of Canada (**IIROC**) dated September 24, 2020;

ON READING the Application and correspondence from the parties dated October 7, 2020;

IT IS ORDERED THAT:

1. the hearing date scheduled for October 9, 2020 is vacated;
2. by no later than October 23, 2020, Ziaian shall:
   a. file a copy of the record from the original proceeding; and
   b. serve and file his memorandum of fact and law;
3. IIROC Staff shall serve and file its memorandum of fact and law by no later than October 30, 2020;
4. Staff of the Commission shall serve and file its memorandum of fact and law by no later than November 4, 2020; and
5. the hearing of the Application will be held on November 12, 2020 at 10:00 a.m., by videoconference, or on such other dates or times as may be agreed to by the parties and set by the Office of the Secretary.

“Timothy Moseley”

Chapter 3

Reasons: Decisions, Orders and Rulings

3.1 OSC Decisions

3.1.1 Sean Daley and Kevin Wilkerson – Rule 27 of OSC's Rules of Procedure and Forms

Citation: *Daley (Re)*, 2020 ONSEC 25
October 7, 2020
File No. 2019-39

IN THE MATTER OF
SEAN DALEY
AND
KEVIN WILKERSON

REASONS AND DECISION ON A MOTION
(Rule 27 of the Commission's *Rules of Procedure and Forms*, (2019) 42 OSCB 9714)

Hearing:	August 27, 2020	
Decision:	October 7, 2020	
Panel:	Lawrence P. Haber	Commissioner and Chair of the Panel
Appearances:	Christopher Horkins	For Sean Daley
	Hanchu Chen	For Staff of the Commission
		No one appearing on behalf of Kevin Wilkerson

REASONS AND DECISION ON A MOTION

I. OVERVIEW

[1] Daley seeks a broad order for further disclosure in this matter in relation to documents and other information obtained or generated as a result of an ongoing investigation into him and others, as well as for certain specific disclosures related to materials previously disclosed to him in this proceeding.

[2] Daley also seeks an order under s.17 of the *Securities Act*[1] (the **Act**) authorizing him to share the disclosure that he has received with co-respondent Wilkerson, for the purpose of preparing Daley's defence. To date, Wilkerson has refused to participate in this proceeding.

[3] For the reasons set out below, I deny Daley's disclosure request.

II. BACKGROUND

[4] On November 9, 2018, Staff of the Ontario Securities Commission (**Staff** of the **Commission**) commenced a formal investigation into Daley, Wilkerson and others based on concerns that they were breaching the registration, distribution and fraud provisions of Ontario securities law through their operation of crypto-asset ventures known as Lyra and OTO Vouchers.

[5] On August 6, 2019, Staff commenced a proceeding relating to the formal investigation that began on November 9, 2018 and obtained a temporary cease trade order against the respondents in that matter (the **Temporary Order Proceeding**). Daley and Wilkerson, as well as other parties, are respondents in the Temporary Order Proceeding. The temporary cease trade order has been extended a number of times and was in effect at the time of this disclosure motion.

[1] RSO 1990, c S.5

[6] On August 29, 2019, Wilkerson emailed Staff regarding the Temporary Order Proceeding stating that Staff did not have his consent to serve him, summon him, invite him to participate in any proceedings, or send him legal documents with the expectation of a response.

[7] On November 18, 2019, Staff commenced this proceeding, by issuing a Statement of Allegations against respondents Daley and Wilkerson, alleging that Daley and Wilkerson obstructed Staff's investigation contrary to the public interest (the **Obstruction Proceeding**). Staff began providing disclosure to Daley in the Obstruction Proceeding later that month, with further disclosures having subsequently been made to him.

[8] According to Staff, the investigation into the Temporary Order Proceeding remains open and ongoing. No Statement of Allegations has been issued regarding the conduct alleged in the Temporary Order Proceeding.

[9] Wilkerson has not participated in the Obstruction Proceeding or the Temporary Order Proceeding to date.

III. ISSUES

[10] This motion presents the following issues:

a. Is Daley entitled to the disclosure he is seeking from Staff in the Obstruction Proceeding as it relates to:

i. a broad request requiring Staff to disclose all relevant, non-privileged documents and other information obtained or generated as a result of the ongoing investigation into Daley and others in relation to the Temporary Order Proceeding?

ii. specific disclosure requests?

b. Is it in the public interest to order that Daley may share certain disclosure made to him in this proceeding with Wilkerson for the purpose of preparing Daley's defence pursuant to s.17 of the Act?

IV. LAW AND ANALYSIS

A. Is Daley entitled to the disclosure that he is seeking from Staff?

[11] Rule 27(1) of the *Ontario Securities Commission Rules of Procedure and Forms*[2] (the **Rules**) requires Staff to provide to every other party "copies of all non-privileged documents in Staff's possession that are relevant to an allegation."

[12] Staff must initially assess which non-privileged documents it considers to be relevant to an allegation. In exercising that judgment, 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.[3]

[13] Staff do not need to produce what is clearly irrelevant, and they bear the initial obligation to separate the "wheat from the chaff" before making disclosure.[4]

[14] Following Staff's initial disclosure, the burden lies with the respondent making the disclosure request to articulate a basis for requesting further disclosure. The respondent needs to establish a sufficient connection between those documents or information that they state are missing and their ability to make full answer and defence to Staff's allegations.[5]

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2 (2019) 42 OSCB 9714
3 *BDO Canada LLP (Re),* 2019 ONSEC 21, (2019) 42 OSCB 5239 (**BDO**) at para 14; *Kitmitto* (Re), 2020 ONSEC 15 (**Kitmitto**) at para 20
4 *R v Stinchcombe*, [1991] 3 SCR 326 at para 20
5 BDO at paras 16-17; Kitmitto at para 23

1. Broad disclosure request for all relevant, non-privileged documents or other information obtained or generated as a result of the ongoing investigation into Daley and others in relation to the Temporary Order Proceeding

[15] Daley requests an order compelling Staff to disclose all relevant material collected or generated through their investigation in the Temporary Order Proceeding. Daley submits that the information and documents relevant to the conduct of Staff's investigation and the fruits of their investigation will be relevant to the question of whether that investigation has actually been obstructed by Daley's conduct and whether his conduct is contrary to the public interest.

[16] Daley further submits that the conduct of Staff's investigation in the Temporary Order Proceeding is centrally relevant and critical to his ability to make full answer and defence. He submits that he is entitled to explore in his defense whether reasonable investigation and assessment have been prevented in the way that is alleged in the Statement of Allegations by his conduct.

[17] Staff submit that their disclosure obligations pursuant to Rule 27 of the *Rules* are limited to the four corners of the Statement of Allegations in this matter, which relate to Daley and Wilkerson acting contrary to the public interest in obstructing Staff's investigation, and does not extend to the Temporary Order Proceeding to the extent those documents are irrelevant to the Statement of Allegations in this proceeding.

[18] Staff states that it is the actions and conduct of Daley and Wilkerson that are at the heart of these proceedings and that to the extent that the investigation relates to that conduct, such as whether Staff were able to speak with certain witnesses, is what is relevant. Staff state for this reason, their disclosure of materials relevant to the allegations in the Obstruction Proceeding is complete.

[19] The conduct alleged in the Statement of Allegations in the Obstruction Proceeding relates to, but is separate from, the matters which are the subject of the investigation in the Temporary Order Proceeding. What might be relevant in those proceedings are not, by virtue of relatedness, necessarily relevant in these proceedings.

[20] Staff's disclosure obligation does not extend to documents relevant to the investigation in the Temporary Order Proceeding outside of what is relevant to the Statement of Allegations in this proceeding. Staff's disclosure obligation is limited to the "four corners" of the Statement of Allegations in this matter. In my view, it is the alleged conduct of Daley and Wilkerson in obstructing Staff's investigations that is at the heart of these proceedings and their alleged conduct is what is relevant in the Obstruction Proceeding.

[21] I find that Daley has failed to meet the burden in establishing that there is a sufficient connection between those documents or other information that he states are missing and his ability to make full answer and defence to Staff's allegations in this proceeding. I am not persuaded that Staff's investigation in the Temporary Order Proceeding or the fruits of that investigation, outside of what has already been disclosed by Staff as relevant, are relevant to the issue of whether Daley and Wilkerson obstructed Staff's investigation, as alleged in this proceeding. Daley's ability to make full answer and defence is confined to the parameters of the Obstruction Proceeding only.

(a) Documents evidencing Staff's analysis, commentary, opinions or discussions

[22] Staff states, in addition to its general objection to further disclosure on the basis of non-relevance to these proceedings, that many of the items in Daley's disclosure request, including his request for "all internal communications at the OSC relating to the investigation in the Temporary Order Proceeding save for privileged communications involving the lawyers prosecuting the case", address a category of documents that Commission case law consistently confirms as irrelevant: Staff's internally generated documents evidencing Staff's analysis, commentary, opinions or discussions.

[23] As the Commission recently held, internal analysis, commentary, opinions or discussions, even by a non-fact expert witness, and even if squarely on the issue to be determined by the Commission, would have no probative value before the Commission.[6] However, as discussed in both *BDO* and *Kitmitto*, the determinative factor is not whether a document is internally generated, but rather whether it contains analysis, commentary, opinions or discussions.[7]

[24] Daley distinguishes this matter from *BDO* and *Kitmitto,* which he states are, like most cases before the Commission, cases that deal with a respondent's conduct and the impact that conduct has on the capital markets. This case, he submits, deals with an investigation and the impact that the respondents' alleged conduct has had on the investigation, as opposed to the capital markets. He submits that the investigation itself is not only relevant, but highly relevant to the allegations against him in this matter.

[6] Kitmitto at para 32
[7] Kitmitto at para 33; BDO at para 22

[25] I do not find that this case is distinct from *BDO* and *Kitmitto.* The mere fact that in this case the subject matter is an investigation and the conduct of an investigation does not by itself change the analysis as to whether such internal analysis, commentary, opinions or discussions would have any probative value before the Commission. Daley is not entitled to Staff's analysis, commentary, opinions or discussions.

2. Specific disclosure requests

[26] My decision regarding Daley's broad disclosure request and my decision regarding disclosure of documents evidencing Staff's analysis, commentaries, opinions and discussions largely dispenses with Daley's request for further disclosure in this matter. In addition to the broad disclosure request, Daley is also seeking specific disclosure that he states is missing based on the disclosure that he has already received in this matter.

[27] I will discuss each of these specific areas.

(a) Launchpad review

[28] Staff's disclosure includes references to a review Staff requested from Launchpad, the specialized branch of the Commission with expertise in the regulation of crypto-currency and other digital innovations. Daley submits that only one document was initially provided to him related to the Launchpad review, and subsequent to this disclosure motion, more information has been provided. However, he states that the following specific disclosure is still outstanding:

a. the questions asked of Launchpad;

b. the scope of the review requested from Launchpad;

c. any feedback, finding and responses provided by Launchpad to Staff;

d. copies of notes prepared by Staff or Launchpad related to the review;

e. any copies of correspondence related to the review; and

f. whether there was any relationship between a former lawyer on this matter and an individual who was on the Launchpad FinTech Advisory Board with the same last name.

[29] Daley submits that these materials are relevant and necessary because "[p]resumably, Launchpad's guidance was sought and relied upon by Staff in their determination that Lyra and OTO vouchers qualify as 'securities' within the regulatory jurisdiction of the OSC."[8]

[30] In addition, Daley requests information with respect to the relationship, if any, between an individual who was previously a member of Launchpad's FinTech Advisory Committee, Ms. Britton, and the Enforcement Staff lawyer, Mr. Britton, who, until his recent retirement, had primary responsibility for the prosecution of this case. He submits that this information will be relevant and necessary for his defence as a possible relationship may disclose potential grounds for an allegation of bias in Staff's investigation.

[31] Staff submits that Daley is not entitled to these materials as they are irrelevant, and Daley fails to adequately explain how the information sought could be relevant in preparing a defence. Staff characterizes Daley's description of Staff's discussion with Launchpad as an "inaccurate reflection" of Staff's discussion with Launchpad and stated that the discussion focused on the feasibility of one of the respondents in the Temporary Order Proceeding, Ascension, and potential interview topics with Daley.

[32] Staff submits that the request for copies of correspondence between Staff and Launchpad would clearly encompass internal Staff analysis, commentary, opinions or discussions that previous Commission case law has confirmed is irrelevant.

[33] Lastly, Staff submits that it is not aware of any relationship between Mr. Britton and Ms. Britton, nor would any relationship be of significance because Ms. Britton is irrelevant to these proceedings as she is not mentioned in disclosure and was not a participant in the discussion with Launchpad.

[34] I find that Daley's requested information in (a) – (e) in paragraph [28] falls under Staff's analysis, commentary, opinions or discussion that Daley is not entitled to, for the reasons as discussed above. Specifically, the issue of whether Lyra and OTO vouchers qualify as securities, which may be relevant to the Obstruction Proceeding, is a question of law to be determined by the panel in the merits hearing of the Obstruction Proceeding. For the reasons set out in *BDO* and

[8] Exhibit 1, Affidavit of Sean Daley dated July 31, 2020

Kitmitto, they relate to analysis, commentary, opinions or discussions, and are thus not relevant for disclosure purposes.

[35] I agree with Staff's submission that even if a relationship existed between Mr. Britton and Ms. Britton, it would be irrelevant to the Obstruction Proceeding. Therefore, Daley is not entitled to his request in (f) at para [28].

(b) Covert phone call

[36] Daley seeks more information regarding whether Staff's investigator directly requested, on a covert phone call with Daley, to purchase Lyra tokens from Daley. Daley submits that based on the witness summaries provided to him by Staff, the covert telephone discussion with Daley appears to be a key element of Staff's case, and materials collected or generated through this phone call will be relevant and necessary to prepare his defence.

[37] Staff submits that the notes of the call have been disclosed to the extent that there are notes, and the other information that Daley is seeking is more appropriate for cross-examination of Staff's investigators during the merits hearing.

[38] Daley submits that having to wait to receive what he considered to be relevant information about Staff's case undermines the purpose of Staff's robust pre-hearing disclosure obligations.

[39] The characterization of whether Lyra and OTO Vouchers are an investment contract is what is relevant to the issue for the merits hearing of whether these are securities, not how it was sold. Although the covert call with Daley goes to the issue of Daley's conduct, (a) Daley was a participant on the call so he would be aware of the questions Staff asked of him; (b) Daley has already received the notes of the call as part of Staff's disclosure; and (c) whether Staff requested to purchase securities may be relevant to the Temporary Order Proceeding, but is not relevant to the Obstruction Proceeding. Therefore, Daley is not entitled to the information that he has requested related to the covert phone call.

(c) Witness interviews

[40] Staff's disclosure to Daley included references to two interviews with an individual, *BC*. Daley submits that full disclosure regarding these interviews, including notes taken by all in attendance and correspondence internally, and between Staff and the individual regarding the interviews, has not been provided.

[41] Daley submits that these materials are relevant and necessary for him to prepare his defence, and for Daley to determine whether it will be necessary for him to seek to compel *BC* as a witness in the merits hearing in the Obstruction Proceeding.

[42] Based on the written cross-examination answers of one of Staff's investigators in this motion, Daley submits that there is a possibility that there are notes from other investigators that have not yet been disclosed.

[43] Staff submits that all relevant, non-privileged documents have been disclosed and that Daley is not entitled to internal Staff correspondence related to the interviews.

[44] I find that Daley's requested disclosure in this area falls under Staff's analysis, commentary, opinions or discussions, which Daley is not entitled to. Further, this request falls outside of the scope of information relevant to the allegations that have been made in this proceeding.

(d) VHDX file

[45] Daley's final disclosure request relates to a "VHDX" file, which is like a virtual hard drive that Staff collected, and it appears to Daley that all of this data relates to the investigation in the Temporary Order Proceeding. Daley states that Staff have disclosed the actual raw data but have not included particulars of what happened in the extraction and review of the file.

[46] Daley submits that given the importance placed on the review of this file and the work done on it in the witness summaries for the Obstruction Proceeding, it is important for him to understand the continuity of this evidence, how it was extracted, and what exactly was done to it after it was produced. He submits that he has received no notes or correspondence relating to this review, which Daley submits is relevant to the investigation.

[47] Daley submits that he also requires this information to determine whether it will be necessary to seek to compel the attendance of Staff investigators that Staff has not indicated that they intend to call as a witness.

[48] Staff submits that they have disclosed all relevant, non-privileged documents regarding the VHDX file, including a document leading to the file's acquisition and the analysis conducted on the file by a Senior Staff Forensic Specialist. They state that the information sought by Daley is irrelevant and Daley has not alleged any improprieties in the integrity of Staff's handling of the VHDX file. Further, they state that Daley is not entitled to Staff's notes or conclusions.

[49] I find that Daley has failed to show how this information is relevant to the allegations in the Obstruction Proceeding, and Staff is therefore not required to provide this disclosure as requested.

B. Is it in the public interest to order that Daley may share certain disclosure to Wilkerson for the purpose of preparing Daley's defence pursuant to s.17 of the Act?

[50] Section 16 of the Act prohibits the disclosure of the nature or content of an investigation order, or the name of any person examined or sought to be examined or the production of any document, amongst other things, by any person or company unless permitted by an order of the Commission under s.17.

[51] Daley has requested an order that he be permitted to share the disclosure that he has received with co-respondent Wilkerson, pursuant to s. 17 of the Act, for the purpose of preparing Daley's defence.

[52] Wilkerson is unrepresented and has refused to participate in the Obstruction Proceeding or the Temporary Order Proceeding. As a result, Staff have not provided any disclosure to Wilkerson. Rule 21(3) of the Rules and s.7(1) of the *Statutory Powers Procedure Act*[9] permit the Commission to proceed in the absence of any party that has been given reasonable notice in a proceeding.

[53] Pursuant to s.17(1) of the Act, the Commission may make an order authorizing the disclosure of certain confidential information, provided that the Commission considers that it would be in the public interest to do so.

[54] When considering whether disclosure is warranted under s.17(1), the Commission must consider the purpose for which the disclosure is sought and the specific circumstances of the case, as well as balance the continued requirement for confidentiality with the Commission's assessment of the public interest at stake.[10]

[55] Daley believes that consulting with Wilkerson, including through discussing and sharing information and documents that he has received as part of Staff's disclosure, will be necessary to adequately prepare for his defence.

[56] Daley submits that he should not be prejudiced in his defence by Wilkerson's decision not to participate and that if Wilkerson were a participating respondent, Daley would have the opportunity to consult and collaborate with him in preparing his defence on a common interest basis. He submits that Staff named Wilkerson as a respondent and they intended him to receive the disclosure materials.

[57] Staff submits that Daley does not need Wilkerson's assistance to make full answer and defense and that Daley has not met the high burden necessary to obtain a disclosure order under subsection 17(1) of the Act. They submit that the central and only allegation against Daley relates to his own conduct and actions. They further submit that there is no principle of natural justice that requires a respondent to obtain the assistance of a co-respondent.

[58] Staff is concerned that Wilkerson will not comply with the confidentiality requirements in sections 16 and 17 of the Act and submit that Wilkerson's past actions demonstrate that he holds the Commission and Ontario securities laws in low regard. In Staff's view, it would be reasonable to expect that Wilkerson would disregard the confidentiality requirements under the Act if he were provided with the disclosure. Specifically, Staff point to:

a. the allegations that it has made in the Statement of Allegations that Wilkerson is alleged to have sent a mass email discouraging cooperation with Staff's investigation and urging non-compliance with any summons issued by Staff; and

b. Wilkerson's correspondence to Staff stating that "any order from the OSC concerning [him], however worded, to be null, void and of no force or effect" and indicated that any future communications from the Commission will "go straight into [his] spam folder unread."

[59] As the Commission has previously stated, confidentiality is central to preserving the integrity of investigations conducted by Staff of the Commission and the Act creates a regime in which the Commission controls the flow of information in connection with its investigations, which are presumptively confidential.[11] The disclosure to anyone, except counsel, an insurer or insurance broker, is prohibited under s.16 of the Act, unless specifically authorized by the Commission pursuant to s.17 of the Act.

[60] I agree with Staff's concerns that based on his previous conduct, Wilkerson is unlikely to comply with the confidentiality requirements of the Act if he were provided with the disclosure. Further, Daley does not need Wilkerson's assistance to be able to make full answer and defence to defend his own conduct.

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9 RSO 1990, c S.22

10 *Katanga Mining Limited (Re)*, 2019 ONSEC 4 (**Katanga**) at para 16

11 Katanga at para 14

V. CONCLUSION

[61] For the reasons set out above, I deny Daley's disclosure motion request.

Dated at Toronto this 7th day of October, 2020.

"Lawrence P. Haber"

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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
THERE IS NOTHING TO REPORT THIS WEEK.				

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Alchemist Mining Incorporated	October 7, 2020	
Tajiri Resources Corp.	October 7, 2020	
Teal Valley Health Inc.	October 7, 2020	
TruTrace Technologies Inc.	October 7, 2020	
UrtheCast Corp.	October 7, 2020	

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
Edgewater Wireless Systems Inc.	October 9, 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
Agrios Global Holdings Ltd.	September 17, 2020	
Edgewater Wireless Systems Inc.	October 9, 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:
Purpose Structured Equity Growth Fund
Purpose Structured Equity Yield Portfolio
Principal Jurisdiction - Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated Oct 1, 2020
NP 11-202 Final Receipt dated Oct 7, 2020
Offering Price and Description:
Series I shares, Series A shares and Series F shares
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3112979

Issuer Name:
Fidelity Canadian Core Equity Fund
Fidelity U.S. Core Equity Fund
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Oct 2, 2020
NP 11-202 Final Receipt dated Oct 8, 2020
Offering Price and Description:
Series Q units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3100975

Issuer Name:
Fidelity Global Value Long/Short Fund (formerly, Fidelity Concentrated Value Plus Fund)
Fidelity Long/Short Alternative Fund (formerly, Fidelity North American Directional Long Short Fund)
Fidelity Market Neutral Alternative Fund (formerly, Fidelity North American Market Neutral Fund)
Principal Regulator – Ontario
Type and Date:
Preliminary Simplified Prospectus dated Oct 5, 2020
NP 11-202 Final Receipt dated Oct 9, 2020
Offering Price and Description:
Series F5 units, Series F units, Series O units, Series B units, Series S8 units, Series F8 units and Series S5 units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3109856

Issuer Name:
Hamilton Canadian Bank 1.25x Leverage ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated Oct 6, 2020
NP 11-202 Final Receipt dated Oct 8, 2020
Offering Price and Description:
Class E units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3109793

Issuer Name:
CI First Asset Active Canadian Dividend ETF
CI First Asset Active Credit ETF
CI First Asset Active Utility & Infrastructure ETF
CI First Asset Canadian Buyback Index ETF
CI First Asset Canadian REIT ETF
CI First Asset CanBanc Income Class ETF*
CI First Asset Core Canadian Equity Income Class ETF*
CI First Asset Enhanced Government Bond ETF
CI First Asset Enhanced Short Duration Bond ETF
CI First Asset European Bank ETF
CI First Asset Global Financial Sector ETF
CI First Asset Investment Grade Bond ETF
CI First Asset Long Duration Fixed Income ETF
CI First Asset MSCI Canada Quality Index Class ETF*
CI First Asset Preferred Share ETF
CI First Asset Short Term Government Bond Index Class ETF*
CI First Asset U.S. & Canada Lifeco Income ETF
CI First Asset U.S. Buyback Index ETF
CI First Asset U.S. TrendLeaders Index ETF
Principal Jurisdiction - Ontario
Type and Date:
Amendment #2 to Final Long Form Prospectus dated October 5, 2020
NP 11-202 Final Receipt dated Oct 9, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3030682

Issuer Name:
Horizons Managed Global Opportunities ETF
Principal Jurisdiction - Ontario
Type and Date:
Amendment #2 to Final Long Form Prospectus dated October 2, 2020
NP 11-202 Final Receipt dated Oct 7, 2020
Offering Price and Description:
Class E Units
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #3005535

Issuer Name:
CI Lawrence Park Alternative Investment Grade Credit ETF
CI Marret Alternative Absolute Return Bond ETF
CI Munro Alternative Global Growth ETF
Principal Jurisdiction - Ontario
Type and Date:
Amendment #1 to Final Long Form Prospectus dated October 5, 2020
NP 11-202 Final Receipt dated Oct 8, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
N/A
Promoter(s):
N/A
Project #2991185

NON-INVESTMENT FUNDS

Issuer Name:
BBTV Holdings Inc.
Principal Regulator - British Columbia
Type and Date:
Preliminary Long Form Prospectus dated October 7, 2020
NP 11-202 Preliminary Receipt dated October 8, 2020
Offering Price and Description:
$172,400,000.00
* Subordinate Voting Shares
Price: $* per Offered Share
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Scotia Capital Inc.
CIBC World Markets Inc.
BMO Nesbitt Burns Inc.
Eight Capital
Stifel Nicolaus Canada Inc.
Cormark Securities Inc.
PI Financial Corp.
Promoter(s):
-
Project #3121220

Issuer Name:
Kraken Robotics Inc.
Principal Regulator - Ontario
Type and Date:
Preliminary Short Form Prospectus dated October 7, 2020
NP 11-202 Preliminary Receipt dated October 7, 2020
Offering Price and Description:
$10,050,000.00
15,000,000 Common Shares
$0.67 per Common Share
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
STIFEL NICOLAUS CANADA INC.
BEACON SECURITIES LIMITED
Promoter(s):
-
Project #3120927

Issuer Name:
Pivotree Inc.
Principal Regulator - Ontario
Type and Date:
Amendment dated October 6, 2020 to Preliminary Long Form Prospectus dated September 25, 2020
NP 11-202 Preliminary Receipt dated October 7, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
NATIONAL BANK FINANCIAL INC.
CORMARK SECURITIES INC.
PARADIGM CAPITAL INC.
Promoter(s):
-
Project #3117064

Issuer Name:
Pivotree Inc.
Principal Regulator - Ontario
Type and Date:
Amendment dated October 7, 2020 to Preliminary Long Form Prospectus dated October 6, 2020
NP 11-202 Preliminary Receipt dated October 8, 2020
Offering Price and Description:
$35,000,000.00
* COMMON SHARES
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
NATIONAL BANK FINANCIAL INC.
CORMARK SECURITIES INC.
PARADIGM CAPITAL INC.
Promoter(s):
-
Project #3117064

Issuer Name:
Subversive Real Estate Acquisition REIT LP
Principal Regulator - Ontario
Type and Date:
Preliminary Long Form Prospectus dated October 7, 2020
NP 11-202 Preliminary Receipt dated October 8, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
CANACCORD GENUITY CORP.
Promoter(s):
SUBVERSIVE REAL ESTATE SPONSOR LLC
INCEPTION ALTANOVA SPONSOR, LLC
CG INVESTMENTS INC. IV
Project #3120996

Issuer Name:
Sunshine Silver Mining & Refining Corporation
Principal Regulator - Ontario
Type and Date:
Amendment dated October 6, 2020 to Preliminary Long Form Prospectus dated October 1, 2020
NP 11-202 Preliminary Receipt dated October 7, 2020
Offering Price and Description:
US$ *
* Shares of Common Stock
Underwriter(s) or Distributor(s):
BMO NESBITT BURNS INC.
GOLDMAN SACHS CANADA INC.
RBC DOMINION SECURITIES INC.
Promoter(s):
THE ELECTRUM GROUP LLC
ELECTRUM SILVER US LLC
Project #3119650

Issuer Name:
VEXT Science, Inc. (formerly, Vapen MJ Ventures Corporation)
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated October 7, 2020
NP 11-202 Preliminary Receipt dated October 7, 2020
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
BEACON SECURITIES LIMITED
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #3121034

Issuer Name:
VEXT Science, Inc. (formerly, Vapen MJ Ventures Corporation)
Principal Regulator - British Columbia
Type and Date:
Amendment dated October 8, 2020 to Preliminary Short Form Prospectus dated October 7, 2020
NP 11-202 Preliminary Receipt dated October 8, 2020
Offering Price and Description:
$5,004,000.00
13,900,000 Units
Price: $0.36 per Unit
Underwriter(s) or Distributor(s):
BEACON SECURITIES LIMITED
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #3121034

Issuer Name:
VEXT Science, Inc. (formerly, Vapen MJ Ventures Corporation)
Principal Regulator - British Columbia
Type and Date:
Amendment dated October 9, 2020 to Preliminary Short Form Prospectus dated October 8, 2020
NP 11-202 Preliminary Receipt dated October 9, 2020
Offering Price and Description:
$6,000,000.00
16,666,666 Units
Price: $0.36 per Unit
Underwriter(s) or Distributor(s):
BEACON SECURITIES LIMITED
CANACCORD GENUITY CORP.
Promoter(s):
-
Project #3121034

Issuer Name:
WELL Health Technologies Corp.
Principal Regulator - British Columbia
Type and Date:
Preliminary Short Form Prospectus dated October 7, 2020
NP 11-202 Preliminary Receipt dated October 7, 2020
Offering Price and Description:
$70,011,000.00
10,372,000 Common Shares
$6.75 per Common Share
Underwriter(s) or Distributor(s):
EIGHT CAPITAL
STIFEL NICOLAUS CANADA INC.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
LAURENTIAN BANK SECURITIES INC.
PI FINANCIAL CORP.
BEACON SECURITIES LIMITED
ECHELON WEALTH PARTNERS INC.
HAYWOOD SECURITIES INC.
PARADIGM CAPITAL INC.
Promoter(s):
-
Project #3120972

Issuer Name:
Adventus Mining Corporation
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated October 9, 2020
NP 11-202 Receipt dated October 9, 2020
Offering Price and Description:
C$100,000,000.00
Common Shares
Debt Securities
Warrants
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3118281

Issuer Name:
Brookfield Asset Management Inc.
Brookfield Finance LLC
Brookfield Finance Inc.
Brookfield Finance II Inc.
Brookfield Finance II LLC
Brookfield Finance I (UK) PLC
Brookfield Finance (Australia) Pty Ltd
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated October 6, 2020
NP 11-202 Receipt dated October 6, 2020
Offering Price and Description:
US$3,500,000,000.00
Debt Securities
Class A Preference Shares
Class A Limited Voting Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3117908

Issuer Name:
Brookfield Finance I (UK) PLC
Brookfield Finance (Australia) Pty Ltd
Brookfield Asset Management Inc.
Brookfield Finance LLC
Brookfield Finance Inc.
Brookfield Finance II Inc.
Brookfield Finance II LLC
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated October 6, 2020
NP 11-202 Receipt dated October 6, 2020
Offering Price and Description:
US$3,500,000,000.00
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3117936

Issuer Name:
Brookfield Finance II Inc.
Brookfield Finance II LLC
Brookfield Finance I (UK) PLC
Brookfield Finance (Australia) Pty Ltd
Brookfield Asset Management Inc.
Brookfield Finance LLC
Brookfield Finance Inc.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated October 6, 2020
NP 11-202 Receipt dated October 6, 2020
Offering Price and Description:
US$3,500,000,000.00
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3117923

Issuer Name:
Brookfield Finance II LLC
Brookfield Finance I (UK) PLC
Brookfield Finance (Australia) Pty Ltd
Brookfield Asset Management Inc.
Brookfield Finance LLC
Brookfield Finance Inc.
Brookfield Finance II Inc.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated October 6, 2020
NP 11-202 Receipt dated October 6, 2020
Offering Price and Description:
US$3,500,000,000.00
Preferred Shares (representing limited liability company interests)
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3117931

Issuer Name:
Brookfield Finance Inc.
Brookfield Finance II Inc.
Brookfield Finance II LLC
Brookfield Finance I (UK) PLC
Brookfield Finance (Australia) Pty Ltd
Brookfield Asset Management Inc.
Brookfield Finance LLC
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated October 6, 2020
NP 11-202 Receipt dated October 6, 2020
Offering Price and Description:
US$3,500,000,000.00
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3117910

Issuer Name:
Brookfield Finance LLC
Brookfield Finance Inc.
Brookfield Finance II Inc.
Brookfield Finance II LLC
Brookfield Finance I (UK) PLC
Brookfield Finance (Australia) Pty Ltd
Brookfield Asset Management Inc.
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated October 6, 2020
NP 11-202 Receipt dated October 6, 2020
Offering Price and Description:
US$3,500,000,000.00
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3117913

Issuer Name:
Brookfield Finance (Australia) Pty Ltd
Brookfield Asset Management Inc.
Brookfield Finance LLC
Brookfield Finance Inc.
Brookfield Finance II Inc.
Brookfield Finance II LLC
Brookfield Finance I (UK) PLC
Principal Regulator - Ontario
Type and Date:
Final Shelf Prospectus dated October 6, 2020
NP 11-202 Receipt dated October 6, 2020
Offering Price and Description:
US$3,500,000,000.00
Debt Securities
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3117941

Issuer Name:
Vista Gold Corp.
Principal Regulator - British Columbia
Type and Date:
Final Shelf Prospectus dated October 5, 2020
NP 11-202 Receipt dated October 6, 2020
Offering Price and Description:
US$25,000,000.00
Common Shares
Warrants
Subscription Receipts
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #3074845

Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Pending Surrender)	CHS Asset Management Inc.	Investment Fund Manager, Exempt Market Dealer and Portfolio Manager	October 7, 2020

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 Canadian Securities Exchange (CSE) – Amendments to Trading System Functionality & Features – Notice of Approval

CANADIAN SECURITIES EXCHANGE

NOTICE OF APPROVAL

SYSTEM FUNCTIONALITY – REGULAR HOURS ONLY OPTION

In accordance with the *Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto*, CNSX Markets Inc. ("CSE") has proposed, and the Ontario Securities Commission has approved significant changes to the CSE trading system.

On August 21, 2020, CSE published *Notice 2020-009 – Amendments to Trading System Functionality & Features – Request for Comment* with respect to the introduction of a "Regular Hours Only (RHO)" option for orders.

The comment period expired September 23, 2020. CSE did not receive any public comments regarding these proposed changes.

IMPLEMENTATION

The Regular Hours Only option will be launched during Q4 2020.

Questions about this notice may be directed to:

Mark Faulkner, Vice President Listings & Regulation,
Mark.Faulkner@thecse.com, or 416-367-7341

13.2.2 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 November 16, 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 introduced the Market-On-Close ("**MOC**") facility in 2004 to allow participating organizations to execute MOC orders on TSX listed securities at the end of the regular trading session. The MOC facility derives the official closing price for eligible TSX listed equity securities and is a vital source of liquidity for institutional agents and their clients. Operating as an electronic call market, the MOC facility acts as a multilateral source of liquidity, allowing large volumes to be traded with reduced price impact. The closing price set by the MOC is the industry benchmark for closing prices in Canada, and is utilized for many different purposes, including net asset value calculations by fund managers, portfolio and index rebalancing activities, and benchmarks for index related securities, swaps and options trades. The rise of passive investing and exchange traded funds over the last few years has resulted in increased demand within closing auctions globally and serves to highlight the growing importance of closing auction liquidity and pricing.

Currently, MOC market and MOC limit orders can be entered into the MOC book from 7:00 a.m. to 3:40 p.m. At 3:40 p.m. a single MOC imbalance message is published detailing the size and side of closing order imbalances across each MOC eligible symbol. Once the 3:40 p.m. MOC imbalance is published, offsetting MOC limit orders can be entered into the MOC book on the opposite side of the imbalance (if the symbol has an imbalance). Between 3:40 p.m. and 4:00 p.m. MOC Limit orders can be no greater in size than the size of the imbalance, and the limit price must be at or within the Price Movement Extension ("**PME**") percentage (3%) or 5 ticks of the Last Sale Price. Closing offset orders can be entered into the MOC book on either side of the market from 7:00 a.m. to 4:00 p.m. If there is a 4:00 p.m. MOC imbalance published due to a price movement extension, offsetting PME MOC limit orders[1] can be entered between 4:00 p.m. and 4:10 p.m.

There are no minimum order sizes required, and MOC market, MOC limit and closing offset orders may be entered with board lot, mixed and odd lot volumes.

Overview of Proposed Amendments

TSX is proposing changes to the TSX Rule Book and to certain TSX marketplace functionality to allow for the new MOC model (collectively, the "**Proposed Amendments**").

[1] Offsetting PME LOC orders are accepted provided that: i) opposite side to the published imbalance; ii) volume must not exceed the published imbalance; and iii) limit price must be between the Last Sale Price and CPA percentage.

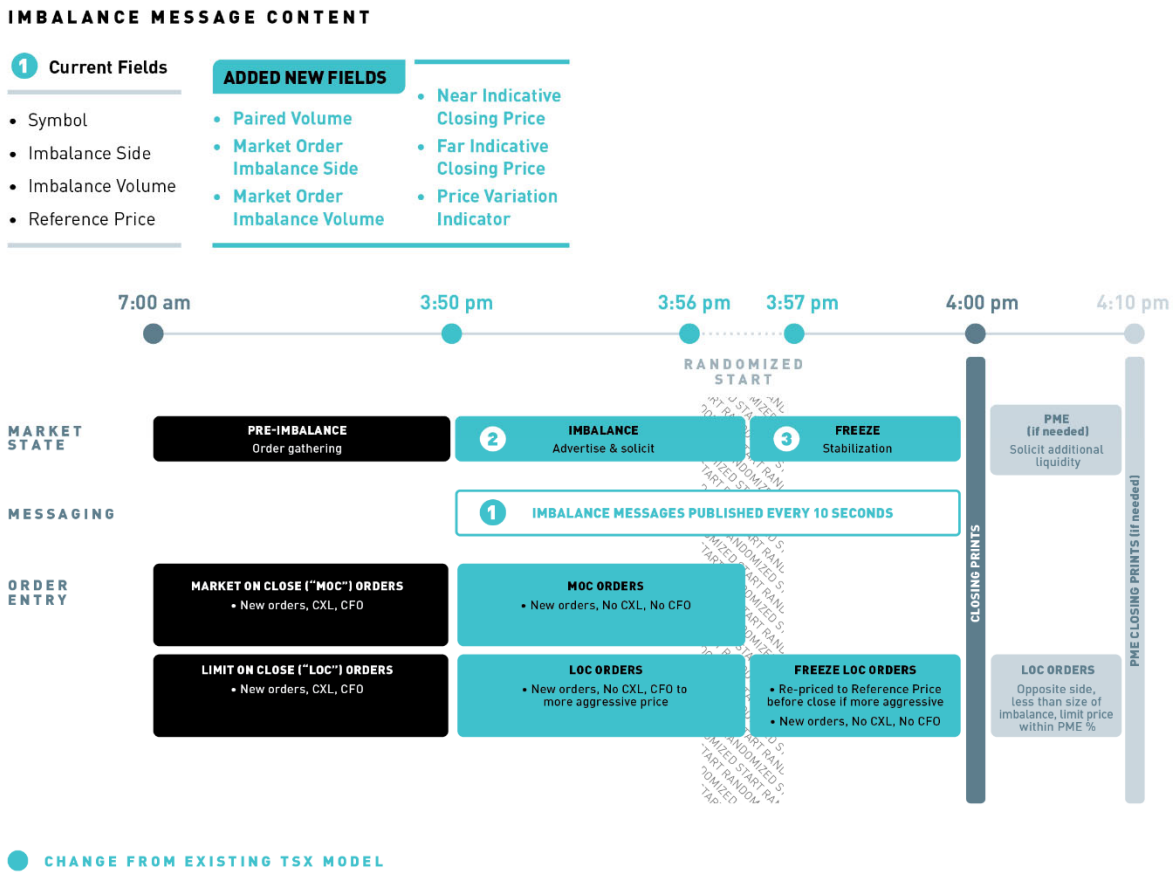
The following table and diagram provides an overview of the Proposed Amendments to the MOC facility:

Table 1 - Existing MOC vs Proposed MOC - Changes and Rationale

CHANGE	EXISTING MOC	PROPOSED MOC	RATIONALE
Increase imbalance message content and frequency of dissemination	Single imbalance message at start of MOC Imbalance Period (3:40p.m.).	Imbalance message sent at set time intervals from the start of the MOC Imbalance Period (3:50 p.m.) to the close (4:00 p.m.).	Increased content and frequency will add transparency to MOC and provide clients additional insights into the MOC book.
	4 existing fields: 1. Symbol 2. Reference Price 3. Imbalance Side 4. Imbalance Volume	Added 6 fields in addition to existing: 1. Paired Volume 2. Market Order Imbalance Volume 3. Market Order Imbalance Side 4. Near Indicative Closing Price 5. Far Indicative Closing Price 6. Price Variation Indicator	
MOC Imbalance Period	MOC Imbalance Period starts at 3:40p.m.	MOC Imbalance Period start at 3:50p.m.	Later start time aligns with North American standards. Increases flexibility by allowing for entry of MOC orders and LOC without restriction on price, size or side. Increases flexibility by allowing aggressive price amends.
	No MOC orders allowed.	New MOC orders are allowed. No MOC order cancels or modifications permitted.	
	LOC orders need to be on the opposite side, less than size of imbalance and limit price at or within the PME % or 5 ticks of the Last Sale Price. No LOC order cancels or modifications contributing to imbalance.	New LOC orders permitted with no restrictions. No LOC order cancels permitted. Modifications to LOC order price only permitted to more aggressive price.	
Introduction of MOC Freeze Period	No MOC Freeze Period.	MOC Freeze Period prior to close with a randomized start time as determined by TSX. New LOC orders allowed, will re-price to Reference Price before close if more aggressive for purposes of calculating the calculated closing price. At close of the MOC Freeze Period, LOC orders will be reprice to the closing reference price if more aggressive. No cancels or modifications allowed.	New MOC Freeze Period designed to mitigate volatility and help prevent unexpected price and imbalance movements leading up to the close. Randomized start time to mitigate speed advantages.

CHANGE	EXISTING MOC	PROPOSED MOC	RATIONALE
Remove Closing Offset order type	Closing Offset order type available.	Removal of Closing Offset order type.	Closing Offset order type becomes redundant and works counter to the intent of the new MOC Freeze Period. Its removal simplifies the proposed MOC.
Support for Self-Trade Management	No support for self-trade management during MOC.	Support for suppression of MOC executions from tape where MOC executions have matching self-trade prevention keys from the same broker.	This enhancement will provide relief from workflow burdens introduced by incidental wash trades within the MOC.

Diagram 1 – Visualization of new model



There are no changes to the allocation of MOC trades or the manner and time in which closing trades are disseminated as part of the TSX MOC Modernization Proposal.

There are also no changes to the PME period messaging, functionality or its parameters as part of this MOC proposal. TSX will be evaluating the use of the PME period for some time after launch and may remove it if deemed not necessary. A subsequent regulatory filing will follow if it is determined that PME is no longer needed.

The Proposed Amendments to the TSX Rule Book and to certain TSX marketplace functionality are as follows:

(i) MOC imbalance will be calculated and broadcast on each trading day at the start of the MOC Imbalance Period and again at set time intervals until the Closing Call. The MOC imbalance message will be published once more in the event of a delay of the closing call as specified by TSX;

(ii) Introduction of a "MOC Imbalance Period" where TSX will:

a. allow the entry of new MOC market orders, with no right to cancel or amend;

b. allow MOC limit orders to be entered in the MOC book on either side of the MOC Imbalance, at any volume and price. Allow no right of cancellation for MOC limit orders during the MOC imbalance period, and allow only for aggressive amendments. Aggressive amendments are defined as the raising of price for buy orders, or the lowering of price for sell and short orders;

(iii) Introduction of a "MOC Freeze Period" where TSX will allow MOC limit orders to be entered at any price, volume and side. However, if a MOC limit order price is more aggressive than the MOC Reference Price, the order price would be automatically adjusted to the MOC Reference Price. This will be done continuously until the Closing Call.

(iv) Introduction of a randomized interval bridging the "MOC imbalance period" and the "MOC Freeze Period" whereby this transition will occur across all securities at a random moment between a designated start time and a designated end time daily. The start time representing the earliest moment that the market state can transition to the freeze period and the end time representing the latest moment that the market state can transition to the freeze period.

(v) Removal of the MOC Closing Offset order. Within the Proposed Amendments, this order type becomes redundant and works counter to the intent of the new MOC Freeze Period. The removal of the MOC Closing Offset order also serves to simplify the MOC facility.

(vi) Introduction of support for self-trade management functionality within the MOC facility, executing orders with identical self-trade prevention keys from the same broker but suppressing those executions from the tape.

Please see **Appendix A** for a blackline of the Proposed Amendments.

Rationale for the Proposed Amendments

The basis for the Proposed Amendments began with client recommendations in late 2018 to examine the current MOC model and explore ways to increase the efficiency and usage of the facility. TSX embarked on a client consultation process to better understand the key concerns with the existing MOC facility and explore potential methods of improvement.

The consultation process served to identify three key areas of concern to address in renewing the MOC facility:

1. Transparency

Feedback revealed that traders need more information. The MOC facility currently provides a single imbalance message at 3:40 p.m., 20 minutes prior to the close of the regular trading session at 4:00 p.m. with limited content. TSX explored a new MOC communication framework to enable traders to make more informed decisions during the closing session, through increased frequency and additional content in imbalance messaging. As a result, the MOC imbalance message will now be broadcast at regular intervals and contain additional information. See section "New TSX MOC Imbalance Message" for details on the new fields to be added.

See the Proposed Amendments in Appendix A to Rule 4-902(b).

2. Alignment with Global Markets

The consultations also highlighted that the MOC facility is a global outlier. The MOC model differs from similar facilities offered by global exchanges in some important ways, including frequency and detail of information communicated during the trading day. The current novelty of today's MOC may discourage participation by some international and domestic investors.

TSX examined closing auction facilities around the world to gain an understanding of their unique features and incorporated our learnings in developing the new, improved MOC. Bringing the MOC model in line with global standards in an effort to increase participation. Furthermore, the TSX has realigned the phases of the closing auction to better coincide with US models.

See the Proposed Amendments in Appendix A to Rule 4-902(d).

3. Consistency of Execution

Finally, the consultations communicated that investors are not looking for surprises. Some participants cited inconsistencies when interacting with MOC liquidity that can erode participant confidence and deter them from utilizing the MOC as a consistent source of significant liquidity. One such example is the prevalence of closing prices that print in the opposite direction of the indicated imbalance.

The proposed changes to the MOC facility seek to attract increased participation at the close by introducing mechanics to increase flexibility, give more visibility into the MOC book, and dampen volatility. This will serve to enhance the user experience, reduce the cost of the trading large orders, and create reliable and representative closing price benchmarks, ultimately instilling confidence among traders and investors. The TSX feels that the increase in transparency inherent in the new model will serve to reduce the frequency and severity of unexpected events at the closing print. Further, the MOC Freeze Period was introduced to dampen volatility leading up to the close. Lastly, the TSX has proposed a randomized start to the freeze period, which may commence across all securities at any moment between the start of the randomized period and the end of the randomized period, this will provide time to react to MOC limit and market orders that are entered very close to the end of the Imbalance period. This feature is expected to decrease volatility during this transition and further foster reliability within the facility.

See the Proposed Amendments in Appendix A to Rule 4-902(e).

In addition to these three key areas, under the Proposed, TMX would like to make the following supporting changes to improve the MOC facility:

4. Removal of Closing Offset order type

MOC Closing Offset order type will be removed as it was deemed to be redundant with the LOC orders during the MOC Freeze Period, and the ability to cancel them works counter to the intent of the MOC Freeze Period.

See the Proposed Amendments in Appendix A to Rule 1-101 Definitions, Rule 4-902 (2)(a), and Rule 4-902 (3)(c).

5. Introduction of Self Trade Management in the MOC Facility

TSX also reviewed the list of previously requested client enhancements to the MOC facility within the context of the new MOC facility. As a result, we will also implement a self-trade management feature on orders executed in the MOC. Consistent with the current self-trade management feature on orders during continuous trading, any matched orders in the MOC with matching self-trade keys from the same Participation Organization will execute, however, it suppresses the trade from market data feeds. This has been a main request by clients and should aid them greatly in preventing wash trades, which currently require manual cancellations at the end of the day. In order to utilize this feature, clients will need to populate the self-trade key field and select self-trade management ("**EM**") as the self-trade option. Any other self-trade option, including cancel newest, cancel oldest, and decrement larger and cancel smaller, will continue to be ignored during MOC allocation to preserve the integrity and accuracy of MOC imbalance messages and calculated closing price.

6. New TSX MOC Imbalance Message

In order to increase transparency, TSX will introduce six new fields to the current imbalance message. Imbalance messages will be published every ten seconds beginning at the start of the MOC Imbalance Period until close.

Imbalance messages will be disseminated on the same market data feeds as they are today, which are all Level 1 and Level 2 real-time market data feeds.

The following six fields will be added to the imbalance message. Together with the existing four fields, the new MOC imbalance message will have a total of ten fields.

New Imbalance Message Field	Information Conveyed
Paired Volume	The number of MOC and LOC shares that are able be matched at the Reference Price.
Market Order Imbalance Volume	Indicates the share Imbalance when considering MOC orders only. Note this will not change from MOC Freeze Period as MOC orders are not allowed during this time.
Market Order Imbalance Side	Side (buy or sell) of the Market Order Imbalance Volume.
Near Indicative Closing Price	The calculated closing price that will maximize the number of shares matched based on on-close orders (MOC, LOC, COO) and visible continuous market orders.
Far Indicative Closing Price	The calculated closing price that will maximize the number of shares matched based on closing interest only (MOC, LOC, COO). This calculation excludes continuous market orders.
Price Variation Indicator	This field indicates the absolute value of the percentage of deviation of the Near Indicative Closing Price from the Reference Price. This will alert traders of symbols that may close outside of the volatility parameters and encourage offsetting liquidity.

Details on technical changes and examples are available in the TMX MOC Proposal – Detailed Guide on the TMX website.

Expected Date of Implementation

The Proposed Amendments are expected to be implemented following receipt of regulatory approval, and are expected to be implemented and available as early as mid Q2 2021, subject to stakeholder feedback and industry readiness and feedback.

Expected Impact

It is anticipated that the Proposed Amendments will increase transparency, align the MOC facility to the closing auction mechanisms of other global markets, and provide consistency of MOC execution. As such, TSX is of the view that the Amendments will support the maintenance of fair and orderly markets by strengthening the price formation process of the MOC facility and improving the overall user experience.

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

The Proposed Amendments 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.

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

The Proposed Amendments are expected to have a positive impact on the market participants, and may increase participation in the MOC facility. Members would need to adjust their trading workflows and strategies to benefit fully from the new MOC order entry rules. This is not expected to be a large effort for the many members that are already participating in comparable US closing auctions. Service Vendors would also need to make technology changes to consume and display the new imbalance message content. In addition, changes to the MOC Imbalance Period and the introduction of the new MOC Freeze Period may also require technology changes.

Does the Proposed Amendments Currently Exist in Other Markets or Jurisdictions

Closing auctions are a common facility among global listing exchanges and many of the Proposed Amendments are similar to these other closing auctions in concept. For example, the publication of MOC order book information more than once during a closing auction exists in global models.

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:

[…]

~~"**MOC Closing Offset Order**" means a MOC Limit Order that only trades on the side of the MOC Book that is offsetting the imbalance, and never at a price within the market's best bid and offer.~~

~~**Added (April 18, 2019)**~~

"**MOC Imbalance Period** " means the time period beginning at the start of the Special Trading Session and ending at the start of the MOC Freeze Period.

Added ([●], 2021)

"**MOC Freeze Period**" means the time period beginning at the end of the MOC Imbalance Period and ending at the Closing Call.

Added ([●], 2021)

[…]

"**MOC Order**" means a MOC Market Order, or a MOC Limit Order~~, or a MOC Closing Offset Order~~.

Amended (April 18, 2019 and [●], 2021)

[…]

"**MOC Reference Price**" means the mid-point between the bid price and the ask price on the Exchange.

Added ([●], 2021)

[…]

Rule 4-902 Market-On-Close

[…]

(2) MOC Order Entry

(a) MOC Market Orders and MOC Limit Orders may be entered, cancelled and modified in the MOC Book on each Trading Day from 7:00 a.m. until the time the first MOC Imbalance is broadcast. ~~MOC Closing Offset Orders may be entered, cancelled and modified in the MOC Book on each Trading Day from 7:00 a.m. until the Closing Call.~~

~~MOC Market Orders and MOC Limit Orders that are included in any MOC Imbalance broadcast may not be cancelled or modified after that MOC Imbalance is broadcast.~~

(b) The MOC Imbalance is calculated and broadcast on each Trading Day at ~~twenty minutes before the closing time~~the start of the MOC Imbalance Period until the Closing Call at set time intervals as determined by the Exchange and again in the event of a delay of the Closing Call as specified by the Exchange.

(c) **Repealed (April 19, 2010)**

(d) ~~Following the broadcast of a MOC Imbalance, MOC Limit Orders may be entered in the MOC Book on the contra side of the MOC Imbalance. MOC Limit Orders not included as part of that MOC Imbalance broadcast may be cancelled~~

~~subject to established time constraints as specified by the Exchange. MOC Closing Offset Orders may continue to be entered in the MOC Book on either side of the MOC Imbalance.~~During the MOC Imbalance Period,

(i) only MOC Market Orders, and MOC Limit Orders may be entered in the MOC Book.

(ii) MOC Market Orders entered cannot be cancelled or modified.

(iii) MOC Limit Orders entered cannot be cancelled, and the price of the MOC Limit Orders may only be modified to a more aggressive buy price or sell price, as the case may be.

(e) During the MOC Freeze Period,

(i) only MOC Limit Orders may be entered in the MOC Book.

(ii) MOC Limit Orders cannot be cancelled or modified.

(iii) if the buy price or sell price, as the case may be, of the MOC Limit Order is more aggressive than the Reference Price, such aggressive price will be deemed to be the Reference Price for purposes of determining the Calculated Closing Price.

(f) In the event of a delay of the Closing Call for a MOC Security, MOC Limit Orders may be entered in the MOC Book for such security on the contra side of the subsequent MOC Imbalance for a set period of time specified by the Exchange. ~~Pursuant to paragraph (d), MOC Limit Orders entered during the delay may be cancelled during this time period~~.

Amended ([●], 2021)

(3) Closing Call

[…]

(c) Orders shall execute in the Closing Call in the following sequence:

(i) MOC Market Orders shall trade with offsetting MOC Market Orders entered by the same Participating Organization, according to time priority, provided that neither order is an unattributed order; then

(ii) MOC Market Orders shall trade with offsetting MOC Market Orders, according to time priority; then

(iii) MOC Market Orders shall trade with offsetting limit orders in the Closing Call entered by the same Participating Organization, according to time priority, provided that neither order is an unattributed order; then

(iv) MOC Market Orders shall trade with offsetting limit orders in the Closing Call, according to time priority; then

(v) limit orders in the Closing Call shall trade with offsetting limit orders in the Closing Call entered by the same Participating Organization. Limit orders are prioritized by MOC Limit Orders and displayed limit orders, then dark limit orders~~, then MOC Closing Offset Orders~~. Within those categories they are then matched according to time priority, provided that neither order is an unattributed order; then

(vi) remaining orders in the Closing Call shall trade according to time priority.

Amended ([●], 2021)

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