

Chapter 2

Decisions, Orders and Rulings

2.1 Decisions

2.1.1 Horizons ETFs Management (Canada) Inc. and the Funds Listed in Schedule A

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted under subsection 62(5) of the Securities Act to permit lapse dates of five fund prospectuses to be extended by 91, 71, 33, 25 and 12 days, respectively, to facilitate combination of funds' prospectuses with three other prospectuses of funds under common management – no conditions.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., s. 62(5).

December 15, 2021

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
HORIZONS ETFS MANAGEMENT (CANADA) INC.
(the Filer)

AND

IN THE MATTER OF
THE FUNDS LISTED IN SCHEDULE A
(the Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the respective time limits for the renewal of the long form prospectus of the Psychedelic ETF (as defined in Schedule A) dated January 20, 2021 (the **Psychedelic Prospectus**), long form prospectus of the Bitcoin ETF (as defined in Schedule A) dated March 5, 2021 (the **Bitcoin Prospectus**), long form prospectus of the April

2021 ETFs (as defined in Schedule A) dated April 5, 2021 (the **April 2021 Prospectus**), the long form prospectus of the Green Bond ETF (as defined in Schedule A) dated May 21, 2021 (the **Green Bond Prospectus**) and long form prospectus of the June 2021 ETFs (as defined in Schedule A) dated June 3, 2021 (the **June 2021 Prospectus** and, together with the Psychedelic Prospectus, the Bitcoin Prospectus, the April 2021 Prospectus and the Green Bond Prospectus, the **Prospectuses**) be extended to those time limits that would apply if the lapse dates of the Prospectuses were April 21, 2022 (in the case of the Psychedelic Prospectus), April 7, 2022 (in the case of the Bitcoin Prospectus) and June 15, 2022 (in the case of the April 2021 Prospectus, the Green Bond Prospectus and the June 2021 Prospectus) (the **Exemption Sought**).

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 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 (together with Ontario, the **Jurisdictions**).

Interpretation

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

Representations

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

1. The Filer is a corporation incorporated under the laws of Canada. The Filer's head office is located in Toronto, Ontario.
2. The Filer is registered as a portfolio manager in Alberta, British Columbia, Ontario and Québec, an exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan, a commodity trading manager and a commodity trading adviser in Ontario and an investment fund manager in each of Ontario, Québec and Newfoundland and Labrador.
3. The Filer is the investment fund manager of the Funds.

4. Each of the Funds is an exchange-traded mutual fund (**ETF**) established under the laws of Ontario, and is a reporting issuer as defined in the securities legislation of each of the Jurisdictions.
5. Neither the Filer nor any of the Funds are in default of securities legislation in any of the Jurisdictions.
6. The Funds currently distribute securities in the Jurisdictions under the Prospectuses. Securities of each of the Funds, except for the Psychedelic ETF, trade on the Toronto Stock Exchange. Securities of the Psychedelic ETF trade on the Neo Exchange Inc.
7. Pursuant to subsection 62(1) of the *Securities Act* (Ontario) (the **Act**), the respective lapse dates of the Psychedelic Prospectus, Bitcoin Prospectus, April 2021 Prospectus, Green Bond Prospectus and June 2021 Prospectus are January 20, 2022, March 5, 2022, April 5, 2022, May 21, 2022 and June 3, 2022 (each a **Lapse Date**, and collectively, the **Lapse Dates**). Accordingly, under subsection 62(2) of the Act, the distribution of securities of each of the Funds would have to cease on the applicable Lapse Date unless: (i) each of the Funds files a pro forma prospectus at least 30 days prior to the applicable Lapse Date; (ii) the final prospectus is filed no later than 10 days after the applicable Lapse Date; and (iii) a receipt for the final prospectus is obtained within 20 days of the applicable Lapse Date.
8. The Filer is the investment fund manager of (i) one other ETF (the **US Marijuana ETF**) that currently distributes its securities to the public under a prospectus that has a lapse date of April 21, 2022 (the **US Marijuana Prospectus**) (ii) one other ETF (the **Inverse Bitcoin ETF**) that currently distribute its securities to the public under a prospectus that has a lapse date of April 7, 2021 (the **Inverse Bitcoin Prospectus**) and (iii) three other ETFs (the **June 15 Funds**) that currently distribute their securities to the public under a prospectus that has a lapse date of June 15, 2022 (the **June 15 Prospectus**).
9. The Filer wishes to combine the (i) Psychedelic Prospectus with the US Marijuana Prospectus, (ii) the Bitcoin Prospectus with the Inverse Bitcoin Prospectus and (iii) the April 2021 Prospectus, the Green Bond Prospectus and the June 2021 Prospectus with the June 15 Prospectus, in order to reduce renewal and related costs of the Funds and the US Marijuana ETF, the Inverse Bitcoin ETF and the June 15 Funds, as applicable.
10. Offering (i) the Psychedelic ETF and US Marijuana ETF under one prospectus, (ii) the Bitcoin ETF and the Inverse Bitcoin ETF under one prospectus and (iii) the April 2021 ETFs, the Green Bond ETF, the June 2021 ETFs and the June 15 Funds under one prospectus, would facilitate the distribution of the Funds in the Jurisdictions under the same prospectus and enable the Filer to streamline disclosure across the Filer's fund platform. As the Funds, the US Marijuana ETF, the Inverse Bitcoin ETF and the June 15 Funds are all managed by the Filer, offering them under three prospectuses (as opposed to eight) will allow investors to more easily compare their features.
11. It would be unreasonable to incur the costs and expenses associated with preparing eight separate renewal prospectuses given how close in proximity the Lapse Dates are to one another.
12. There have been no material changes in the affairs of each Fund since the date of the applicable Prospectus, other than those for which amendments have been filed. Accordingly, the Prospectus and current ETF Facts of each Fund represents current information regarding such Fund.
13. Given the disclosure obligations of the Funds, should a material change in the affairs of any of the Funds occur, the Prospectus and current ETF facts document(s) of the applicable Fund(s) will be amended as required under the Legislation.
14. New investors in the Funds will receive the most recently filed ETF facts document(s) of the applicable Fund(s). The Prospectuses will still be available upon request.
15. The Exemption Sought will not affect the accuracy of the information contained in the Prospectuses and will therefore not be prejudicial to the public interest.

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.

"Darren McKall"
Manager, Investment Funds and Structured Products
Ontario Securities Commission

Application File #: 2021/0732

Schedule "A"

The Psychedelic ETF

Horizons Psychedelic Stock Index ETF
(the **Psychedelic ETF**)

The Bitcoin ETF

BetaPro Bitcoin ETF
(the **Bitcoin ETF**)

The April 2021 ETFs

Horizons Global BBIG Technology ETF
Horizons High Interest Savings ETF
(each, an **April 2021 ETF** and collectively, the **April 2021 ETFs**)

The Green Bond ETF

Horizons S&P Green Bond Index ETF
(the **Green Bond ETF**)

The June 2021 ETFs

Horizons US Dollar Currency ETF
Horizons Pipelines & Energy Services Index ETF
Horizons Marijuana Life Sciences Index ETF
Horizons Inovestor Canadian Equity Index ETF
Horizons Robotics and Automation Index ETF
Horizons Big Data & Hardware Index ETF
Horizons Global Sustainability Leaders Index ETF
Horizons Industry 4.0 Index ETF
Horizons Enhanced Income Equity ETF
Horizons Enhanced Income Energy ETF
Horizons Enhanced Income Financials ETF
Horizons Enhanced Income Gold Producers ETF
Horizons Enhanced Income US Equity (USD) ETF
Horizons Enhanced Income International Equity ETF
(each, a **June 2021 ETF** and collectively, the **June 2021 ETFs**)

2.1.2 Services Conseils Optimista Inc. and Kaleido Growth Inc.

Headnote

Relief under paragraph 4.1(1)(a) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations a registered firm must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if the individual acts as an officer, partner or director of another registered firm that is not an affiliate of the first-mentioned firm. The individual will have sufficient time to adequately serve both firms. Conflicts of interest are unlikely to arise because clients of the Filers and the products offered by the Filers differ considerably. The firms have policies in place to handle potential conflicts of interest. The firms are exempted from the prohibition.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1 and 15.1.

December 14, 2021

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUEBEC AND
ONTARIO
(the "Jurisdictions")**

AND

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

AND

**IN THE MATTER OF
SERVICES CONSEILS OPTIMISTA INC.
("Optimista")**

AND

**KALEIDO GROWTH INC.
("Kaleido")
(the "Filers")**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions ("Decision Maker") has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the "Legislation") for an exemption from the requirement of subsection 4.1 (1) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* ("NI 31-103"), in accordance with section 15.1 of NI 31-103, to authorize one of its