



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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File No.: 2021-15

IN THE MATTER OF

**BRIDGING FINANCE INC., DAVID SHARPE, BRIDGING INCOME FUND LP,
BRIDGING MID- MARKET DEBT FUND LP, BRIDGING INCOME RSP FUND,
BRIDGING MID-MARKET DEBT RSP FUND, BRIDGING PRIVATE DEBT
INSTITUTIONAL LP, BRIDGING REAL ESTATE LENDING FUND LP, BRIDGING
SMA 1 LP, BRIDGING INFRASTRUCTURE FUND LP, AND BRIDGING
INDIGENOUS IMPACT FUND**

**MOTION OF STAFF
OF THE ONTARIO SECURITIES COMMISSION**

(For an Order Under Subsection 127(1)
of the *Securities Act*, RSO 1990 c S.5)

A. ORDER SOUGHT

The moving party, Staff of the Ontario Securities Commission (**Staff**), requests that the Ontario Securities Commission (the **Commission**) make the following orders:

a) An order pursuant to subsections 127(8), 127(2) and paragraph 2 of subsection 127(1) of the *Securities Act*, RSO 1990 c S.5 (the **Act**) that until June 30, 2022, all trading in securities of Bridging Income Fund LP, Bridging Mid-Market Debt Fund LP, Bridging Income RSP Fund, Bridging Mid-Market Debt RSP Fund, Bridging Private Debt Institutional LP, Bridging Real Estate Lending Fund LP, Bridging SMA 1 LP, Bridging Infrastructure Fund LP, and Bridging Indigenous Impact Fund (collectively, the **BFI Funds**) shall cease, except that PricewaterhouseCoopers Inc. (**PwC** or the **Receiver**) in its capacity as receiver and manager, without security, of all the assets, undertakings and properties of Bridging Finance Inc. (**BFI**) and the BFI Funds may trade in or facilitate the issuance or

redemption of units of a BFI Fund with prior approval of the Ontario Superior Court of Justice (the **Court**);

2. If necessary, an order abridging the time required for service and filing of Staff's motion record pursuant to Rules 3 and 4(2) of the *Ontario Securities Commission Rules of Procedure and Forms*, (2019) 42 OSCB 9714 (the **Rules**);
3. An order that this motion be heard in writing pursuant to Rule 23(3); and
4. Such other order as the Commission considers appropriate in the public interest.

B. GROUNDS

The grounds for the request are:

The Investigation

1. Staff are conducting an investigation into, *inter alia*, BFI and David Sharpe (**Sharpe**);
2. During the course of the investigation, Staff found evidence that (i) BFI may have appropriated \$35 million from investment vehicles under its control, including the BFI Funds, which raise funds from external investors, in order to complete an acquisition for its own benefit, (ii) Sharpe received approximately \$19.5 million in undisclosed payments into his personal chequing account from a company owned and controlled by an individual during the same period that BFI loaned over \$100 million to other companies connected to the same individual, (iii) during the period that a different individual was negotiating to purchase half of BFI, BFI loaned companies owned by that individual almost \$100 million, including \$32 million two weeks before the acquisition closed, and (iv) it appears that BFI did not make complete or timely disclosure of the above to investors in the BFI Funds;
3. Staff are also investigating whether:
 - a) BFI and certain of its directors and officers may have engaged or participated in acts, practices or a course of conduct relating to securities which they knew or reasonably ought to have known perpetrated a fraud on unitholders in the BFI Funds contrary to section 126.1(1)(b) of the Act;

b) BFI and certain of its directors and officers may have made statements in material, evidence and/or information submitted to Staff and the Commission that, in a material respect and at the time and in light of the circumstances under which the statements were made, were misleading or untrue, or did not state a fact that was required to be stated or that was necessary to make the statements not misleading, contrary to clause 122(1)(a) of the Act;

c) BFI may have failed to deal fairly, honestly and in good faith with its clients, contrary to section 2.1 of Commission Rule 31-505 *Conditions of Registration*; and

d) BFI and certain of its directors and officers may have failed to take reasonable steps to identify and respond to material conflicts of interest, contrary to subsections 13.4(1), (2) and (3) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)* and contrary to clause 32(1)(g) of the Act.

The Temporary Order and the Extensions

4. On April 30, 2021, the Commission issued a temporary order (the **Temporary Order**);

5. The Temporary Order provided that:

a) all trading in securities of the BFI Funds shall cease;

b) Sharpe's registration as the ultimate designated person (**UDP**) of BFI is suspended; and

c) the Temporary Order shall take effect immediately and expire on the 15th day after its making unless extended by order of the Commission;

6. On May 12, 2021, the Commission issued an order (the **May 12 Order**) that, pursuant to subsection 127(8) and paragraph 2 of subsection 127(1) of the Act, until August 12, 2021, all trading in securities of the BFI Funds shall cease;

7. Staff did not apply to extend the suspension of Sharpe's registration as UDP of BFI in connection with the May 12 Order;

8. On August 10, 2021, the Commission issued an order (the **August 10 Order**) that, pursuant to subsections 127(8), 127(2) and paragraph 2 of subsection 127(1) of the Act, until December 31, 2021, all trading in securities of the BFI Funds shall cease, subject to the following condition:

(a) PwC, in its capacity as receiver and manager, without security, of all the assets, undertakings and properties of BFI and the BFI Funds, may trade in or facilitate the issuance or redemption of units of a BFI Fund with prior approval of the Court.

9. On December 22, 2021, the Commission issued an order (the **December 22 Order**) that, pursuant to subsections 127(8), 127(2) and paragraph 2 of subsection 127(1) of the Act, until March 31, 2022, all trading in securities of the BFI Funds shall cease, except that PwC, in its capacity as receiver and manager, without security, of all the assets, undertakings and properties of BFI and the BFI Funds, may trade in or facilitate the issuance or redemption of units of a BFI Fund with prior approval of the Court.

The Receivership

10. On application by the Commission (the **Receivership Application**), the Court issued an order dated April 30, 2021 (the **Appointment Order**) appointing PwC as receiver and manager, without security, of all the assets, undertakings and properties of BFI and the BFI Funds;

11. On May 3, 2021 the Court issued an order (the **Additional Appointment Order**) appointing PwC as receiver and manager, without security, of all the assets, undertakings and properties of certain other entities connected to BFI;

12. On May 14, 2021 the Court issued an order (the **Continuation Order**) continuing PwC's appointment as Receiver under the Appointment Order and the Additional Appointment Order until further order of the Court;

13. On August 6, 2021, the Court issued an order (the **SISP Order**) approving the Receiver's sale and investment solicitation process (**SISP**);

14. The SISP Order contemplated a process by which the Receiver would solicit proposals for the purchase or investment in some or all of BFI's assets, including its businesses and operations, or a combination thereof, and in respect of which the Court would hear an Approval Motion on or before December 31, 2021 (the **Outside Date**);

15. On December 22, 2021, the Court issued an Order extending the Outside Date for the SISP to February 28, 2022;

16. On February 25, 2022, the Receiver brought a motion to the Court (the **Motion**) for

an order to (i) terminate the SISP, and (ii) to amend certain transaction thresholds in the Appointment Order so the Receiver can more efficiently wind-down/liquidate the BFI Fund assets;

17. The Receiver's Tenth Report to the Court (the **Tenth Report**), dated February 18, 2022, set out the Receiver's proposed next steps at paragraphs 114 to 122. These next steps included a goal of seeking a Court Order to make an initial distribution by June 30, 2022;

18. The Receiver notes in the Tenth Report that the proposed date of any initial distribution would be subject to the Court first determining certain issues affecting unitholder rights relating to (i) statutory rescission, potential rights of action for damages, and/or assertions of priority, and (ii) how any distributions would be allocated among unitholders in each BFI Fund;

19. Other stakeholders appeared at the Motion and asked the Court to adjourn the Receiver's Motion and ultimately order a unitholder vote on the available options;

20. On February 25, 2022, the Court adjourned the Motion to March 25, 2022;

21. If the Court issues the Orders requested by the Receiver, based on the statement in the Tenth Report that the Receiver's goal as of the date of the Tenth Report was to seek a Court Order to make an initial distribution by June 30, 2022, it appears the earliest any distribution could occur would be June 30, 2022. If, alternatively, the Court orders a unitholder vote, it will take time to organize and hold such vote(s);

22. Accordingly, Staff request that the order included in draft form in Staff's motion record be effective until June 30, 2022;

Ongoing Investigation and Consent

23. The investigation into the conduct described in the Temporary Order and in this Notice of Motion is continuing;

24. The order sought by Staff is necessary to protect investors and is in the public interest;

25. PwC, in its capacity as Receiver of BFI and the BFI Funds, consents to the relief sought;

26. Given the consent of the Receiver, it would be just and expeditious to conduct this motion in writing. An oral hearing of this motion would needlessly consume Commission resources;

27. Subsections 127(1), 127(2) and 127(8) of the Act;

28. Rules 3, 4(2), 23(3) and 28 of the Rules; and

29. Such further grounds as counsel may advise and the Commission may permit.

C. EVIDENCE

The moving party intends to rely on the following evidence for the motion:

1. The materials filed with the Commission in connection with the May 12 Order, the August 10 Order, and the December 22 Order;
2. The consent of the Receiver;
3. The affidavit of Maria Sequeira sworn March 16, 2022; and
4. Such further evidence as counsel may advise and the Commission may permit.

Date: March 16, 2022

**STAFF OF THE ONTARIO
SECURITIES COMMISSION**

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