

The Ontario Securities Commission

OSC Bulletin

May 5, 2022

Volume 45, Issue 18

(2022), 45 OSCB

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)

The Ontario Securities Commission

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22nd Floor, Box 55
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Published under the authority of the Commission by:

Thomson Reuters

One Corporate Plaza
2075 Kennedy Road
Toronto, Ontario
M1T 3V4
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Printed in the United States by Thomson Reuters.

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ISSN 0226-9325
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Editor's Note: On Friday, April 29, 2022, the Securities Commission Act, 2021 (SCA), came into force by proclamation of the Lieutenant Governor of Ontario. The SCA's proclamation implemented key structural and governance changes to the OSC: the separation of the OSC Chair and Chief Executive Officer roles, and the creation of a new Capital Markets Tribunal. These new structural and governance changes are now reflected in the Bulletin, with one section to report and record the activities of the Capital Markets Tribunal and one section to report and record the activities of the Ontario Securities Commission: www.capitalmarketstribunal.ca/en/resources.

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A. Capital Markets Tribunal

A.1 Notices of Hearing

A.1 Notices of Hearing

A.1.1 Christopher Uitvlugt – ss. 127(1), 127(10)

File No.: 2022-12

**IN THE MATTER OF
CHRISTOPHER UITVLUGT**

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

PROCEEDING TYPE: Inter-jurisdictional Enforcement Proceeding

HEARING DATE AND TIME: In writing

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Commission to make the order requested in the Statement of Allegations filed by Staff of the Commission on April 26, 2022.

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

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

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

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

REPRESENTATION

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

FAILURE TO PARTICIPATE

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

FRENCH HEARING

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

AVIS EN FRANÇAIS

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

Dated at Toronto this 27th day of April, 2022

"Grace Knakowski"
Secretary to the Commission

For more information

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

IN THE MATTER OF
CHRISTOPHER UITVLUGT

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

A. OVERVIEW

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

B. FACTS

2. Staff make the following allegations of fact:

(i) Overview

3. On June 15, 2018, Christopher Uitvlugt (**Uitvlugt**) was indicted on three counts contrary to the Criminal Code of Canada (**CCC**). On November 11, 2018, Uitvlugt pled guilty before the Honourable Justice G.W. Tranmer of the Ontario Superior Court of Justice (East Region) to count 1 of fraud over \$5000 contrary to section 380(1)(a) of the CCC. The remaining two counts were withdrawn.
4. A sentencing hearing was subsequently held before Justice Tranmer who issued Reasons for Sentence on November 12, 2019 (the **Reasons for Sentence**), sentencing Uitvlugt to a custodial sentence of five years less days spent in pre-trial custody. Uitvlugt was also ordered to forfeiture a list of property.
5. The offences for which Uitvlugt was charged arose from transactions, business or a course of conduct related to securities.
6. Staff is seeking an inter-jurisdictional enforcement order reciprocating Uitvlugt's conviction, pursuant to paragraph 1 of subsection 127(10) of the Act.

(ii) The Respondent

7. Uitvlugt is a resident of Kingston, Ontario.

Facts

8. Uitvlugt has pled guilty to the facts as set out below:
 - a. Uitvlugt was the CEO of Next Level Investments (**Next Level**), originally located in Kingston, Ontario. Next Level was registered in Ontario on April 8th, 2016.
 - b. Next Level was modelled to solicit money from individuals on the premise that their funds would be invested in the foreign exchange, or For-Ex market, by Uitvlugt, and that fifty percent of the profits would be returned to the investor, and the remaining fifty percent would be kept by Next Level.
 - c. During the early stages of the business, Uitvlugt offered a position to his friend and roommate, as a sales representative, notwithstanding neither of the men had worked in, or had any formal education, in the financial or investment sector, nor did they have the necessary registration required by the Ontario *Securities Act* RSO 1990, c S.5, as amended (the **Act**) to operate such a business or sell investments to the public.
 - d. In December of 2016, Next Level became Next Level Capital Group (**Next Level Capital**) and by this time, the business had a stand-alone location and had expanded to include several unregistered sales representatives and administrative staff.
 - e. Next Level offered clients a range of investment services, including expert analysis, strategic planning and risk management despite not having a single employee who possessed the education and registration credentials required in the financial and investment sector.
 - f. Next Level and Next Level Capital were offering clients the opportunity to make up to a 550% rate of return on three-month term investments through For-Ex market trading that Uitvlugt would conduct on their behalf.
 - g. Next Level accumulated millions of dollars from investors during its short existence. Approximately \$4.8 million of investor funds were deposited into Next Level accounts; however, only \$24,000 of those investor funds were used in Uitvlugt's "FX Glory" and "AVA Trade" For-Ex trading accounts. Uitvlugt's For-Ex trades resulted in a net loss of approximately five thousand dollars.
 - h. The police reviewed Uitvlugt's personal and business accounts, along with the Next Level Capital accounts, and determined that Next Level was a "ponzi" scheme whereby new investor funds were clearly utilized to pay out earlier investors.

A.1: Notices of Hearing

- i. Uitvlugt used investor funds to pay for his personal expenses and to fund his lifestyle including his Lamborghini and Audi vehicles and for Next Level expenses, including the purchase of a piece of real property in Kingston, Ontario. However, the bank statements do not reflect all of the money received by Next Level during this time. Evidence from witnesses, and a photograph stored on Uitvlugt's computer, indicated that substantial cash was also received from investors. The amounts received, and paid out in cash transactions, cannot be quantified, as they are not reflected in the bank records.
- j. A search of Uitvlugt's residence recovered 68 opened envelopes, with investor names and amounts written on them, found near an open safe. According to the writing on the envelopes, they should have contained \$196,900.

Uitvlugt's Sentence

9. On November 12, 2019, a sentencing hearing was held before Justice Tranmer. Uitvlugt was sentenced to a custodial sentence of five years less 108 days with credit at one and a half days per day spent in pre-trial custody. The balance of the counts as listed in the Indictment were withdrawn.
10. Uitvlugt was also subject to a Forfeiture Order that relates to contents of bank accounts, vehicles, boat and motor, bicycles, car parts, cash money and real property.

C. JURISDICTION OF THE ONTARIO SECURITIES COMMISSION

11. Pursuant to paragraph 1 of subsection 127(10) of the Act, Uitvlugt's conviction for offences arising from transactions, business or a course of conduct related to securities or derivatives may form the basis for an order in the public interest made under subsection 127(1) of the Act.
12. Staff allege that it is in the public interest to make an order against Uitvlugt.
13. Staff reserve the right to amend these allegations and to make such further and other allegations as Staff deem fit and the Commission may permit.

D. ORDER SOUGHT

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

- (a) against Uitvlugt that:
 - i. pursuant to paragraph 2 of subsection 127(1) of the Act, trading in any securities or derivatives by Uitvlugt cease permanently;
 - ii. pursuant to paragraph 2.1 of subsection 127(1) of the Act, acquisition of any securities by Uitvlugt be prohibited permanently;
 - iii. pursuant to paragraph 3 of subsection 127(1) of the Act, any exemptions contained in Ontario securities law do not apply to Uitvlugt permanently;
 - iv. pursuant to paragraphs 7, 8.1 and 8.3 of subsection 127(1) of the Act, Uitvlugt resign any positions that he holds as a director or officer of any issuer or registrant;
 - v. pursuant to paragraphs 8, 8.2 and 8.4 of subsection 127(1) of the Act, Uitvlugt be prohibited permanently from becoming or acting as a director or officer of any issuer or registrant;
 - vi. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Uitvlugt be prohibited permanently from becoming or acting as a registrant or promoter; and
- (b) such other order or orders as the Commission considers appropriate.

DATED this 26th day of April, 2022.

"Vincent Amartey"
Litigation Counsel
Enforcement Branch
LSO # 82107R
Tel: 416-593-8174
Email: vamarthey@osc.gov.on.ca

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A.2 Other Notices

A.2 Other Notices

A.2.1 Bridging Finance Inc. et al.

FOR IMMEDIATE RELEASE
April 27, 2022

**BRIDGING FINANCE INC.,
DAVID SHARPE,
NATASHA SHARPE AND
ANDREW MUSHORE,
File No. 2022-9**

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

A copy of the Order dated April 27, 2022 is available at www.osc.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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A.2.2 Christopher Uitvlugt

FOR IMMEDIATE RELEASE
April 27, 2022

**CHRISTOPHER UITVLUGT,
File No. 2022-12**

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

A copy of the Notice of Hearing dated April 27, 2022 and Statement of Allegations dated April 26 are available at www.osc.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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A.2.3 Stableview Asset Management Inc. and Colin Fisher

FOR IMMEDIATE RELEASE
April 28, 2022

**STABLEVIEW ASSET MANAGEMENT INC. AND
COLIN FISHER,
File No. 2020-40**

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

A copy of the Order dated April 27, 2022 is available at www.osc.ca.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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A.2.4 Jonathan Cartu et al.

FOR IMMEDIATE RELEASE
April 28, 2022

**JONATHAN CARTU,
DAVID CARTU, AND
JOSHUA CARTU,
File No. 2020-14**

TORONTO – Take notice that the Sanctions and Costs hearing in the above-named matter is scheduled to be heard on May 13, 2022 at 10:00 a.m.

OFFICE OF THE SECRETARY
GRACE KNAKOWSKI
SECRETARY TO THE COMMISSION

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A.2.5 Adoption of the Capital Markets Tribunal Rules of Procedure and Forms and Practice Guideline as of April 29, 2022

**FOR IMMEDIATE RELEASE
April 29, 2022**

**ADOPTION OF
THE CAPITAL MARKETS TRIBUNAL
RULES OF PROCEDURE AND FORMS
AND
PRACTICE GUIDELINE
AS OF APRIL 29, 2022**

TORONTO – On April 29, 2022, the Capital Markets Tribunal adopted the Capital Markets Tribunal *Rules of Procedure and Forms (Rules)* and the *Practice Guideline*. The *Rules* and the *Practice Guideline* take effect immediately and apply to all proceedings before the Tribunal.

The *Rules* and the *Practice Guideline* substantially mirror the former OSC tribunal's *Rules of Procedure and Forms* and *Practice Guideline*, with only those changes necessary to reflect the establishment of the Capital Markets Tribunal following proclamation of the *Securities Commission Act, 2021*.

The *Rules* and the *Practice Guideline*, both dated April 29, 2022, are available at www.capitalmarketstribunal.ca/en/resources.

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Ontario Securities Commission

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A.2.6 Canada Cannabis Corporation et al.

**FOR IMMEDIATE RELEASE
May 2, 2022**

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

TORONTO – The Commission issued its Reasons and Decision in the above named matters.

A copy of the Reasons and Decision and Order dated April 28, 2022 are available at www.capitalmarketstribunal.ca.

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Ontario Securities Commission

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A.2.7 Stableview Asset Management Inc. and Colin Fisher

**FOR IMMEDIATE RELEASE
May 2, 2022**

**STABLEVIEW ASSET MANAGEMENT INC. AND
COLIN FISHER,
File No. 2020-40**

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

A copy of the Order dated April 29, 2022 is available at www.capitalmarketstribunal.ca.

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Ontario Securities Commission

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A.2.8 Polo Digital Assets, Ltd.

**FOR IMMEDIATE RELEASE
May 3, 2022**

**POLO DIGITAL ASSETS, LTD.,
File No. 2021-17**

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

A copy of the Order dated May 3, 2022 is available at www.capitalmarketstribunal.ca.

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Ontario Securities Commission

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A.2.9 Stableview Asset Management Inc. and Colin Fisher

**FOR IMMEDIATE RELEASE
May 3, 2022**

**STABLEVIEW ASSET MANAGEMENT INC. AND
COLIN FISHER,
File No. 2020-40**

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

A copy of the Order dated May 3, 2022 is available at www.capitalmarketstribunal.ca.

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A.2.10 Michael Paul Kraft and Michael Brian Stein

**FOR IMMEDIATE RELEASE
May 3, 2022**

**MICHAEL PAUL KRAFT AND
MICHAEL BRIAN STEIN,
File No. 2021-32**

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

A copy of the Order dated May 3, 2022 is available at www.capitalmarketstribunal.ca.

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A.3 Orders

A.3 Orders

A.3.1 Bridging Finance Inc. et al.

File No. 2022-9

IN THE MATTER OF
BRIDGING FINANCE INC.,
DAVID SHARPE,
NATASHA SHARPE AND
ANDREW MUSHORE

Timothy Moseley, Vice-Chair and Chair of the Panel

April 27, 2022

ORDER

WHEREAS on April 27, 2022, the Ontario Securities Commission held a hearing by videoconference;

ON HEARING the submissions of the representatives for Staff of the Commission (**Staff**) and for each of the receiver of Bridging Finance Inc., David Sharpe, Natasha Sharpe and Andrew Mushore (the **Respondents**);

IT IS ORDERED THAT:

1. by 4:30 p.m. on May 27, 2022, Staff shall disclose to the Respondents non-privileged relevant documents and things in the possession or control of Staff;
2. by 4:30 p.m. on August 15, 2022, the Respondents shall serve and file a motion, if any, regarding Staff's disclosure or seeking disclosure of additional documents;
3. by 4:30 p.m. on August 18, 2022, Staff shall serve and file a witness list, and serve a summary of each witness' anticipated evidence on the Respondents, and indicate any intention to call an expert witness, including providing the expert's name and the issues on which the expert will give evidence; and
4. a further attendance in this matter is scheduled for August 25, 2022 at 10:00 a.m., by videoconference, or on such other date and time as may be agreed to by the parties and set by the Office of the Secretary.

"Timothy Moseley"

A.3.2 Stableview Asset Management Inc. and Colin Fisher

File No. 2020-40

IN THE MATTER OF
STABLEVIEW ASSET MANAGEMENT INC. AND
COLIN FISHER

Timothy Moseley, Vice-Chair and Chair of the Panel

April 27, 2022

ORDER

WHEREAS on April 27, 2022, the Ontario Securities Commission held a hearing by videoconference;

ON HEARING the submissions of the representatives for Staff of the Commission and for Colin Fisher, no one appearing for Stableview Asset Management Inc.;

IT IS ORDERED THAT:

1. paragraphs 1 a. and b. of the Commission's order dated April 1, 2022, are varied as follows:
 - a. by 4:30 p.m. on May 9, 2022, each party shall provide to the Registrar the electronic documents that the party intends to rely on or enter into evidence at the merits hearing, along with an index file containing hyperlinks to the documents in the hearing brief, in accordance with the *Protocol for E-hearings*; and
 - b. the merits hearing shall take place by videoconference and commence on May 16, 2022, at 10:00 a.m., and continue on May 17, 18, 19, 20, 24, 25, 26, 27, 30, June 1, 2, 3, 6, 7, 8, 9, 10, 20, 21, 22, 23, July 18, 19, 20, 21, 22, and 25, 2022, at 10:00 a.m. on each day, or on such other dates and times as may be agreed to by the parties and set by the Office of the Secretary; and
2. paragraph 2 of the Commission's order dated April 1, 2022 is varied as follows: by 4:30 p.m. on May 9, 2022, Staff shall serve and file affidavits containing the merits hearing evidence of its witnesses Sherry Brown, Catherine Muhindi and Trevor Walz.
3. a further attendance in this proceeding is scheduled for May 3, 2022 at 9:00 a.m., by videoconference, or on such other date and time as may be agreed to by the parties and set by the Office of the Secretary.

"Timothy Moseley"

A.3.3 Canada Cannabis Corporation et al.

File Nos. 2019-34 and 2020-13

IN THE MATTER OF
CANADA CANNABIS CORPORATION,
CANADIAN CANNABIS CORPORATION,
BENJAMIN WARD,
SILVIO SERRANO, AND
PETER STRANG

Cathy Singer, Commissioner and Chair of the Panel
Mary Anne De Monte-Whelan, Commissioner
Craig Hayman, Commissioner

April 28, 2022

ORDER

WHEREAS on May 19 and July 5, 2021, the Ontario Securities Commission held hearings by videoconference to consider a motion (the **Motion**) and application (the **Application**) brought by a respondent, Silvio Serrano, for disclosure of certain materials including a Confidential Commission Order and Confidential Commission Reasons, and a motion brought by Serrano seeking, among other things, an order declaring that this Panel is without jurisdiction to consider the Motion and Application (the **Panel Composition Motion**);

ON READING the materials filed by the parties, and on hearing the submissions of the representatives for all parties, including *Amicus Curiae*;

IT IS ORDERED THAT:

1. the Panel Composition Motion is dismissed;
2. the respondents shall be provided with a redacted version of the Confidential Commission Order, attached as "Appendix A" to this Order; and
3. the respondents shall be provided with a redacted version of the Confidential Commission Reasons, attached as "Appendix B" to this Order.

"Cathy Singer"

"Mary Anne De Monte-Whelan"

"Craig Hayman"

APPENDIX A

IN THE MATTER OF
CANADA CANNABIS CORPORATION,
CANADIAN CANNABIS CORPORATION,
BENJAMIN WARD,
SILVIO SERRANO, and
PETER STRANG

D. Grant Vingoe, Vice-Chair and Chair of the Panel

File No. 2019-34

February 21, 2020

CONFIDENTIAL ORDER

WHEREAS on January 15, 2020, the Ontario Securities Commission held a confidential hearing at 20 Queen Street West, 17th Floor, Toronto, Ontario, to consider the confidential motion [REDACTED]

ON READING [REDACTED]

IT IS ORDERED that:

1. pursuant to subsection 2(2) of the *Tribunal Adjudicative Records Act*, 2019, SO 2019, c 7 and Rule 22(4) of the *Ontario Securities Commission Rules of Procedure and Forms*, (2019) 42 OSCB 9714, this Order, the accompanying Reasons and Decision, and all materials filed with the Commission shall be kept confidential,
2. Before any disclosure of the transcript of the compelled interview of Mr. Ward conducted on June 27, June 28 and August 14, 2018 (the Transcript) [...] Staff shall redact the following (the Compelled Information)
 - a. Pages 64-68: beginning at the last sentence of the answer to question 200, at line 7 of page 64, ending with the answer to question 222, at line 19 on page 68;
 - b. Page 69: lines 2-3 and lines 10-25;
 - c. Page 70: lines 1-22;
 - d. Pages 71-72: beginning at line 3 on page 71, ending with the answer to question 235, at line 8 on page 72;
 - e. Pages 102-104: beginning at question 366, at line 21 on page 102, ending with the answer to question 370, at line 3 on page 104;
 - f. Page 180: the last sentence of the answer to question 728, at lines 5-9;
 - g. Page 190: the last two sentences of the answer to question 777, at lines 20-22;
 - h. Pages 343-344: beginning with question 1332, at line 17 on page 343, ending with the answer to question 1336, at line 20 on page 344; and
 - i. Pages 465-467: beginning with question 1872, at line 11 on page 465, ending with question 1883, at line 13 on page 467.

and such redactions of the Compelled Information shall be marked as made "By Confidential Order of the Commission";

3. If Staff discloses the redacted Transcript [...] Staff shall not provide [...] any other information about this Order [...] or the materials filed with the Commission [...]; and
4. The unredacted Transcript that discloses the Compelled Information shall be kept confidential [...]

"D. Grant Vingoe"

APPENDIX B

Date: 2020-02-21
File No. 2019-34

IN THE MATTER OF
CANADA CANNABIS CORPORATION,
CANADIAN CANNABIS CORPORATION,
BENJAMIN WARD,
SILVIO SERRANO, and
PETER STRANG

CONFIDENTIAL REASONS AND DECISION

Hearing: January 15, 2020

Decision: February 21, 2020

Panel: D. Grant Vingoe Vice-Chair and Chair of the Panel

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CONFIDENTIAL REASONS AND DECISION

- I. OVERVIEW

Overview of issues and background

- II. ANALYSIS

- A.

Describes materials filed

Describes argument respecting appropriateness of redactions

- B.

Describes submissions respecting appropriateness of redactions

C.

Describes analysis of issues raised

Describes reasoning on appropriate outcome

[...] Depending on how Staff proceeds in response to the Order [...] if and when the redacted materials are provided [...] can then decide whether they should initiate a motion to obtain access to the confidential [...] materials or otherwise take issue with the redactions. If such a motion is made, a panel can decide at that time how best to balance the interests at stake in connection with any such motion seeking disclosure.

I want to be clear that I am not in any way derogating from Staff's duty of disclosure. It is for Staff to decide whether it has fulfilled its responsibilities by providing the redacted transcript [...]. It also falls on Staff, in the exercise of its discretion, to make decisions, as limited by the Order [...] about the scope and timing of disclosure and the impact of the redactions on the proceedings [...]. It may well be that Staff will have to proceed in a different manner or with different timing than presently contemplated and that the effect of the redactions will have a substantial impact on how Staff can proceed. It could ultimately affect whether Staff decides, in its sole discretion, to continue the proceedings against some or all of the respondents at all [...]

III. CONCLUSION

[35] For these reasons, I will issue an order that:

a. all materials filed in relation to the Motion, as well as these Reasons and the accompanying Order, shall be kept [REDACTED] confidential

b.

Before any disclosure of the transcript...Staff shall make the redactions set out in Appendix A to these Reasons, and shall mark the redactions as made "By Confidential Order of the Commission"

c.

If Staff discloses the redacted transcript [...] Staff shall not provide [...] any other information about this Order [...] or the materials filed with the Commission [...] and

d.

The unredacted Transcript that discloses the Compelled Information shall be kept confidential [...]

Dated at Toronto this 21st day of February, 2020.

"D. Grant Vingoe"

APPENDIX A:

COMPELLED INFORMATION REQUIRING REDACTION

Before any disclosure of the transcript of the compelled interview of Benjamin Ward conducted on June 27, June 28 and August 14, 2018, Staff shall redact the following:

- 1) Pages 64-68: beginning at the last sentence of the answer to question 200, at line 7 of page 64, ending with the answer to question 222, at line 19 on page 68;
- 2) Page 69: lines 2-3 and lines 10-25;
- 3) Page 70: lines 1-22;
- 4) Pages 71-72: beginning at line 3 on page 71, ending with the answer to question 235, at line 8 on page 72;
- 5) Pages 102-104: beginning at question 366, at line 21 on page 102, ending with the answer to question 370, at line 3 on page 104;
- 6) Page 180: the last sentence of the answer to question 728, at lines 5-9;
- 7) Page 190: the last two sentences of the answer to question 777, at lines 20-22;
- 8) Pages 343-344: beginning with question 1332, at line 17 on page 343, ending with the answer to question 1336, at line 20 on page 344; and
- 9) Pages 465-467: beginning with question 1872, at line 11 on page 465, ending with question 1883, at line 13 on page 467.

**IN THE MATTER OF
STABLEVIEW ASSET MANAGEMENT INC. AND
COLIN FISHER**

Adjudicator: Timothy Moseley

April 29, 2022

ORDER

WHEREAS on April 27, 2022, the Capital Markets Tribunal held a hearing by videoconference with respect to a motion by the respondent Colin Fisher for an order that Staff of the Commission may not adduce, in connection with the hearing on the merits in this proceeding, part or all of the proposed affidavits of Catherine Muhindi, Sherry Brown and Trevor Walz, delivered by Staff to Fisher on March 25, 2022, and filed by Fisher on this motion;

ON READING the materials filed by Fisher and Staff, and on hearing the submissions of the representatives for Fisher and Staff, no one appearing for Stableview Asset Management Inc.;

IT IS ORDERED, for reasons that follow, that:

1. the following are inadmissible at the hearing on the merits in this proceeding:
 - (a) the following portions of the proposed affidavit of Catherine Muhindi:
 - i. the first sentence of paragraph 21;
 - ii. the first sentence of paragraph 23;
 - iii. paragraph 24;
 - iv. the opening words of paragraph 25 that precede the four-subparagraph list;
 - v. the first sentence of paragraph 43;
 - vi. in subparagraph 43a, the words preceding "Clarocity's MD&A";
 - vii. in paragraph 45, the words preceding "Stableview maintained";
 - viii. the last sentence of paragraph 46; and
 - ix. the first sentence of paragraph 52;
 - (b) the following portions of the proposed affidavit of Catherine Muhindi, except that in each case Staff may adduce the underlying facts in support of a submission that the Tribunal ought to reach the conclusion referred to in that portion of the affidavit:
 - i. the second sentence of paragraph 21;
 - ii. the second sentence of paragraph 23;
 - iii. subparagraphs 25a through 25d;
 - iv. paragraphs 34 and 35;
 - v. the first and last sentences of paragraph 37;
 - vi. the fourth sentence of paragraph 39;
 - vii. paragraph 41; and
 - viii. in paragraph 45, the words beginning with "Stableview maintained";

- (c) the following portions of the proposed affidavit of Sherry Brown:
 - i. in paragraph 57, the words preceding “Fisher caused”, and in the third sentence, the words “The Investigation showed”; and
 - ii. the first and second sentences of paragraph 94;
 - (d) the following portions of the proposed affidavit of Sherry Brown, except that in each case Staff may adduce the underlying facts in support of a submission that the Tribunal ought to reach the conclusion referred to in that portion of the affidavit:
 - i. paragraph 44;
 - ii. in paragraph 57, the portion of the first sentence beginning with “Fisher caused”, and the portion of the third sentence beginning with “Clarity to be”;
 - iii. the first sentence of paragraph 70, preceding the table; and
 - iv. the last sentence of paragraph 88;
 - (e) the following, except that this provision of the order is without prejudice to Staff’s right to seek to adduce, at the hearing on the merits and before the panel presiding over that hearing, specific portions of the transcript of the voluntary interview of Fisher conducted on September 5, 2019:
 - i. paragraphs 54 and 55 of the proposed affidavit of Catherine Muhindi; and
 - ii. the last sentence of paragraph 85, and subparagraphs 85a through 85d, of the proposed affidavit of Sherry Brown; and
 - (f) the proposed affidavit of Trevor Walz, except the terms and conditions referred to in paragraph 9; and
2. the parties may seek directions from the Tribunal as necessary to implement this order.
- “Timothy Moseley”

A.3.5 Polo Digital Assets, Ltd.

File No. 2021-17

IN THE MATTER OF
POLO DIGITAL ASSETS, LTD.

Adjudicator: M. Cecilia Williams

May 3, 2022

ORDER

WHEREAS on May 3, 2022, the Capital Markets Tribunal held a hearing by teleconference to consider a request from Staff of the Ontario Securities Commission (**Staff**) to hold a combined merits and sanctions and costs hearing in this proceeding in writing, and related relief;

ON HEARING the submissions of the representative for Staff, no one appearing on behalf of the respondent, although properly served;

IT IS ORDERED THAT:

1. pursuant to Rule 3 and Subrule 35(1) of the *Capital Markets Tribunal Rules of Procedure and Forms* (the **Rules**), the merits and sanctions and costs hearings against the respondent shall be combined;
2. pursuant to Subrule 23(3) of the Rules, the enforcement proceeding against the respondent shall be conducted as a written hearing;
3. pursuant to Subrule 21(3) of the Rules and section 7 of the *Statutory Powers Procedure Act*, RSO 1990, c S.22, the respondent is not entitled to any further notice in this proceeding;
4. Staff shall file its hearing brief and written submissions by 4:30 p.m. on June 10, 2022;
5. the respondent is deemed to have waived its intention to call evidence or file submissions on either the merits or sanctions in this proceeding; and
6. the merits hearing dates in this proceeding previously scheduled for May 19, 25, 26, 27 and 30, and June 2 and 3, 2022, are vacated.

“M. Cecilia Williams”

A.3.6 Stableview Asset Management Inc. and Colin Fisher

File No. 2020-40

IN THE MATTER OF
STABLEVIEW ASSET MANAGEMENT INC. AND
COLIN FISHER

Adjudicator: Timothy Moseley

May 3, 2022

ORDER

WHEREAS on May 3, 2022, the Capital Markets Tribunal held a hearing by videoconference;

ON HEARING the submissions of the representatives for Fisher and Staff, no one appearing for Stableview Asset Management Inc.;

IT IS ORDERED that:

1. paragraphs 1 a. and b. of the Tribunal’s order dated April 27, 2022 are varied as follows:
 - (a) by 4:30 p.m. on May 16, 2022, each party shall provide to the Registrar the electronic documents that the party intends to rely on or enter into evidence at the merits hearing, along with an index file containing hyperlinks to the documents in the hearing brief, in accordance with the *Protocol for E-hearings*; and
 - (b) the merits hearing shall take place by videoconference and commence on May 24, 2022, at 10:00 a.m., and continue on May 25, 26, 27, 30, June 1, 2, 3, 6, 7, 8, 9, 10, 20, 21, 22, 23, July 18, 19, 20, 21, 22, and 25, 2022, at 10:00 a.m. on each day, or on such other dates and times as may be agreed to by the parties and set by the Governance & Tribunal Secretariat; and
2. paragraph 2 of the Tribunal’s order dated April 27, 2022 is varied as follows:
 - (a) by 4:30 p.m. on May 9, 2022, Staff shall serve unsworn affidavits containing the proposed merits hearing evidence of its witnesses Sherry Brown, Catherine Muhindi and Trevor Walz; and
 - (b) by 4:30 p.m. on May 11, 2022, Staff shall serve and file sworn affidavits containing the merits hearing evidence of its witnesses Sherry Brown, Catherine Muhindi and Trevor Walz.

“Timothy Moseley”

A.3.7 Michael Paul Kraft and Michael Brian Stein

File No. 2021-32

**IN THE MATTER OF
MICHAEL PAUL KRAFT AND
MICHAEL BRIAN STEIN**

Adjudicator: Timothy Moseley

May 3, 2022

ORDER

WHEREAS on May 3, 2022, the Capital Markets Tribunal held a hearing by videoconference;

ON HEARING the submissions of the representative for Staff of the Ontario Securities Commission and the representatives for each of Michael Paul Kraft and Michael Brian Stein;

IT IS ORDERED THAT:

1. Stein shall serve and file an updated witness list identifying the name of his second potential witness by 4:30 p.m. on July 29, 2022;
2. each respondent shall serve an expert report, if any, on each other party by 4:30 p.m. on August 19, 2022;
3. each party shall file a motion, if any, regarding any expert report of either of the respondents, by 4:30 p.m. on September 16, 2022;
4. Staff shall serve on the respondents by 4:30 p.m. on September 30, 2022, a final unsworn draft of the affidavit of its witness Stuart Mills, and shall serve and file a final sworn version of that affidavit by 4:30 p.m. on October 21, 2022;
5. each party shall serve the other party with a hearing brief containing copies of the documents, and identifying the other things, that the party intends to produce or enter as evidence at the merits hearing, by 4:30 p.m. on October 18, 2022;
6. each party shall provide to the Registrar a completed copy of the *E-hearing Checklist for Videoconference Hearings* by 4:30 p.m. on October 21, 2022;
7. a further attendance in this matter is scheduled for October 28, 2022 at 9:00 a.m., by videoconference, or on such other date and time as may be agreed to by the parties and set by the Governance & Tribunal Secretariat;

8. each party shall provide to the Registrar the electronic documents that the party intends to rely on or enter into evidence at the merits hearing, along with an index file containing hyperlinks to the documents in the hearing brief, in accordance with the *Protocol for E-hearings*, by 4:30 p.m. on November 21, 2022; and
9. the merits hearing shall take place by videoconference and commence on November 28, 2022 at 10:00 a.m., and continue on November 29 and 30 and December 1, 2, 5, 6, 7, 8 and 9, 2022 at 10:00 a.m. on each day, or on such other dates and times as may be agreed to by the parties and set by the Governance & Tribunal Secretariat.

“Timothy Moseley”

A.4

Reasons and Decisions

A.4 Reasons and Decisions

A.4.1 Canada Cannabis Corporation et al.

Citation: *Canada Cannabis Corporation (Re)*, 2022 ONSEC 9

Date: 2022-04-28

File Nos.: 2019-34 and 2020-13

**IN THE MATTER OF
CANADA CANNABIS CORPORATION,
CANADIAN CANNABIS CORPORATION,
BENJAMIN WARD,
SILVIO SERRANO, AND
PETER STRANG**

REASONS AND DECISION

Hearing:	May 19 and July 5, 2021	
Decision:	April 28, 2022	
Panel:	Cathy Singer Mary Anne De Monte-Whelan Craig Hayman	Commissioner and Chair of the Panel Commissioner Commissioner
Appearances:	Simon Bieber Robert Stellick	For Silvio Serrano
	William Jones	For Canada Cannabis Corporation and Canadian Cannabis Corporation
	Melissa MacKewn Michael Byers	For Benjamin Ward
	James Camp	For Peter Strang
	Frank Addario Lynda Morgan Robert Gain	For Staff of the Commission
	Nader Hasan	For Amicus Curiae

REASONS AND DECISION

I. OVERVIEW

- [1] Silvio Serrano, a respondent in this enforcement proceeding, brought a motion and application before the Commission after he and his co-respondents received disclosure from Staff of the Commission (**Staff**). Staff's disclosure included redacted transcripts of the compelled interview of another respondent, Benjamin Ward, with the redactions labelled "By Confidential Order of the Commission" (the **Confidential Order**).
- [2] Serrano seeks, among other things, that he be provided with the Confidential Order and any written decision or reasons (the **Confidential Reasons**) that accompanied the Confidential Order (the **Motion**). To the extent that the Confidential Order precludes the relief sought by Serrano in the Motion, he also seeks a variation or revocation of the Confidential Order to allow for such relief (the **Application**).
- [3] A one-member panel consisting of Commissioner Raymond Kindiak presided over all hearings in relation to the Motion and Application that took place prior to May 2021. After Commissioner Kindiak's term as a Commissioner ended on April

18, 2021, the parties were notified that a newly constituted panel would be assigned to consider the merits of the Motion and Application.

[4] Serrano subsequently brought another motion seeking an order that Commissioner Kindiak's term of office be extended until he is able to render a decision on the Motion and Application, and also seeking an order declaring that the new panel is without jurisdiction to hear the Motion and Application or that it is otherwise inappropriate for the new panel to hear the Motion and Application unless the matter is heard *de novo* (the **Panel Composition Motion**).

[5] Upon consideration of the parties' submissions on these issues, we find:

- a. the Panel Composition Motion is dismissed, and the new panel is properly constituted to consider the Motion and Application; and
- b. the respondents shall be provided with redacted versions of the Confidential Order and its accompanying Confidential Reasons.

III. BACKGROUND

[6] Staff commenced this enforcement proceeding on September 13, 2019, alleging that Canada Cannabis Corporation, Canadian Cannabis Corporation (the **Corporations**), Ward, Serrano and Strang engaged in conduct that they knew or reasonably ought to have known perpetuated a fraud in contravention of the Ontario *Securities Act*¹ (the **Act**).

[7] Staff initially provided disclosure to the respondents in October 2019. The initial tranche of disclosure did not include the transcripts of Staff's compelled interviews with Ward (the **Ward Transcripts**). Serrano requested the Ward Transcripts on November 4, 2019. The Ward Transcripts were disclosed to the respondents in redacted form on April 7, 2020. The redactions to the Ward Transcripts were marked "By Confidential Order of the Commission".

[8] On April 29, 2020, Serrano brought the Motion requesting that the respondents be provided with the following:

- a. a copy of the Confidential Order;
- b. any written decision or reasons in support of the Confidential Order;
- c. materials filed by Staff or any other parties on any motion or application to redact the Ward Transcripts;
- d. the statutory basis authorizing Staff and/or the Commission to redact portions of the Ward Transcripts;
- e. the statutory basis on which the Confidential Order was sought and made; and
- f. all information contained in or related to the Confidential Order that is not directly proscribed by its terms

(together, the **Confidential Information**).

[9] On May 1, 2020, Serrano brought the Application to vary or revoke the Confidential Order to the extent that the terms of the Confidential Order preclude the relief sought in the Motion.

[10] Prior to this panel's involvement, considerable time and focus were placed on how the Motion and Application ought to be heard, given the confidential nature of the Confidential Order and the relief sought by Serrano. On August 5, 2020, the Commission issued a preliminary order (the **August 5 Order**) stating that the hearing of the Motion and Application would proceed in a number of "phases":

- a. the "First Non-Confidential Phase" in the presence of all parties and the public;
- b. the "Confidential Phase", excluding the public and respondents, with an amicus curiae (**Amicus**) appointed and present to represent the interests of justice; and
- c. the "Second Non-Confidential Phase", again in the presence of all parties and the public.

[11] The reasons for the August 5 Order were issued on May 18, 2021.²

[12] Pursuant to the August 5 Order, Nader Hasan of Stockwoods LLP was appointed as Amicus to represent the interests of justice, and, as directed, to assist with the panel's determination of the issues raised in the Motion and Application.

[13] The First Non-Confidential Phase was held on August 28, 2020, providing the parties with the opportunity to make submissions before the commencement of the Confidential Phase. The panel ordered that the Confidential Phase would be held on September 10 and 16, 2020.³

¹ RSO 1990, c S.5

² *Canada Cannabis Corporation (Re)*, 2021 ONSEC 13, (2021) 44 OSCB 4569

³ (2020) 43 OSCB 6897

- [14] The Confidential Phase was not heard at that time due to the identification of a number of procedural issues related to the Motion and Application. The Confidential Phase was later scheduled to proceed on May 19, 2021. All parties were provided with notice of the change in dates.
- [15] On May 4, 2021, approximately two weeks before the May 19 Confidential Phase was scheduled to commence, the parties were advised by the Registrar that the term of Commissioner Kindiak, who had previously presided over hearings related to the Motion and Application, had ended and a three-member panel (the **New Panel**) had been assigned to consider the Motion and Application.
- [16] Shortly before the hearing of the May 19 Confidential Phase, Serrano and Strang advised the other parties of their opposition to the change in panel composition. The New Panel was notified of the issue by Amicus at the outset of the Confidential Phase. At that time, the New Panel decided that the Confidential Phase would proceed as scheduled and the respondents would have the opportunity to raise their concerns at the hearing of the Second Non-Confidential Phase.
- [17] On June 7, 2021, Serrano brought a motion for a determination that, among other things, the New Panel was without jurisdiction to hear the Motion and Application. The Panel Composition Motion was heard before the New Panel on July 5, 2021, during the Second Non-Confidential Phase, as were any remaining submissions on the Motion and Application.
- [18] Given the nature of the Confidential Information and the constraints on Staff and Amicus' ability to make submissions on the public record, at the commencement of the Second Non-Confidential Phase, Staff and Amicus requested, and the New Panel agreed, that an *in-camera* and *ex parte* portion of the Panel Composition Motion be held immediately following the public Second Non-Confidential Phase to allow them to make additional submissions.
- [19] Any submissions made in the *in camera* and *ex parte* portions of the Motion and Application (and part of the Panel Composition Motion) shall remain confidential except to the extent we believe that references to them in these reasons do not compromise the interests that the Confidential Order and Confidential Reasons are designed to protect. However, even with the constraints imposed by the confidentiality of certain submissions, we believe that our reasons provide the parties with sufficient information to understand the basis for our decisions.

IV. ANALYSIS

- [20] We first address the Panel Composition Motion in our analysis below given that its determination is a prerequisite to the New Panel being able to consider and render a decision on the merits of the Motion and Application.

A. Panel Composition Motion

- [21] In respect of the Panel Composition Motion, Serrano seeks the following:
- a. an order declaring that Commissioner Kindiak's term of office be extended pursuant to s. 4.3 of the *Statutory Powers Procedure Act*⁴ (**SPPA**) until a decision is rendered on the Motion and Application;
 - b. an order that Commissioner Kindiak remains the panel for the remainder of the Motion and Application; and
 - c. an order declaring that the New Panel is without jurisdiction to hear the Motion and Application or that it is otherwise inappropriate for the New Panel to hear the Motion and Application unless the matter is reheard *de novo*.
- [22] At the outset of the hearing of the Panel Composition Motion, Serrano and the Corporations requested as a preliminary issue that the Second Non-Confidential Phase of the Motion and Application be deferred until such time as the respondents received sufficient information concerning what had transpired during the Confidential Phase of the Motion and Application, so as to be able to fully understand the prejudice, if any, that would be caused by a change in panel composition. They submitted that only at that point would they be able to determine what, if any, submissions they may wish to make in the Second Non-Confidential Phase.
- [23] We declined this request. Commissioner Kindiak's preliminary procedural rulings set out the unique process to be followed in the Motion and Application with a view to maximizing fairness to all parties. The process, which was determined following submissions by the parties, included a Confidential Phase and the appointment of Amicus to balance the need to protect the Confidential Information and the rights of the respondents to participate in the Motion and Application. We understand that the respondents do not have the benefit of knowing what transpired in the Confidential Phase, but those are the constraints imposed by the process.
- [24] While not a complete solution, the August 5 Order includes a mechanism by which the respondents or Amicus can seek leave to have information provided to the respondents. For the sake of clarity, we would like to correct the record with respect to the Chair's comment during the July 5 hearing that "no requests have been made to the Panel with respect to leave to communicate with the other parties from Amicus". This comment was intended to convey that no such requests

⁴ RSO 1990, c S.22

had been made that are pending before the New Panel. We understand that Amicus had made requests of the previous panel, which were denied.

[25] There are two main issues before us with respect to the Panel Composition Motion:

- a. does s. 4.3 of the SPPA operate to automatically extend Commissioner Kindiak's term as a Member of the Commission until the completion of the Motion and Application? and
- b. do the SPPA and the principles of procedural fairness preclude the New Panel from hearing the remainder of the Motion and Application given Commissioner Kindiak's participation in preliminary matters related to the Motion and Application?

[26] We consider each of these issues in turn.

1. Does section 4.3 of the SPPA operate to automatically extend Commissioner Kindiak's term until the completion of the Motion and Application?

[27] The SPPA, which applies to proceedings before the Commission, prescribes a process for the continuation of a hearing after the expiry of the term of a member of the Commission. Specifically, s. 4.3 of the SPPA provides that:

"If a term of office of a member of a tribunal who has participated in a hearing expires before a decision is given, the term shall be deemed to continue, but only for the purpose of participating in the decision and for no other purpose."

[28] The purpose of s. 4.3 is to enable a panel member who has participated in a hearing to continue if his or her term expires before a decision is given, thus avoiding the necessity of hearing a matter *de novo*.⁵

[29] Serrano submits that the language in s. 4.3 is mandatory as it states that the term of a member who has participated in a hearing "shall" be deemed to continue for the purpose of deciding the hearing.⁶

[30] Serrano submits that the previous panel, comprised of Commissioner Kindiak, plainly participated in the Motion and Application by virtue of his participation in preliminary hearings related to the Motion and Application. Serrano submits that the term "participated" should be interpreted in accordance with its ordinary meaning and does not require the hearing of evidence,⁷ though Serrano argues Commissioner Kindiak did review evidence and hear submissions on both the process and the merits of the Motion and Application.

[31] Serrano further submits that the Motion and Application are hearings brought within the larger enforcement proceeding, and every aspect of the Motion and Application must be considered as part of one hearing. Therefore, Commissioner Kindiak's term should have been deemed to be extended solely for the purpose of rendering an ultimate decision on the Motion and Application. If Commissioner Kindiak cannot be brought back to hear the remainder of the Motion and Application, Serrano submits that the New Panel is without jurisdiction to hear the Motion and Application and the Motion and Application must be heard *de novo*.

[32] The Corporations and Strang adopt Serrano's position on the Panel Composition Motion. Strang submits that the New Panel is without jurisdiction to take over the Motion and Application from Commissioner Kindiak unless it can find a statutory justification to do so. Ward takes no position on the Panel Composition Motion.

[33] Staff opposes the Panel Composition Motion on the basis that the relief sought is impractical and unnecessarily costly to the parties. Staff proposes that other less dramatic remedies than those sought by Serrano would meet the dual principles of fairness and efficiency.

[34] Staff submits that s. 4.3 of the SPPA is a permissive and remedial provision (rather than mandatory) and is intended to enable continued involvement and participation of a panel member seized of a matter whose term is expiring if the matter has progressed such that the appointment of a new panel member at that time would cause disruption to the hearing, resulting in undue delay and expense. Staff points to a number of prior tribunal and court decisions that have treated s. 4.3 as permissive rather than mandatory.⁸

[35] Staff also submits that previous Commission case law has confirmed that the same panel does not need to hear all aspects of a proceeding (i.e., the panel that presides over a preliminary motion hearing need not necessarily be the panel that presides over the hearing on the merits in the same proceeding), including pre-hearing management rulings and orders.⁹ However, future panels are expected to remain bound by procedural rulings of previous panels and are not

⁵ *Piller v Assn. of Land Surveyors (Ontario)*, 160 O.A.C. 333, 2002 CarswellOnt 1925 (Ont. C.A.) (*Piller*) at para 50

⁶ *Piller* at paras 46-47 and 51

⁷ *Piller* at paras 46-47 and 51

⁸ See *Attaran v York University*, 2019 HRTO 642 at paras 42 and 77; *Ontario Securities Commission v MRS Sciences Inc.*, 2015 ONSC 6317 (*MRS Sciences – Div Ct*) at para 25; *Brooks v Ontario Racing Commission*, 2016 ONSC 1136 at para 11 and 59; and *Law Society of Upper Canada v Karen Lea Crozier*, 2004 ONLSAP 4 at para 46

⁹ *Cheng (Re)*, 2018 ONSEC 1, (2018) 41 OSCB 657 (*Cheng*)

expected to consider issues that have already been dealt with. The submissions put before Commissioner Kindiak during the Motion and Application were primarily focused on the procedural aspects of the hearing, particularly how the Motion and Application ought to be heard given the constraints imposed on Staff by the Confidential Order. It follows that if the New Panel were to find that all of the previous panel's rulings were procedural in nature, the New Panel would be expected to be bound by those procedural rulings.

- [36] Both Serrano and Staff point to the Commission's *MRS Sciences*¹⁰ decision in support of their respective positions on the proper application of s. 4.3 of the SPPA.
- [37] In *MRS Sciences*, a new panel was appointed by the Secretary of the Commission to preside over the sanctions hearing in an enforcement proceeding when the term of the panel who presided over the merits hearing expired. The respondents argued that the same panel must hear both the merits and sanctions as they are one hearing under s. 4.3 of the SPPA. The Commission adopted Staff's view that each of the merits hearing and the sanctions hearing was a separate hearing within the larger proceeding, as opposed to part of a single hearing. The Commission also concluded that the *audi alteram partem* principle ("he who hears must decide") did not require that the same panel preside over both the merits and sanctions hearings.
- [38] The Divisional Court upheld the Commission's decision, determining that there was not one correct answer to be found but rather the standard to be applied was one of reasonableness. On the facts and circumstances of that case, the Court found that "one possible, and reasonable, conclusion is that the merits and sanctions hearings are two stages of a hearing, but that it was not the only reasonable interpretation",¹¹ ultimately concluding that the Commission's interpretation was a reasonable one as well.¹² The dissent in the Divisional Court decision stated that the Commission's decision was not reasonable and that the merits and sanctions hearings were one hearing. The Court of Appeal concluded that the Commission's interpretation was reasonable, and that there was no procedural unfairness or violation of *audi alteram partem* in the Commission's decision to constitute a different sanctions panel after the merits decision was issued.
- [39] Serrano submits that *MRS Sciences* is distinguishable from this case as the factors that were outlined in the decision as supporting the idea that merits and sanctions hearings should be separated do not apply to motions. Those factors include:
- a. merits and sanctions hearings are regularly heard separately, often months apart, as opposed to motions where there is less concern of having motions extend for many years;
 - b. the issues before the decision-makers in merits and sanctions hearings are different, and a sanctions panel cannot reopen findings made by a merits panel, whereas a motion is less likely to have multiple "baskets" of relief requested; and
 - c. merits hearings can be lengthy and it is not uncommon for a Commissioner's term to expire during the hearing or deliberation period, and so requiring the same Panel to sit on a merits *and* sanctions hearing would not be appropriate.¹³
- [40] Based on the above, Serrano argues there is no support for the change in composition of the panel before the conclusion of the Motion and Application.
- [41] We point to the *MRS Sciences* decision for the proposition that s. 4.3 of the SPPA must be interpreted based on the facts and circumstances of each case to give effect to its purpose. The purpose of the section is to permit a panel member to continue sitting as a panel member following the expiry of his or her term if to do so would prevent a hearing from being unnecessarily disrupted. A hearing would be disrupted if a term expires while the member is hearing a matter, and unfairness would result if the matter had progressed to a point that any new member would not have the benefit of hearing the evidence and arguments by stepping in at a later point in time.
- [42] We determine in the circumstances that the New Panel was the only panel hearing submissions and reviewing evidence on the merits of the Motion and Application, separate and distinct from the preliminary procedural matters in which Commissioner Kindiak participated and on which he made rulings.
- [43] Commissioner Kindiak's rulings stand on their own. He made his rulings after working through unprecedented procedural items with the parties and setting out a process for reaching and holding a hearing on the merits of the Motion and Application. Even if Commissioner Kindiak received written evidence and submissions on substantive aspects of the Motion and Application while considering procedural matters, he did not rule on them, and no oral evidence was adduced

¹⁰ *MRS Sciences Inc (Morningside Capital Corp) (Re)*, 2011 ONSEC 34, (2011) 34 OSCB 12288 (*MRS Sciences*)

¹¹ *MRS Sciences – Div Ct* at para 40

¹² *MRS Sciences – Div Ct* at para 46

¹³ *MRS Sciences* at paras 34, 44-45 and 50-51; *MRS Sciences – Div Ct* at para 42

before him. Rather, the merits of the Motion and Application were fully argued before the New Panel at the May 19 and July 5 hearings, where the parties had a full opportunity to make submissions and submit any evidence as they saw fit.

- [44] Commissioner Kindiak's participation in the Motion and Application was limited to his ruling on preliminary procedural matters. He participated in and decided those matters prior to the expiry of his term. His term expired before the merits of the Motion and Application was to be heard. In our view, 'participation' must be considered in context, and Commissioner Kindiak's participation in the Motion and Application did not extend to his participating in the merits portion of the Motion and Application. We therefore determine that he did not participate in the Motion and Application to the extent necessary to trigger s. 4.3 of the SPPA.
- [45] Consistent with the Commission's practices and prior decisions, we remain bound by Commissioner Kindiak's prior procedural rulings, including the August 5 Order, thereby avoiding the risk of added delay, expense and conflicting decisions, while enabling us to hear and decide on the merits of the Motion and Application.
- [46] While we do not have to decide the matter, if we were to have found that Commissioner Kindiak was seized of the Motion and Application following the expiry of his term, it is our view that the New Panel would not have the authority to order that Commissioner Kindiak's term be extended by virtue of s. 4.3 of the SPPA. The authority to assign panels lies with the Secretary to the Commission, and in circumstances where a Commissioner is seized of a matter, the Secretary may determine that their term is deemed to continue for the purposes of continuing with that matter. Individual panels do not make those decisions. Accordingly, the only viable remedy would have been to commence the Motion and Application *de novo*.
- [47] Given our above finding, we do not need to consider the additional submissions made by the parties, though we do so in the section below for completeness.

2. Do the SPPA and the principles of procedural fairness preclude the New Panel from hearing the remainder of the Motion and Application given Commissioner Kindiak's previous participation?

- [48] The Act, the SPPA and the Commission's *Rules of Procedure and Forms*¹⁴ (the **Rules**) are silent on whether different panels can preside over different aspects of a proceeding before the Commission.
- [49] Serrano submits that a change in composition of the panel a year into the Motion and Application and before its completion is a breach of his procedural fairness rights, the reasonable expectations of the parties, and the core principle of *audi alteram partem*, which requires that the individual or panel who hears evidence and submissions in a matter – and only that individual or panel – decide its outcome.¹⁵
- [50] Serrano cites *Piller* for the proposition that "procedural fairness precludes a tribunal member from participating in the making of a decision if the member has not fully heard the matter".¹⁶
- [51] Serrano submits that the New Panel is thus without jurisdiction to hear the remainder of the Motion and Application and the only fair result to him and his co-respondents is to restart the Motion and Application anew.
- [52] Staff submits that a *de novo* hearing is too extreme a solution, and that a rehearing in writing is appropriate in the circumstances to regularize the proceedings. Staff proposes that the New Panel order a rehearing of the Motion and Application in its entirety based on the written evidentiary record, subject to the New Panel's discretion to require further evidence be called. Staff argues that this would respect the dual principles of fairness and efficiency in the circumstances.
- [53] Amicus does not take issue with Staff's proposal to regularize the proceedings. Amicus acknowledges that the prior orders and rulings made by Commissioner Kindiak were procedural in nature. However, Amicus asserts that Serrano does not have the benefit of knowing what transpired during the confidential portions of the Motion and Application, and so he cannot know whether he has been prejudiced by the change in panel composition.
- [54] We are of the view that the same panel need not hear all aspects of a matter to satisfy the principle of *audi alteram partem*, including where one panel presides over and makes pre-hearing management rulings and orders and another panel presides over and decides the merits, depending on the specific facts and circumstances of the case.
- [55] In the absence of specific rules laid down by statute or regulation, the Commission is empowered to control its own procedure, subject to the requirements of natural justice and common law. Sections 25.0.1 and 25.1 of the SPPA expressly recognizes the Commission's authority to determine its own procedure, by empowering it to make orders and rules governing practice and procedure before it.
- [56] Tribunals are entrusted with ensuring a fair and expeditious hearing that meets the requirements of natural justice. The Federal Court has observed that in every case a tribunal will have to identify the appropriate procedure to be followed,

¹⁴ (2019), 42 OSCB 9714

¹⁵ *Doyle v Canada (Restrictive Trade Practices Commission)* (Fed CA) (**Doyle**) at para 13

¹⁶ *Piller* at para 52

and that procedure must be fair.¹⁷ While the principle of *audi alteram partem* is fundamental, it is not inflexible and is dependent on the overall context.¹⁸

- [57] As noted above, the Commission has confirmed that the same panel does not need to hear all aspects of a case. For example, in *Cheng*, the Commission encouraged panels, where appropriate, to make prehearing decisions on discrete issues that do not relate to the allegations on the merits where it is efficient to do so. In that case, Cheng brought a pre-hearing motion seeking a declaration that certain evidence was privileged. Staff sought to defer the privilege issue to the hearing on the merits, questioning whether a differently constituted panel had jurisdiction to make pre-hearing evidentiary rulings. The Commission reviewed analogous criminal and civil cases and concluded that Staff's concern was unfounded. The legislation and the Rules did not require the same panel to hear all aspects of a case, including appropriate pre-hearing management rulings and orders.¹⁹ Judges in criminal and civil courts have similar powers.²⁰
- [58] For the reasons above, we find that in the circumstances Commissioner Kindiak made discrete preliminary procedural rulings that do not interfere with the New Panel's jurisdiction to hear and render a decision on the merits of the Motion and Application. In our view, the fundamental question is whether having two panels preside over different parts of the Motion and Application, when the previous panel is no longer a Commissioner, is inconsistent with the rules of natural justice and in particular the *audi alteram partem* principle. We say it is not. We find it entirely consistent with the Commission's efforts to conduct proceedings in a just, expeditious and cost-effective manner.
- [59] We understand the unique circumstances of this case mean that information is necessarily withheld from certain parties. In addition, the appointment of Amicus and the intricacies that come with conducting a portion of a proceeding *in camera* and *ex parte* have resulted in procedural issues which have caused delay in hearing the merits of the Motion and Application. These issues are beyond the control of any of the participants in the matter and do not change our conclusion that Commissioner Kindiak presided over pre-hearing procedural matters and only made procedural rulings.
- [60] As we have decided that Commissioner Kindiak's rulings were limited to procedural issues only, we do not think that a rehearing in writing is necessary to "regularize" the proceedings. We are bound by the procedural rulings of Commissioner Kindiak and followed the process laid out in the August 5 Order when it came to hearing the Motion and Application.
- [61] Additionally, we reviewed all the evidence, and all of the written submissions and transcripts relating to the Motion and Application that were filed prior to our appointment as the New Panel. Given that there was no oral testimony provided on the Motion and Application, we find that there are no concerns about Commissioner Kindiak being better situated than we are to make a decision on the Motion and Application. We have not identified any prejudice or unfairness that would result to the respondents in these circumstances.
- [62] We find that a *de novo* hearing, or a rehearing based on a written record, would only serve to add further unnecessary delay and expense, and unfairness to the parties.

3. Conclusion

- [63] For the above reasons, we dismiss Serrano's Panel Composition Motion and confirm that the New Panel will consider the merits of the Motion and Application while being bound by the prior procedural rulings of Commissioner Kindiak.

B. Disclosure Motion and Section 144 Application

- [64] We now turn to our disposition of the Motion and Application.
- [65] As provided in his Notice of Motion dated April 29, 2020, Serrano requests that the respondents be provided with the Confidential Information.
- [66] As provided in his Notice of Application dated May 1, 2020, Serrano seeks an order pursuant to s. 144 of the Act varying or revoking the Confidential Order to allow for the respondents to be provided with the Confidential Information if the Confidential Order precludes the relief sought in the Motion.
- [67] There are four main issues on the Motion and Application:
- a. does the Confidential Order allow for the relief requested in the Motion?
 - b. does the Commission have the jurisdiction to revoke or vary the Confidential Order pursuant to s. 144 of the Act?
 - c. should the respondents be provided with a copy of the Confidential Order and related documents and information in Staff's possession, or any part of the Confidential Order or Confidential Information? and

¹⁷ *Canada (Canadian Human Rights Commission) v Canada (Attorney General)*, [2013] 4 FCR 545 at paras 148-149

¹⁸ *Hollis v Dow Corning Corp*, [1995] 4 SCR 634 at para 33

¹⁹ *Cheng* at para 13

²⁰ See, for example *Cheng* at para 12; *Hawley v North Short Mercantile Corp*, 2009 ONCA 679 at paras 25-26; and *R v Victoria*, 2018 ONCA 69 at para 60

d. should further information regarding the legal basis for the redaction of the Ward Transcripts be disclosed?

[68] We consider each of these issues in turn. The New Panel received both public and confidential submissions on these issues. We find that it is necessary in some instances to refer to confidential submissions so the parties and public have the ability to understand our reasoning. Where we do so, we believe we are in no way compromising the interests the Confidential Order and Confidential Reasons are designed to protect. The confidential submissions themselves shall remain confidential.

1. Does the Confidential Order allow for the relief requested in the Motion?

[69] We must first determine whether the Commission has jurisdiction to grant the relief sought in the Motion or whether it is precluded by the terms of the Confidential Order and therefore a variation under s. 144 of the Act is necessary.

[70] Serrano submits that a s. 144 order is unnecessary as fairness principles require that he be provided with sufficient information to understand and challenge the Confidential Order. He submits that any information must be disclosed if it does not directly compromise the privilege or interest the Confidential Order is designed to protect. Strang supports Serrano's position.

[71] Ward's position is that the Commission has already determined that the Confidential Order prohibits the disclosure of the information sought by Serrano and that a s. 144 variation is therefore necessary.

[72] Staff submits that the Commission has jurisdiction over the scope and extent of confidentiality and can grant the relief sought without the need to vary the Confidential Order under s. 144.

[73] The Act, the SPPA, the *Tribunal Adjudicative Records Act, 2019*,²¹ and the Rules are silent on what the Commission should do when a party requests access to confidential records. In the absence of any legislative language governing this request, we find that the Commission's inherent authority over its own procedure applies.

[74] We find that the Confidential Order is not a final order of the Commission and therefore an order pursuant to s. 144 of the Act is unnecessary to grant the relief sought by Serrano. We come to this conclusion based on the following.

[75] First, the Confidential Reasons contemplate the possibility that the respondents might move to challenge the non-disclosure of the Confidential Information. The panel who issued the Confidential Order clearly envisaged the possibility that the respondents might move to challenge the redactions, leaving open the possibility for future orders, although the panel did not prescribe a procedural mechanism for doing so. This leaves the New Panel with the ability to make a new order.

[76] Second, there is a firmly established principle in civil and criminal proceedings that any person affected by an order of the court, granted on an *ex parte* basis, has the right to seek to have the order set aside once the order comes to their attention.²² This principle should be equally applicable in this case, and in these circumstances to Serrano.

[77] Despite our finding that a variation is unnecessary, we will also consider whether the Commission has jurisdiction to vary the Confidential Order under s. 144 of the Act.

2. Does the Commission have the jurisdiction to vary or revoke the Confidential Order?

[78] Section 144 of the Act states that the Commission may make an order revoking or varying a decision of the Commission if in the Commission's opinion the order would not be prejudicial to the public interest.

[79] All parties agree that the Commission has the jurisdiction to vary or revoke the Confidential Order pursuant to s. 144 of the Act in the appropriate circumstances, though there is disagreement about whether one is necessary in this case or whether the public interest test is met.

[80] In the past, the Commission has exercised its discretion to vary prior orders in circumstances in which new and material facts came to light following the granting of the initial order, where there was a change in the material circumstances underlying the order or where the prior order was later found to be manifestly unfair to a respondent.²³ An application for a s. 144 variation would not be appropriate where the applicant effectively seeks an appeal from the original order under review.²⁴

[81] For the reasons stated above, we find that the Application does not amount to an appeal from the Confidential Order and the Commission has the authority to vary the Confidential Order if necessary.

²¹ S.O. 2019, c. 7, Sch 60

²² *R v Telus Communications Company*, 2015 ONSC 3964 at paras 5-8

²³ *Rankin (Re)*, 2011 ONSC 32 (*Rankin*) aff'd 2013 ONSC 112 at para 71; *Macquarie Capital Markets Canada Ltd (Re)*, 2018 ONSC 12 at para 14

²⁴ *Pro-Financial Asset Management Inc. (Re)*, 2017 ONSC 39, at para 18; *X Inc (Re)*, (2010) 33 OCSB 11380 at para 35

[82] As we have determined that we have jurisdiction to grant the relief sought by Serrano, regardless of how it is granted, we now turn to consider what specific relief, if anything, ought to be provided to the respondents in the circumstances.

3. Should the respondents be provided with the Confidential Order and related Confidential Information, or any portion of it?

[83] Serrano seeks disclosure of the Confidential Information.

[84] Serrano submits that the public interest requires that the Commission's processes be open, intelligible, and capable of review by the courts in accordance with administrative law principles. To the extent that the Confidential Order undermines those factors, Serrano submits it is incompatible with the public interest and must be amended to accord with the public interest.

[85] Serrano submits that the Confidential Order is overbroad as it goes further than necessary to protect the interests at stake, which is inconsistent with the duty of procedural fairness. Serrano seeks disclosure of as much information regarding the Confidential Order as he can possibly receive without specifically compromising the interests that are being protected.

[86] Strang and the Corporations adopt the submissions of Serrano. Ward submits that he is not aware of any facts or circumstances that would meet the test for variance under s. 144 of the Act.

[87] Amicus and Staff propose that the respondents be provided with a redacted form of the Confidential Order and Confidential Reasons, which they submit would protect the interests the Commission is seeking to protect while providing the respondents with sufficient information on which to make an informed decision about whether to seek access to remaining confidential materials or seek other relief.

[88] The proposed redacted Confidential Order and Confidential Reasons would provide the respondents with the following information:

- a. the date of the Confidential Order;
- b. the panel that issued the Confidential Order;
- c. the statutory basis for the Confidential Order;
- d. partial disclosure of para 1 and a summary of paras 2-4 of the Confidential Order; and
- e. a summary of the content of the Confidential Reasons.

[89] The proposed redactions would not reveal any information that could be seen to compromise the interests the Confidential Order seeks to protect.

[90] We find that the respondents, and by extension the public, should be provided with as much information as possible without jeopardizing the interests that the Confidential Order seeks to protect. In that vein, we agree with Amicus and Staff that providing the respondents with a redacted copy of the Confidential Order and Confidential Reasons as proposed would achieve the appropriate balance in the circumstances. The redactions address most of the relief requested by Serrano and redact only those aspects of the Confidential Order and Confidential Reasons that we believe are necessary to protect the interests that the Confidential Order seeks to protect. We find that such an approach affords the appropriate amount of procedural fairness to the respondents in the unique circumstances of this case.

4. Should the legal basis for the Confidential Order be provided to the respondents?

[91] As part of the Motion, Serrano seeks an order requiring Staff and/or the Commission to provide the legal basis or bases authorizing the redactions to the Ward Transcripts. Serrano submits that where Staff refuses to disclose all or part of any relevant document, the principles of natural justice require that Staff identify to the respondents the legal basis on which they have refused to make disclosure.

[92] The Confidential Order provides that the Ward Transcripts be marked "By Confidential Order of the Commission". Staff submits that "By Confidential Order of the Commission" is the legal basis for the redactions.

[93] Staff and Amicus are generally in agreement that the respondents can be provided with additional information regarding the legal bases upon which Staff have withheld the Confidential Information. However, Staff and Amicus have submitted slightly differing versions of what should properly be disclosed with respect to the legal basis or bases for the Confidential Order.

[94] First, we confirm that the legal basis for the redactions to the Ward Transcripts is the Confidential Order.

[95] We agree that in the interests of fairness, the respondents should be provided with additional information respecting the legal basis for the redactions to the Ward Transcripts, aside from the Confidential Order itself.

- [96] The Confidential Order resulted from the panel's attempt to balance the interests of full disclosure against certain underlying concerns. Serrano, who was not given notice of and was not party to the motion that led to the Confidential Order, is seeking disclosure of the Confidential Information as a matter of procedural fairness. We find that the information we've outlined below with respect to the legal basis for the Confidential Order can be provided to the respondents while still protecting the interests that led to the Confidential Order and Confidential Reasons, and that it would be unfair to the respondents to not provide it to them.
- [97] The Confidential Reasons do not identify privilege over any of the redacted portions of the Ward Transcripts, and no assertion of privilege was made in the *ex parte* motion before the panel who made the Confidential Order. We find the fact that the redactions to the Ward Transcripts were not made on the basis of privilege can and should be provided to the respondents.
- [98] The question of relevance was raised in the Confidential Reasons where the panel states that the Confidential Order does not in any way alleviate Staff of its disclosure obligations to the respondents. The panel was clear in the Confidential Reasons that Staff would need to decide whether to provide the respondents with the Ward Transcripts, that the panel was not in any way derogating from Staff's duty of disclosure,²⁵ and that it was for Staff to decide whether providing the redacted transcripts fulfilled its responsibilities. Staff provided the redacted transcripts to the respondents and cited the Confidential Order as the basis for not disclosing the redacted portions of the Ward Transcripts.

5. Conclusion

- [99] We find that it is in the public interest for the respondents to be provided with the redacted versions of the Confidential Order and Reasons proposed by Amicus and Staff, as described in paragraph 88 above.
- [100] We also find that it is appropriate for the respondents to be provided with additional information respecting the legal basis for the redactions to the Ward Transcripts. We have provided information to that effect in paragraphs 94-98 above.

V. CONCLUSION AND ORDER

- [101] For the reasons set out above, we conclude and will order that:
- a. the Panel Composition Motion is dismissed;
 - b. the respondents shall be provided with a redacted version of the Confidential Order, attached as "Appendix A" to the order; and
 - c. the respondents shall be provided with a redacted version of the Confidential Reasons, attached as "Appendix B" to the order.

Dated at Toronto this 28th day of April, 2022.

"Cathy Singer"

"Mary Anne De Monte-Whelan"

"Craig Hayman"

²⁵ Rule 27(1)(a) of 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". We note that the issue of relevance of the Confidential Information was not before the New Panel and we decline to make any finding to that effect.

B. Ontario Securities Commission

B.2 Orders

B.2 Orders

B.2.1 Ontario Securities Commission – s. 3(1)

IN THE MATTER OF
THE *SECURITIES ACT*
RSO 1990, C S.5

AND

IN THE MATTER OF
THE DELEGATION OF
CERTAIN POWERS AND DUTIES OF
THE ONTARIO SECURITIES COMMISSION

DELEGATION
(subsection 3(1))

WHEREAS:

- A. On May 25, 2016, pursuant to subsection 6(3) of the *Securities Act* (the “**Act**”), the Ontario Securities Commission (the “**Commission**”) issued an amended and restated assignment (the “**May 25, 2016 Assignment**”) assigning certain of its powers and duties under the Act to each “Director” as that term is defined in subsection 1(1) of the Act, acting individually;
- B. on proclamation of subsection 40(10) of the *Securities Commission Act, 2021*, subsection 6(3) of the *Act* will be repealed;
- C. on proclamation of subsection 40(8) of the *Securities Commission Act, 2021*, subsection 3(1) of the *Act* will be repealed and replaced with a provision authorizing the Commission to delegate any of the Commission’s powers and duties under the Act to the Chief Executive Officer of the Commission or to another Director;
- D. the Commission considers it desirable to revoke the May 25, 2016 Assignment and issue a delegation of certain of its powers and duties to the Chief Executive Officer of the Commission and each Director pursuant to subsection 3(1) of the Act;

NOW THEREFORE:

- 1. The May 25, 2016 Assignment is revoked, without prejudice to the effectiveness of any lawful exercise prior to the date of this revocation of the powers and duties assigned thereby, and is hereby replaced with the following delegation (the “**Delegation**”).
- 2. Pursuant to subsection 3(1) of the Act, the Commission delegates to each Director, acting individually, the powers and duties vested in or imposed on the Commission by
 - (a) subsections 1(10), 1(11), 127(1.1), and 127(4.1), and sections 11, 12, 20, 50, 61, 62, 70, 73.3, 74, 80, 88, 113, 115, 117, 121, 122, 128, 129, 146, and 147 of the Act;
 - (b) Parts VIII, IX and X of the Act but only in respect of matters that
 - (i) do not raise significant regulatory or public interest concerns, and
 - (ii) do not introduce a novel feature to the capital markets; and

- (c) section 144 of the Act, to revoke or vary
 - (i) any decision described in paragraph (a),
 - (ii) any decision described in paragraph (b), but only if the decision to revoke or vary
 - 1. does not raise significant regulatory or public interest concerns, and
 - 2. does not introduce a novel feature to the capital markets;
 - (iii) any decision made by a Director under authority assigned to the Director pursuant to the May 2016 Assignment or any predecessor assignment under subsection 6(3) of the Act, and
 - (iv) any decision made under section 144 of the Act, but only if at the time of revoking or varying that decision, the Director would have been authorized to make the decision being varied or revoked.
- 3. The Chief Executive Officer of the Commission shall from time to time determine which one or more other Directors, in each case acting alone, should, as an administrative matter, exercise each of the powers or perform each of the duties assigned by the Commission in paragraph 2 above, each of which powers and duties may also be exercised and performed by the Chief Executive Officer, acting alone.
- 4. Pursuant to subsection 3(1) of the Act, the Commission delegates to the Chief Executive Officer of the Commission the powers and duties vested in or imposed on the Commission by
 - (a) subsections 20.1(3), 127(5.1), and 143.11(2), and sections 37, 126, 140, and 153 of the Act; and
 - (b) section 144 of the Act, to revoke or vary
 - (i) any decision described in paragraph (a), and
 - (ii) any decision made under section 144 of the Act, but only if at the time of revoking or varying that decision, the Chief Executive Officer would have been authorized to make the decision being varied or revoked.
- 5. No person or company shall be required to inquire as to the authority of a member of the staff of the Commission to sign a decision pursuant to this Delegation in the capacity of a Director, and a decision purporting to be signed pursuant to this Delegation by a member of the staff of the Commission in the capacity of a Director shall be conclusively deemed to have been signed by a Director authorized by this Delegation without proof of such authority.
- 6. This Delegation does not preclude the Commission from itself exercising or performing any of the delegated powers or duties.
- 7. This Order is effective on the day that subsection 40(8) of the *Securities Commission Act, 2021* comes into force.

Board Approved: **April 26, 2022**

B.2.2 Ontario Securities Commission – s. 2.3(1) of the CFA

**IN THE MATTER OF
THE COMMODITY FUTURES ACT
RSO 1990, C S.20**

AND

**IN THE MATTER OF
THE DELEGATION OF
CERTAIN POWERS AND DUTIES OF
THE ONTARIO SECURITIES COMMISSION**

**DELEGATION
(subsection 2.3(1))**

WHEREAS:

- A. On proclamation of subsection 39(10) of the *Securities Commission Act, 2021*, subsection 2.3(1) of the *Commodity Futures Act* (the “**Act**”) will come into force, authorizing the Ontario Securities Commission (the “**Commission**”) to delegate any of the Commission’s powers and duties under the Act to the Chief Executive Officer of the Commission or to another Director;
- B. the Commission considers it desirable to issue a delegation of certain of its powers and duties to the Chief Executive Officer of the Commission and each Director pursuant to subsection 2.3(1) of the Act;

NOW THEREFORE:

- 1. The Commission hereby makes the following delegation (the “**Delegation**”).
- 2. Pursuant to subsection 2.3(1) of the Act, the Commission assigns to each Director, acting individually, the powers and duties vested in or imposed on the Commission by
 - (a) subsections 38(1), 46(6), 60(1.1), 79(1), and sections 7, 8, 14.1, 21.4, 24, 54, 55, 60.2, 60.3, and 80 of the Act;
 - (b) Parts VI, VII and X of the Act but only in respect of matters that
 - (i) do not raise significant regulatory or public interest concerns, and
 - (ii) do not introduce a novel feature to the capital markets; and
 - (c) section 78 of the Act, to revoke or vary
 - (i) any decision described in paragraph (a),
 - (ii) and decision described in paragraph (b), but only if the decision to revoke or vary
 - 1. does not raise significant regulatory or public interest concerns, and
 - 2. does not introduce a novel feature to the capital markets; and
 - (iii) any decision made under section 78 of the Act, but only if at the time of revoking or varying that decision, the Director would have been authorized to make the decision being varied or revoked.
- 3. The Chief Executive Officer of the Commission shall from time to time determine which one or more other Directors, in each case acting alone, should, as an administrative matter, exercise each of the powers or perform each of the duties assigned by the Commission in paragraph 2 above, each of which powers and duties may also be exercised and performed by the Chief Executive Officer, acting alone.
- 4. Pursuant to subsection 2.3(1) of the Act, the Commission delegates to the Chief Executive Officer of the Commission the powers and duties vested in or imposed on the Commission by
 - (a) subsections 48(1), 59(1), 60(4), 60(4.1), and 75(2), and sections 63 and 85 of the Act; and

- (b) section 78 of the Act, to revoke or vary
 - (i) any decision described under paragraph (a), and
 - (ii) Any decision made under section 78 of the Act, but only if at the time of revoking or varying that decision, the Chief Executive Officer would have been authorized to make the decision being varied or revoked.
- 5. No person or company shall be required to inquire as to the authority of a member of the staff of the Commission to sign a decision pursuant to this Delegation in the capacity of a Director, and a decision purporting to be signed pursuant to this Delegation by a member of the staff of the Commission in the capacity of a Director shall be conclusively deemed to have been signed by a Director authorized by this Delegation without proof of such authority.
- 6. This Delegation does not preclude the Commission from itself exercising or performing any of the delegated powers or duties.
- 7. This Order is effective on the day that subsection 39(10) of the *Securities Commission Act, 2021* comes into force.

Board Approved: **April 26, 2022**

B.2.3 Chief Executive Officer and Ontario Securities Commission

**IN THE MATTER OF
THE *SECURITIES ACT*,
R.S.O. 1990, CHAPTER S. 5, AS AMENDED
(the "Act")**

AND

**IN THE MATTER OF
THE DESIGNATION BY
THE CHIEF EXECUTIVE OFFICER OF POSITIONS FOR
THE PURPOSES OF THE DEFINITION OF DIRECTOR IN THE ACT**

AND

**IN THE MATTER OF
THE DELEGATION OF
CERTAIN POWERS AND DUTIES OF
THE ONTARIO SECURITIES COMMISSION
(the "Commission")**

Chief Executive Officer's Designation and Determination

WHEREAS:

- A. Effective upon the proclamation of the *Securities Commission Act, 2021*, the Commission issued a delegation (the **2022 Delegation**) pursuant to subsection 3(1) of the Act, delegating certain of its powers and duties under the Act to each "Director" as that term is defined in subsection 1(1) of the Act, acting individually.
- B. Under subsection 1(1) of the Act, "Director" means the Chief Executive Officer of the Commission, the Executive Director of the Commission, a Director or Deputy Director of the Commission, or a person employed by the Commission in a position designated by the Chief Executive Officer.
- C. The 2022 Delegation provides that the Chief Executive Officer of the Commission shall from time to time determine which one or more other Directors, in each case acting alone, should, as an administrative matter, exercise each of the powers or perform each of the duties delegated by the Commission in paragraph 2 of the 2022 Delegation, each of which powers may also be exercised and performed by the Chief Executive Officer, acting alone.

NOW THEREFORE, the Chief Executive Officer:

1. designates each of the following positions, whether or not in an acting capacity, for the purposes of the definition of "Director" contained in subsection 1(1) of the Act:
 - a. each Manager in the Corporate Finance Branch of the Commission,
 - b. each Manager in the Commission's Office of Mergers and Acquisitions,
 - c. each Manager and Registration Supervisor in the Compliance and Registrant Regulation Branch of the Commission,
 - d. each Manager in the Market Regulation Branch of the Commission,
 - e. each Manager in the Enforcement Branch of the Commission,
 - f. each Manager in the Investment Funds and Structured Products Branch of the Commission,
 - g. each Manager in the Derivatives Branch of the Commission,
 - h. each Manager in the Commission's Office of Economic Growth and Innovation;
 - i. the Chief Accountant and the Associate Chief Accountant of the Commission, and
 - j. the General Counsel of the Commission;

B.2: Orders

2. designates the Business Processes Supervisor in the Corporate Finance Branch of the Commission for the purposes of the definition of "Director" contained in subsection 1(1) of the Act, but solely for the purpose of granting exemptions from fees for the late filing of insider reports on Form 55-102F2 under Commission Rule 13-502 Fees; and
3. determines that, in addition to the Chief Executive Officer acting alone, each Director, other than the Business Processes Supervisor in the Corporate Finance Branch of the Commission, may exercise the powers and perform the duties assigned by the Commission to Directors in the 2022 Delegation and any successor assignment in effect from time to time, until otherwise determined by the Chief Executive Officer.

DATED at Toronto this 29th day of April, 2022.

"Grant Vingoe"
Chief Executive Officer
Ontario Securities Commission

B.2.4 Chief Executive Officer and Ontario Securities Commission

**IN THE MATTER OF
THE COMMODITY FUTURES ACT,
R.S.O. 1990, CHAPTER C. 20, AS AMENDED
(the "Act")**

AND

**IN THE MATTER OF
THE DESIGNATION BY
THE CHIEF EXECUTIVE OFFICER OF POSITIONS FOR
THE PURPOSES OF THE DEFINITION OF DIRECTOR IN THE ACT**

AND

**IN THE MATTER OF
THE DELEGATION OF
CERTAIN POWERS AND DUTIES OF
THE ONTARIO SECURITIES COMMISSION
(the "Commission")**

Chief Executive Officer's Designation and Determination

WHEREAS:

- A. Effective upon the proclamation of the *Securities Commission Act, 2021*, the Commission issued a delegation (the **2022 Delegation**) pursuant to subsection 2.3(1) of the Act, delegating certain of its powers and duties under the Act to each "Director" as that term is defined in subsection 1(1) of the Act, acting individually.
- B. Under subsection 1(1) of the Act, "Director" means the Chief Executive Officer of the Commission, the Executive Director of the Commission, a Director or Deputy Director of the Commission, or a person employed by the Commission in a position designated by the Chief Executive Officer.
- C. The 2022 Delegation provides that the Chief Executive Officer of the Commission shall from time to time determine which one or more other Directors, in each case acting alone, should, as an administrative matter, exercise each of the powers or perform each of the duties delegated by the Commission in paragraph 2 of the 2022 Delegation, each of which powers may also be exercised and performed by the Chief Executive Officer, acting alone.

NOW THEREFORE, the Chief Executive Officer:

1. designates each of the following positions, whether or not in an acting capacity, for the purposes of the definition of "Director" contained in subsection 1(1) of the Act:
 - a. each Manager in the Corporate Finance Branch of the Commission,
 - b. each Manager in the Commission's Office of Mergers and Acquisitions,
 - c. each Manager and Registration Supervisor in the Compliance and Registrant Regulation Branch of the Commission,
 - d. each Manager in the Market Regulation Branch of the Commission,
 - e. each Manager in the Enforcement Branch of the Commission,
 - f. each Manager in the Investment Funds and Structured Products Branch of the Commission,
 - g. each Manager in the Derivatives Branch of the Commission,
 - h. each Manager in the Commission's Office of Economic Growth and Innovation;
 - i. the Chief Accountant and the Associate Chief Accountant of the Commission, and
 - j. the General Counsel of the Commission;

B.2: Orders

2. designates the Business Processes Supervisor in the Corporate Finance Branch of the Commission for the purposes of the definition of "Director" contained in subsection 1(1) of the Act, but solely for the purpose of granting exemptions from fees for the late filing of insider reports on Form 55-102F2 under Commission Rule 13-502 Fees; and
3. determines that, in addition to the Chief Executive Officer acting alone, each Director, other than the Business Processes Supervisor in the Corporate Finance Branch of the Commission, may exercise the powers and perform the duties assigned by the Commission to Directors in the 2022 Delegation and any successor assignment in effect from time to time, until otherwise determined by the Chief Executive Officer.

DATED at Toronto this 29th day of April, 2022.

"Grant Vingoe"
Chief Executive Officer
Ontario Securities Commission

B.2.5 Noront Resources Ltd.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications.

Applicable Legislative Provisions

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

April 27, 2022

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

AND

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

AND

**IN THE MATTER OF
NORONT RESOURCES LTD.
(the Filer)**

ORDER

Background

The principal regulator in the Jurisdiction has received an application from the Filer for an order under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the **Order Sought**).

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

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Manitoba, Québec, New Brunswick and Nova Scotia.

Interpretation

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

Representations

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

1. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
4. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and
5. the Filer is not in default of securities Legislation in any jurisdiction.

Order

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

The decision of the principal regulator under the Legislation is that the Order Sought is granted.

“Marie-France Bourret”
Manager,
Corporate Finance
Ontario Securities Commission

OSC File #: 2022/0180

B.2.6 Capstone Mining Corp.**Headnote**

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – Application for an order than the issuer is not a reporting issuer under applicable securities laws – The issuer is not an OTC reporting issuer; the outstanding securities of the issuer are beneficially owned by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide; no securities of the issuer are traded on a marketplace in Canada or another country; the issuer is not in default of securities legislation except it has not filed certain continuous disclosure documents – relief granted.

Applicable Legislative Provisions

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

April 29, 2022

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

AND

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

AND

**IN THE MATTER OF
CAPSTONE MINING CORP.
(the Filer)**

ORDER

Background

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

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

- (a) the British Columbia Securities Commission is the principal regulator for this application;
- (b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Quebec,

New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut; and

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

Interpretation

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

Representations

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

1. the Filer is a reporting issuer in all jurisdictions of Canada;
2. the Filer is governed by the *Business Corporations Act* (British Columbia);
3. the Filer's head office is located in Vancouver, British Columbia;
4. pursuant to a statutory plan of arrangement under Division 5 of Part 9 of the *Business Corporations Act* (British Columbia), effective March 23, 2022 (the Effective Date), Mantos Copper (Bermuda) Limited (the Purchaser) acquired all of the issued and outstanding common shares of the Filer (the Filer Shares), all upon the terms and conditions of the arrangement agreement dated November 30, 2021 between the Filer and the Purchaser (the Arrangement);
5. pursuant to the Arrangement, all other securities of the Filer have either been exchanged for or amended to become the securities of the Purchaser;
6. immediately upon the completion of the Arrangement, on the Effective Date, the Filer became a wholly-owned subsidiary of the Purchaser;
7. the Filer Shares have been delisted from the Toronto Stock Exchange;
8. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the US. Over-the-Counter Markets*;
9. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than

- 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
10. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
 11. the Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and
 12. the Filer is not in default of securities legislation in any jurisdiction other than its obligations to file on or before March 31, 2022 its annual information form as required under National Instrument 51-102 *Continuous Disclosure Obligations* and the related certificates as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the Filings);
 13. the requirements to file the Filings did not arise until after the completion of the Arrangement;
 14. the Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* (NP 11-206) as it is in default for failure to file the Filings; and
 15. but for the fact that the Filer is in default for failure to file the Filings, the Filer would be eligible for the "simplified procedure" under NP 11-206.

Order

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

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

"Gordon Smith"
Acting Chief, Corporate Finance Legal Services
British Columbia Securities Commission

OSC File #: 2022/0146

B.2.7 13487369 Canada Inc. and Lakeview Hotel Investment Corp.

Headnote

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

Applicable Legislative Provisions

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

April 28, 2022

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

AND

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

AND

**IN THE MATTER OF
13487369 CANADA INC.
AS SUCCESSOR ENTITY OF
LAKEVIEW HOTEL INVESTMENT CORP.
("LHIC")
(the "Filer")**

ORDER

Background

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

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

- a) the Manitoba Securities Commission is the principal regulator for this application,
- b) the Filer has provided notice that subsection 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, New Brunswick, Nova Scotia, Prince Edward Island and Northwest Territories, and
- c) this order is the order of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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

Representations

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

1. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;
2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;
3. no securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported;
4. the Filer is applying for an order that LHIC has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer; and
5. the Filer and LHIC are not in default of securities legislation in any jurisdiction.

Order

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

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

“Chris Besko”
Director
Manitoba Securities Commission

OSC File #: 2022/0010

B.2.8 Integra Capital Limited and the Top Funds

Headnote

National Instrument 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from section 2.2 and paragraph 5.1(2)(a) of NI 81-106 granting mutual funds that are not reporting a 90-day extension of the annual financial statement filing and delivery deadlines – subject to conditions – Terminates upon the coming into force of any amendment to NI 81-106 or other rule that modifies the annual financial statement filing and delivery deadlines applicable to the funds.

Applicable Legislative Provisions

National Instrument 81-106 Investment Fund Continuous Disclosure, ss. 2.2, 5.1(2)(a) and 17.1.

March 24, 2022

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO**

AND

**IN THE MATTER OF
INTEGRA CAPITAL LIMITED AND
THE TOP FUNDS
(as defined below)**

ORDER

Background

The Ontario Securities Commission (the **Commission**) has received an application from Integra Capital Limited (the **Filer**), as investment fund manager of the CLAC Conservative Fund and CLAC Balanced Fund (the **Initial Top Funds**) and any other existing or future mutual fund that is not and will not be, a reporting issuer, and that is, or will be, managed by the Filer and invests in underlying funds as part of its investment strategy (the **Future Top Funds**), and together with the Initial Top Funds, the **Top Funds**) for an order pursuant to section 17.1 of National Instrument 81-106 *Investment Fund Continuous Disclosure (NI 81-106)* exempting the Filer and the Top Funds from:

1. the requirement in section 2.2 of NI 81-106 that the Top Funds file their audited annual financial statements and auditor’s report on or before the 90th day after the Top Funds’ most recently completed financial year (the **Annual Filing Deadline**); and
2. the requirement in paragraph 5.1(2)(a) of NI 81-106 that the Top Funds deliver their audited financial statements by the Annual Filing Deadline (the **Annual Delivery Requirement**)

(collectively, relief from the Annual Filing Deadline and the Annual Delivery Requirement, the **Requested Relief**).

Representations

This order is based on the following facts represented by the Filer.

A. The Filer

1. The Filer is a private corporation existing under the *Business Corporations Act* (Ontario) having its head office in Oakville, Ontario.
2. The Filer is registered as a portfolio manager in each province and territory of Canada except Nunavut, an investment fund manager in each of Ontario, Québec, and Newfoundland and Labrador, an exempt market dealer in each province and territory of Canada except Nunavut, and a commodity trading manager in Ontario.
3. The Filer is not a reporting issuer in any jurisdiction and is not in default of securities legislation of any jurisdiction of Canada.
4. The Filer is the investment fund manager and portfolio manager of the Initial Top Funds. The Filer is, or will be, the investment fund manager and portfolio manager of each Top Fund. The Filer or a third party will act as trustee of each Top Fund.

B. The Top Funds

5. The Initial Top Funds are trusts organized under the laws of Ontario pursuant to separate trust agreements each dated July 13, 2021. Each Future Top Fund will be organized as a pooled fund trust or limited partnership under the laws of Ontario or another jurisdiction of Canada.
6. Each Top Fund will be a “mutual fund” for the purposes of the securities legislation of Ontario.
7. Securities of each Top Fund will only be offered for sale on a continuous basis to qualified investors in all provinces and territories in Canada except Nunavut pursuant to an exemption from the prospectus requirements under the *Securities Act* (Ontario) (“**OSA**”) or National Instrument 45-106 *Prospectus Exemptions* (“**NI 45-106**”).
8. Units of each Top Fund will only be distributed in Canada pursuant to exemptions from the prospectus requirement in accordance with the OSA or NI 45-106.
9. None of the Top Funds is, or will be, a reporting issuer in any province or territory of Canada.
10. Each Top Fund will have a financial year-end of December 31.
11. Each Top Fund will invest in units of one or more underlying funds (each, an “**Underlying Fund**”), either directly or indirectly.
12. The investment objective of each Top Fund is, or will be, to provide capital appreciation over a specified term and/or income, or to help underlying investors nearing retirement to continue to save

through a diversified investment vehicle. The investment strategy of each Top Fund permits investment of the Top Fund’s investable assets in Underlying Funds.

13. Each Top Fund, directly or indirectly, will generally invest through a number of different approaches, including without limitation, direct and indirect investments in a mix of securities that may include equities, fixed income, infrastructure, real estate and other diversifying strategies.
14. The Filer believes that investing in the Underlying Funds offers benefits not available through a direct investment in the companies, other issuers or assets held by the Underlying Funds.
15. The Filer engages in an extensive due diligence process when selecting Underlying Funds.
16. Securities of certain Underlying Funds are redeemable at various intervals, but securities of other Underlying Funds are not redeemable until the termination of such Underlying Funds. Each Top Fund is able to manage its own liquidity requirements taking into consideration the frequency at which the securities of the Underlying Funds may be redeemed.
17. The net asset value of each Top Fund (“**NAV**”) is calculated on a daily basis, as of the close of business on each trading day (the “**Valuation Date**”). A “trading day” for a Top Fund is a day on which the Toronto stock exchange is open for trading. Investors of each Top Fund are provided with the NAV on a daily basis.
18. Certain holdings of each Top Fund in securities of the Underlying Funds may be disclosed in the financial statements.

C. Financial Statements

19. Generally, section 2.2 and subsection 5.1(2)(a) of NI 81-106 require a Top Fund to file and deliver its annual audited financial statements by the Annual Filing Deadline. As each Top Fund’s financial year-end is December 31, they each have a filing and delivery deadline of March 31.
20. Section 2.11 of NI 81-106 provides an exemption (the “**Filing Exemption**”) from the Annual Filing Deadline if, among other things, an investment fund delivers its annual financial statements in accordance with part 5 of NI 81-106 by the Annual Filing Deadline.
21. In order to formulate an opinion on the financial statements on each Top Fund, the Top Fund’s auditor requires audited financial statements of the respective Underlying Funds in order to audit the information contained in the Top Fund’s financial statements. The auditors of the Top Funds have advised the Filer that they will be unable to complete the audit of each Top Fund’s annual financial statements until the audited financial statements of a certain percentage of the

Underlying Funds are completed and available to the respective Top Fund.

22. The Underlying Funds may be domiciled in Canada, the United States, Ireland or other international jurisdictions.
23. A material amount of the assets of the Top Funds will be invested in Underlying Funds managed by independent managers.
24. The Underlying Funds may have varying financial year-ends and may be subject to a variety of financial reporting deadlines. For example, a material amount of the assets of the Top Funds invested in Underlying Funds will be in Underlying Funds that are governed by laws that require the financial statements to be filed within 120 days of the financial year end of the Underlying Fund.
25. In most cases, the Top Funds will not be able to obtain the financial statements of the Underlying Funds sooner than the deadline for filing the financial statements of the Underlying Funds and, in all cases, no sooner than other unitholders of the Underlying Funds receive the financial statements of the Underlying Funds.
26. Investors of each Top Fund will be notified that annual audited financial statements for the Top Fund will be filed and delivered within 180 days of financial year end, subject to regulatory approval.
27. The Filer will notify unitholders in the Top Funds that it has received and intends to rely on relief from the Annual Filing Deadline and Annual Delivery Requirement.
28. The Filer does not anticipate it will be able to rely on the Filing Exemption since it is unable to prepare and deliver the audited annual financial statements and auditor's report within ninety (90) days after each Top Fund's most recently completed financial year.
29. It is expected that each Top Fund will not be able to file the annual audited financial statements of the Top Fund by the Annual Filing Deadline. As a result, the Top Funds will not be able to meet the Annual Delivery Requirement. The Filer expects this timing delay in the completion of its annual audited financial statements to occur every year for the foreseeable future.
30. Each Top Fund therefore seeks an extension of the Annual Filing Deadline and Annual Delivery Requirement to June 30 of each year, to enable the Top Fund's auditors to first receive the audited financial statements of the Underlying Funds so as to be able to prepare the Top Fund's annual audited financial statements.

Order

The Director is satisfied that this order meets the test set out in the securities legislation of Ontario for the Commission to make the order.

The order of the Director under section 17.1 of NI 81-106 is that the Requested Relief is granted so long as:

1. Each Top Fund has a financial year ended December 31.
2. Each Top Fund invests the majority of its assets in Underlying Funds.
3. No less than 25% of the total assets of a Top Fund at the time the Top Fund makes the initial investment decision in the Underlying Fund(s), are invested in investment entities that have financial reporting periods that end on December 31 of each year and are subject to laws of their jurisdictions that require their financial statements to be delivered within 120 days of their financial year ends.
4. Unitholders of each Top Fund will be informed that annual audited financial statements for the Top Fund will be filed and delivered within 180 days of financial year end, subject to regulatory approval.
5. Each Top Fund notifies its unitholders that the Top Fund has received and intends to rely on relief from the filing and delivery requirements under section 2.2 and paragraph 5.1(2)(a) of NI 81-106.
6. Each Top Fund is not a reporting issuer and the Filer is a private corporation existing under the *Business Corporations Act* (Ontario) having its head office in Oakville, Ontario and has the necessary registrations to carry out its operations in each jurisdiction of Canada in which it operates.
7.
 - (a) The audited annual financial statements of each Top Fund are filed on or before the 180th day after the Top Fund's most recently completed financial year; or
 - (b) the conditions in section 2.11 of NI 81-106 are met, except for subsection 2.11(b), and the annual audited financial statements are delivered to unitholders in accordance with Part 5 of NI 81-106 on or before the 180th day after the Top Fund's most recently completed financial year.
8. This order terminates within one year of the coming into force of any amendment to NI 81-106 or other rule that modifies how the Annual Filing Requirement or Annual Delivery Requirement applies in connection with mutual funds.

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

Application File #: 2022/0059

B.3 Reasons and Decisions

B.3 Reasons and Decisions

B.3.1 Dealerweb Inc.

Headnote

Application for relief under s. 15.1 of National Instrument 21-101 Marketplace Operation, s. 12.1 of National Instrument 23-101 Trading Rules, and s. 10 of National Instrument 23-103 Electronic Trading and Direct Access to Marketplaces – relief from the application of all provisions of the Marketplace Rules that apply to a person or company carrying on business as an alternative trading system in the Jurisdictions – relief granted subject to terms and conditions.

Applicable Legislative Provisions

National Instrument 21-101 Marketplace Operation, s. 15.1.

National Instrument 23-101 Trading Rules, s. 12.1.

National Instrument 23-103 Electronic Trading and Direct Access to Marketplaces, s. 10.

April 28, 2022

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO,
QUEBEC AND
NOVA SCOTIA
(the Jurisdictions)

AND

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

AND

IN THE MATTER OF
DEALERWEB INC.

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Makers**) has received an application (the **Application**) from Dealerweb Inc. (**Dealerweb**) for an exemption under the securities legislation of the Jurisdictions (the **Legislation**) and under section 15.1 of National Instrument 21-101 – *Marketplace Operation* (**NI 21-101**), section 12.1 of National Instrument 23-101 – *Trading Rules* (**NI 23-101**), and section 10 of National Instrument 23-103 – *Electronic Trading and Direct Access to Marketplaces* (**NI 23-103**) and, together with NI 21-101 and NI 23-101, the **Marketplace Rules**) exempting Dealerweb from the application of all provisions of the Marketplace Rules that apply to a person or company carrying on business as an alternative trading system (**ATS**) in the Jurisdictions (the **Requested Relief**).

Under National Policy 11-203 (for a coordinated review application):

- (a) the Ontario Securities Commission is the principal regulator for this Application; and
- (b) the decision is the decision of the principal regulator and evidences the decision of each other of the Decision Makers.

Interpretation

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

Representations

The Decision is based on the following facts represented by Dealerweb:

1. Dealerweb is a corporation existing under the laws of New York in the United States (**US**), with its head office located in New York, New York, US.
2. Dealerweb is a wholly-owned subsidiary of Tradeweb Markets LLC (**Tradeweb**). Tradeweb operates a global network of electronic marketplaces which offer institutional, wholesale and retail market participants access to trading in government bonds, mortgage securities, municipal bonds, credit and derivatives across a range of platforms. Tradeweb is wholly-owned by Tradeweb Markets Inc., a public company that is majority owned by Refinitiv Holdings Ltd., a company that is currently indirectly wholly-owned by London Stock Exchange Group plc.
3. Dealerweb facilitates trading in on-the-run US treasuries, off-the-run US treasuries, US treasury bills, US treasury floating rate notes and overnight and term repurchase transactions (collectively the **Treasury Products**) through its web-based interface (the **Platform**). The Platform facilitates trades in the Treasury Products through a central limit order book (for on-the-run US treasuries, off-the-run US treasuries (in a hybrid manner), US treasury bills, repurchase transactions and US treasury floating rate notes), a direct streaming mechanism (for on-the-run US treasuries) and sweep trading sessions (for off-the-run US treasuries, US treasury bills and US treasury floating rate notes). Repurchase transactions can be for specific collateral, general collateral, and general collateral financing, which consist of US treasury bills, US treasury notes, US treasury bonds, agency bonds, US treasury floating rate notes, agency mortgage backed securities and adjustable rate mortgages. Treasury Products are traded electronically with the exception of trades on the central limit order book for off-the-run US treasuries which are provided to a voice broker and then executed on the Platform. Dealerweb also maintains a voice trading desk which facilitates trades in off-the-run US treasuries, US treasury bills, US treasury floating rate notes and US treasury inflation-protected securities as well as a voice trading desk which facilitates trades in repurchase transactions.
4. It is expected that certain institutional investors in the Jurisdictions wish to become clients of Dealerweb in order to access the liquidity provided by the Platform.
5. The prospective clients in the Jurisdictions (the **Canadian Participants**) will be comprised only of institutional investors that qualify as permitted clients as that term is defined in section 1.1 of National Instrument 31-103 - *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**).
6. Dealerweb will confirm that each prospective Canadian Participant that seeks to participate on the Platform is an institutional investor that qualifies as a permitted client as such term is defined in section 1.1 of NI 31-103, by obtaining a representation from the Canadian Participant for access to the Platform in their onboarding documentation. The documentation will specify that this representation is deemed to be repeated by the Canadian Participant each time it enters an order for a trade on the Platform.
7. Dealerweb relies on the “international dealer exemption” under section 8.18 of NI 31-103 in the Jurisdictions for any trading in securities with permitted clients located in the Jurisdictions. Dealerweb is not registered in any capacity under the securities legislation of the Jurisdictions.
8. Dealerweb is regulated and operating in the US as an ATS registered with the US Securities and Exchange Commission (**SEC**) (SEC#: 8-38103) as a broker-dealer pursuant to Rule 301(b) of the *Regulation ATS under 1934 Securities Exchange Act* and is a member of the Financial Industry Regulatory Authority (**FINRA**) (CRD#: 19662), the US equivalent of the Investment Industry Regulatory Organization of Canada. Dealerweb is a member of the Municipal Securities Rulemaking Board (**MSRB**) and the National Futures Association. Dealerweb is also an introducing broker pursuant to the *Commodity Exchange Act* and is regulated as an introducing broker by the Commodity Futures Trading Commission and the National Futures Association. As such, Dealerweb is subject to a comprehensive regulatory regime in the US.
9. Dealerweb is not in default of securities legislation in its home jurisdiction nor in any of the Jurisdictions except as set out in representation 10 below.
10. Between October 5, 2016 and December 13, 2021, without being registered as an ATS or receiving exemptive relief, Dealerweb permitted one Quebec participant to access the Platform. Dealerweb became aware of this access on November 18, 2021 and, after prompt internal investigation and review, brought it to the attention of the Ontario Securities Commission and the Autorité des marchés financiers on December 7 and 8, 2021, respectively. Dealerweb removed this access on December 13, 2021 and is taking steps to ensure compliance with the securities legislation in Quebec.

B.3: Reasons and Decisions

11. Dealerweb does not have any offices or maintain other physical installations in the Jurisdictions or any other Canadian province or territory.
12. Dealerweb seeks to provide institutional investors in the Jurisdictions with direct, electronic, hybrid and voice access to trading in only the Treasury Products and is therefore considered to be an ATS in the Jurisdictions, as defined in applicable securities legislation.
13. As an ATS, Dealerweb is prohibited from carrying on business in the Jurisdictions unless it complies with or is exempted from the Marketplace Rules.
14. In order to obtain direct access to the Platform, a Canadian Participant must agree to abide by the Dealerweb terms and conditions contained in Dealerweb's Participation Agreement.
15. Dealerweb will also require Canadian Participants to sign a Participant Agreement agreeing to the terms and conditions of the use of the Platform, including clear and transparent access criteria and requirements for all market participants on the Platform to maintain the integrity of the Platform. Dealerweb applies these criteria to all Platform participants in an impartial manner.
16. In addition to complying with the Participant Agreement and all applicable laws pertaining to the use of the Platform, prospective clients must also satisfy Dealerweb's credit, know-your-client and anti-money laundering verifications, suitability analyses and other account supervision procedures prior to being granted access to the Platform and on an ongoing basis in accordance with securities laws applicable in the Jurisdictions and Dealerweb's requirements.
17. Dealerweb will only permit trading in the Treasury Products that are permitted to be traded in the United States under applicable securities laws and regulations.
18. All trades on the Platform are for securities which are Trade Reporting and Compliance Engine (**TRACE**) eligible. Dealerweb displays orders of the Treasury Products and provides accurate and timely information regarding orders. Additionally, Dealerweb automatically reports all transactions to TRACE in a timely manner (within fifteen (15) minutes) via FIX or at month end as require under FINRA Rule 6723, and would report transactions of Canadian Participants in the same manner as it reports US-based participant trades. Trade information is consistent with FINRA TRACE reporting standards. Dealerweb's reporting does not absolve any participants of their own regulatory reporting requirements. Dealerweb is a FINRA TRACE reporting firm and as such these transactions are reported to TRACE and MSRB on an anonymized basis, identifying only that it was a "customer" that traded with Dealerweb. Dealerweb's market participant identifier is DLWB.

Dealerweb acknowledges that the Decision Makers will monitor developments in international and domestic capital markets and Dealerweb's activities on an ongoing basis to determine whether it is appropriate for the Decision Makers to continue to grant the Requested Relief and, if so, whether it is appropriate for the Requested Relief to continue to be granted subject to the terms and conditions set out in Schedule A to this decision.

Dealerweb has acknowledged to the Decision Makers that the scope of the Requested Relief and the terms and conditions imposed by the Decision Makers set out in Schedule A to this decision may change as a result of the Decision Makers monitoring of developments in international and domestic capital markets or Dealerweb's activities, or as a result of any changes to the laws in the Jurisdictions affecting trading in derivatives, commodity futures contracts, commodity futures options or securities.

Decision

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

The decision of the Decision Maker under the Legislation is that the Requested Relief is granted provided that Dealerweb complies with the terms and conditions attached hereto as Schedule A.

DATED this 28th day of April, 2022

"Susan Greenglass"
Director, Market Regulation
Ontario Securities Commission

SCHEDULE A
TERMS AND CONDITIONS

Regulation and Oversight

1. Dealerweb will continue to be subject to the regulatory oversight of the regulator in its home jurisdiction;
2. Dealerweb will either be registered in an appropriate category or rely on an exemption from registration under Canadian securities laws;
3. Dealerweb will promptly notify the Decision Makers if its status in its home jurisdiction has been revoked, suspended, or amended, or the basis on which its status has significantly changed;

Access

4. Dealerweb will not provide direct access to a Canadian Participant unless the Canadian Participant is a permitted client as that term is defined in National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;
5. Dealerweb will require Canadian Participants to provide prompt notification to Dealerweb if they no longer qualify as permitted clients;
6. Dealerweb must make available to Canadian Participants appropriate training for each person who has access to trade on the Platform;

Trading by Canadian Participants

7. Trading on the Platform by Canadian Participants must be cleared and settled through a direct clearing member of the Fixed Income Clearing Corporation (**FICC**) or on Fedwire, the Federal Reserve Bank securities settlement network, through such clearing member of FICC or recognized “Depository Institution” such as SG Americas;
8. Dealerweb will permit Canadian Participants to only trade the fixed income securities, including the collateral for Repos, listed in representation number three of this Decision;
9. Dealerweb will permit Canadian Participants to only trade those securities which are permitted to be traded in the United States under applicable securities laws and regulations;
10. Dealerweb will automatically report all transactions of Canadian Participants to TRACE in a timely manner (within fifteen (15) minutes via FIX). This trade information is consistent with FINRA TRACE reporting standards;

Reporting

11. Dealerweb will promptly notify staff of the Decision Makers of any of the following:
 - a. any material change to its business or operations or the information provided in its application for exemptive relief, including, but not limited to:
 - i. changes to its regulatory oversight;
 - ii. the access model, including eligibility criteria, for Canadian Participants;
 - iii. systems and technology; and
 - iv. its clearing and settlement arrangements;
 - b. any material change in its regulations or the laws, rules, and regulations in the home jurisdiction relevant to the products traded;
 - c. any known investigations of, or regulatory action against, Dealerweb by the regulator in its home jurisdiction or any other regulatory authority to which it is subject;
 - d. any matter known to Dealerweb that may affect its financial or operational viability, including, but not limited to, any significant system failure or interruption; and
 - e. any default, insolvency, or bankruptcy of any participant known to Dealerweb or its representatives that may have a material, adverse impact upon Dealerweb or any Canadian Participant;

12. Dealerweb will maintain the following updated information and submit such information in a manner and form acceptable to staff of the Decision Makers on a bi-annual basis (within 30 days of the end of each six-month period), and at any time promptly upon the request of staff of the Decision Makers:
- a. a current list of all Canadian Participants, organized on a per province basis, specifically identifying for each Canadian Participant the basis upon which it represented to Dealerweb that it could be provided with direct access;
 - b. a list of all Canadian applicants for status as a Canadian Participant on a per province basis who were denied such status or access or who had such status or access revoked during the period:
 - i. for those applicants for status as Canadian Participants who had their access to such status denied, an explanation as to why their access was denied;
 - ii. for those Canadian Participants who had their status revoked, an explanation as to why their status was revoked;
 - c. for each product:
 - i. the total trading volume and value originating from Canadian Participants, presented on a per province basis, and
 - ii. the proportion of worldwide trading volume and value on the Platform conducted by Canadian Participants, presented in the aggregate for such Canadian Participants on a per province basis; and
 - d. a list of any system outages that occurred for any system impacting Canadian Participants' trading activity on the Platform which were reported to the regulator in Dealerweb's home jurisdiction;

Disclosure

13. Dealerweb will provide to its Canadian Participants disclosure that states that:
- a. rights and remedies against it may only be governed by the laws of the home jurisdiction, rather than the laws of Canada, and may be required to be pursued in the home jurisdiction rather than in Canada;
 - b. the rules applicable to trading on Dealerweb may be governed by the laws of the home jurisdiction, rather than the laws of Canada; and
 - c. Dealerweb is regulated by the regulator in the home jurisdiction, rather than the Decision Makers;

Submission to Jurisdiction and Appointment of Agent for Service

14. With respect to a proceeding brought by the Decision Makers or staff of the Decision Makers arising out of, related to, concerning, or in any other manner connected with the Decision Makers' regulation and oversight of the activities of Dealerweb in Canada, Dealerweb will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Canada, and (ii) an administrative proceeding in Canada;
15. Dealerweb will submit to the Decision Makers a valid and binding appointment of an agent for service in Canada upon which the Decision Makers may serve a notice, pleading, subpoena, summons, or other process in any action, investigation, or administrative, criminal, quasi-criminal, penal, or other proceeding arising out of or relating to or concerning the Decision Makers' regulation and oversight of Dealerweb's activities in Canada;

Information Sharing

16. Dealerweb must, and must cause its affiliated entities, if any, to promptly provide to the Decision Makers, on request, any and all data, information, and analyses in the custody or control of Dealerweb or any of its affiliated entities, without limitations, redactions, restrictions or conditions, including, without limiting the generality of the foregoing:
- a. data, information, and analyses relating to all of its or their businesses; and
 - b. data, information, and analyses of third parties in its or their custody or control; and
17. Dealerweb must share information and otherwise cooperate with other recognized or exempt exchanges, recognized self-regulatory organizations, recognized or exempt clearing agencies, investor protection funds, and other appropriate regulatory bodies.

B.3.2 Canada Life Investment Management Ltd.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Existing and future mutual funds managed by the Filer granted relief from paragraphs 15.3(4)(c) and (f) of NI 81-102 Investment Fundsto permit references to FundGrade A+ Awards, FundGrade Ratings, Lipper Awards and Lipper Leader Ratings in sales communications – Relief subject to conditions requiring specified disclosure and the requirement that the FundGrade A+ Awards and Lipper Awards being referenced have not been awarded more than 365 days before the date of the sales communication.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, s. 1 5.3(4)(c) and (f), and 19.1.

April 21, 2022

**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
CANADA LIFE INVESTMENT MANAGEMENT LTD.
(the Filer)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the existing mutual funds and future mutual funds of which the Filer is or becomes the investment fund manager which are available for sale to retail investors and to which National Instrument 81-102 – *Investment Funds (NI 81-102)* applies (each a **Fund** and collectively, the **Funds**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for an exemption under section 19.1 of NI 81-102 from the requirements set out in paragraphs 15.3(4)(c) and 15.3(4)(f) of NI 81-102, which provide that a sales communication must not refer to a performance rating or ranking of a mutual fund or asset allocation service unless:

- (a) the rating or ranking is provided for each period for which standard performance data is required to be given, except the period since the inception of the mutual fund; and
- (b) the rating or ranking is to the same calendar month end that is
 - i. not more than 45 days before the date of the appearance or use of the advertisement in which it is included, and
 - ii. not more than three months before the date of first publication of any other sales communication in which it is included

in order to permit the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards (as defined below), and Lipper Leader Ratings to be referenced in sales communications relating to the Funds (together, the **Exemption Sought**).

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 subparagraph 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 the Jurisdiction, collectively referred to as the **Canadian Jurisdictions**).

Interpretation

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

Representations

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

The Filer and the Funds

1. The Filer is a corporation governed under the laws of Canada. The head office of the Filer is in London, Ontario.
2. The Filer is a wholly-owned investment management subsidiary of The Canada Life Assurance Company.
3. The Filer is registered as a portfolio manager in each of the Canadian Jurisdictions; as an investment fund manager in each of Ontario, Québec and Newfoundland and Labrador; and as a commodity trading manager in Ontario.
4. The Filer is, or will be, the manager, trustee and portfolio manager of each Fund.
5. Each Fund is, or will be, an open-ended mutual fund trust established under the laws of Ontario.
6. Each Fund is, or will be, governed by the applicable provisions of NI 81-102, subject to any exemptions therefrom that have been, or may in the future be, granted by the securities regulatory authorities.
7. Securities of the Funds are, or will be, qualified for distribution pursuant to one or more simplified prospectuses, as the same may be amended or renewed from time to time. Each Fund is, or will be, a reporting issuer under the laws of the Canadian Jurisdictions.
8. Neither the Filer nor any of the existing Funds are in default of securities legislation in any of the Canadian Jurisdictions.

Fundata FundGrade A+ Awards Program

9. The Filer wishes to include in sales communications of the Funds references to the FundGrade Ratings and references to the FundGrade A+ Awards where such Funds have been awarded a FundGrade A+ Award.
10. Fundata Canada Inc. (**Fundata**) is not a member of the Funds' organization. Fundata is a "mutual fund rating entity" as that term is defined in NI 81-102. Fundata is a leader in supplying mutual fund information, analytical tools, and commentary. Fundata's fund data and analysis, fund awards designations and ratings information provide valuable insight to advisors, media and individual investors.
11. One of Fundata's programs is the FundGrade A+ Awards program. This program highlights funds that have excelled in delivering consistently strong risk-adjusted performance relative to their peers. The FundGrade A+ Awards designate award-winning funds in most individual fund classifications for the previous calendar year, and the awards are announced in January of each year. The categories for fund classification used by Fundata are those maintained by the Canadian Investment Funds Standards Committee (**CIFSC**) (or a successor to CIFSC), a Canadian organization that is independent of Fundata.
12. The FundGrade A+ Awards are based on a proprietary rating methodology developed by Fundata, the FundGrade Rating system. The FundGrade Rating system evaluates funds based on their risk-adjusted performance measured by three well-known and widely used metrics: the Sharpe Ratio, the Information Ratio, and the Sortino Ratio. The ratios are calculated for the two through ten year time periods for each fund. When there is more than one eligible series of a fund, an average ratio is taken for each period. The ratios are ranked across all time periods and an overall score is calculated by equally weighting the yearly rankings.
13. The FundGrade Ratings are letter grades for each fund and are determined each month. The FundGrade Ratings for each month are released on the seventh business day of the following month. The top 10% of funds earn an A Grade; the next 20% of funds earn a B Grade; the next 40% of funds earn a C Grade; the next 20% of funds receive a D Grade; and the lowest 10% of funds receive an E Grade. Because the overall score of a fund is calculated by equally weighting the periodic rankings, to receive an A Grade, a fund must show consistently high scores for all ratios across all time periods.
14. Fundata calculates a grade using only the retail series of each fund. Institutional series or fee-based series of any fund are not included in the calculation. A fund must have at least two years of history to be included in the calculation. Once a letter grade is calculated for a fund, it is then applied to all related series of that fund.

B.3: Reasons and Decisions

15. At the end of each calendar year, Fundata calculates a "Fund GPA" for each fund based on the full year's performance. The Fund GPA is calculated by converting each month's FundGrade Rating letter grade into a numerical score. Each A is assigned a grade of 4.0; each B is assigned a grade of 3.0; each C is assigned a grade of 2.0; each D is assigned a grade of 1.0; and each E is assigned a grade of 0. The total of the grades for each fund is divided by 12 to arrive at the fund's GPA for the year. Any fund earning a GPA of 3.5 or greater earns a FundGrade A+ Award.
16. When a fund is awarded a FundGrade A+ Award, Fundata will permit such fund to make reference to the award in its sales communications.

Lipper Leader Ratings and Lipper Awards

17. The Filer also wishes to include in sales communications of the Funds references to Lipper Leader Ratings (which are performance ratings or rankings for funds issued by Lipper and include the Lipper Ratings for Consistent Return, Lipper Ratings for Total Return, Lipper Ratings for Preservation and the Lipper Ratings for Expense, which are described below) and Lipper Awards (as described below) where such Funds have been awarded a Lipper Award.
18. Lipper, Inc. (**Lipper**) is a "mutual fund rating entity" as that term is defined in NI 81-102. Lipper is part of the Refinitiv group of companies, and is a global leader in supplying mutual fund information, analytical tools, and commentary. Lipper's fund data and analysis, fund awards designations and ratings information provide valuable insight to advisors, media and individual investors.
19. One of Lipper's programs is the Lipper Fund Awards from Refinitiv program (the **Lipper Awards**). This program recognizes funds that have excelled in delivering consistently strong risk-adjusted performance relative to peers and also recognizes fund families with high average scores for all funds within a particular asset class or overall. Currently, the Lipper Awards take place in approximately 17 countries.
20. In Canada, the Lipper Awards include the Lipper Fund Awards and Lipper ETF Awards (which were awarded for the first time in Canada in 2014). For the Lipper Fund Awards, Lipper designates award-winning funds in a number of individual fund classifications for three, five and ten year periods. For the Lipper ETF Awards, Lipper designates award-winning funds in a number of individual fund classifications for the three and five year periods, and it is expected that awards for the ten year period will be given in the future.
21. The categories for fund classification used by Lipper for the Lipper Awards in respect of Canadian funds are those maintained by CIFSC (or a successor to the CIFSC), a Canadian organization that is independent of Lipper. Only those CIFSC groups of ten or more unique funds will claim a Lipper Fund Award, and only those CIFSC groups of five or more unique ETFs (each of whom have a minimum of three or five years of performance history, as applicable) will claim a Lipper ETF Award.
22. The Lipper Awards are based on a proprietary rating methodology prepared by Lipper, the Lipper Leader Rating System. The Lipper Leader Rating System is a toolkit that uses investor-centred criteria to deliver a simple, clear description of a fund's success in meeting certain goals, such as preserving capital, lowering expenses or building wealth. Lipper Ratings provide an instant measure of a fund's success against a specific set of key metrics, and can be useful to investors in identifying funds that meet particular characteristics.
23. In Canada, the Lipper Leader Rating System includes Lipper Ratings for Consistent Return (reflecting funds' historical risk-adjusted returns relative to funds in the same classification), Lipper Ratings for Total Return (reflecting funds' historical total return performance relative to funds in the same classification), Lipper Ratings for Preservation (reflecting funds' historical loss avoidance relative to other funds in the same classification) and Lipper Ratings for Expense (reflecting funds' expense minimization relative to funds with similar load structures). In each case, the categories for fund classification used by Lipper for the Lipper Leader Ratings are those maintained by CIFSC (or a successor to CIFSC). Lipper Leader Ratings are measured monthly over 36, 60 and 120 month periods, and an overall rating is also measured, which is an unweighted average of the previous three periods. The highest 20% of funds in each category are named Lipper Leaders for that particular rating and receive a score of 5, the next 20% receive a score of 4, the middle 20% are scored 3, the next 20% are scored 2 and the lowest 20% are scored 1.
24. The Lipper Awards, awarded annually in Canada, are based on the Lipper Ratings for Consistent Return measure, which, as generally described above, is a risk-adjusted mutual fund return performance measure used by Lipper that takes into account both short-- and long-term risk-adjusted performance relative to fund classification, together with a measure of a fund's consistency. In respect of the Lipper Awards for Canada, the Lipper Ratings for Consistent Return are measured over the 36, 60 and 120 month periods ending at the end of July of each year. As noted above, the highest 20% of funds in each classification are named Lipper Leaders for Consistent Return, and the highest Lipper Leader for Consistent Return in each applicable fund classification over these periods (currently, in the case of the Lipper ETF Awards, over the 36 and 60 month periods only) wins a Lipper Award.

Sales communication disclosure**FundGrade Ratings and FundGrade A+ Awards**

25. The FundGrade Ratings fall within the definition of “performance data” under NI 81-102, as they constitute “a rating, ranking, quotation, discussion or analysis regarding an aspect of the investment performance of an investment fund”, given that the FundGrade Ratings are based on performance measures calculated by Funddata. The FundGrade A+ Awards may be considered to be “overall ratings or rankings”, given that the awards are based on the FundGrade Ratings as described above. Therefore, references to FundGrade Ratings and FundGrade A+ Awards in sales communications relating to the Funds need to meet the applicable requirements in Part 15 of NI 81-102.
26. Paragraph 15.3(4)(c) of NI 81-102 imposes a “matching” requirement for performance ratings or rankings that are included in sales communications for mutual funds. If a performance rating or ranking is referred to in a sales communication, it must be provided for, or “match”, each period for which standard performance data is required to be given for the fund, except for the period since the inception of the fund (i.e., for one, three, five and ten year periods, as applicable).
27. While FundGrade Ratings are based on calculations for a minimum of two years through to a maximum of ten years, and the FundGrade A+ Awards are based on a yearly average of monthly FundGrade Ratings, specific ratings for the three, five and ten year periods within the two to ten year measurement period are not given. This means that a sales communication referencing FundGrade Ratings cannot comply with the “matching” requirement contained in paragraph 15.3(4)(c) of NI 81-102. Relief from paragraph 15.3(4)(c) of NI 81-102 is, therefore, required in order for a Fund to use FundGrade Ratings in sales communications.
28. The exemption in subsection 15.3(4.1) of NI 81-102 for references to overall ratings or rankings of funds cannot be relied upon to reference the FundGrade A+ Awards in sales communications for the Funds because it is available only if a sales communication “otherwise complies” with the requirements of subsection 15.3(4). As noted above, sales communications referencing the FundGrade A+ Awards cannot comply with the “matching” requirement in subsection 15.3(4) because the underlying FundGrade Ratings are not available for the three, five and ten year periods within the two to ten year measurement period for the FundGrade Ratings, rendering the exemption in subsection 15.3(4.1) unavailable. Relief from paragraph 15.3(4)(c) is, therefore, required in order for the Funds to reference the FundGrade A+ Awards and the FundGrade Ratings in sales communications.
29. Paragraph 15.3(4)(f) of NI 81-102 imposes certain restrictions on disclosure in sales communications. This paragraph provides that in order for a rating or ranking such as a FundGrade A+ Award to be used in an advertisement, the advertisement must be published within 45 days of the calendar month end to which the rating or ranking applies. Further, in order for the rating or ranking to be used in any other sales communication, the rating or ranking must be published within three months of the calendar month end to which the rating or ranking applies.
30. Because the evaluation of Funds for the FundGrade A+ Awards will be based on data aggregated until the end of December in any given year and the results will be published in January of the following year, by the time a Fund receives a FundGrade A+ Award in January, paragraph 15.3(4)(f) of NI 81-102 will only allow the FundGrade A+ Award to be used in an advertisement until the middle of February and in other sales communications until the end of March. Relief from paragraph 15.3(4)(f) is required in order for the FundGrade A+ Awards to be referenced in sales communications relating to the Funds outside the above periods.

Lipper Leader Ratings and Lipper Awards

31. The Lipper Leader Ratings are performance ratings or rankings under NI 81-102 and Lipper Awards may be considered to be performance ratings or rankings under NI 81-102 given that the awards are based on the Lipper Leader Ratings as described above. Therefore, references to Lipper Leader Ratings and Lipper Awards in sales communications relating to the Funds need to meet the applicable requirements in Part 15 of NI 81-102.
32. In Canada and elsewhere, Lipper Leader Ratings are calculated only for 36, 60 and 120 month periods and are not calculated for a one year period. This means that a sales communication referencing a Lipper Leader Rating cannot comply with the “matching” requirement contained in paragraph 15.3(4)(c) of NI 81-102 because a rating is not available for the one year period. Relief from paragraph 15.3(4)(c) of NI 81-102 is therefore required in order for Funds to reference Lipper Leader Ratings in sales communications.
33. In addition, a sales communication referencing the overall Lipper Leader Ratings and the Lipper Awards, which are based on the Lipper Leader Ratings, must disclose the corresponding Lipper Leader Rating for each period for which standard performance data is required to be given. As noted above, because a rating for the one year period is not available for the Lipper Leader Ratings, sales communications referencing the overall Lipper Leader Ratings or Lipper Awards also cannot comply with the matching requirement contained in paragraph 15.3(4)(c) of NI 81-102.

34. The exemption in subsection 15.3(4.1) of NI 81-102 for references to overall ratings or rankings of funds cannot be relied upon to reference the overall Lipper Leader Ratings or Lipper Awards in sales communications for the Funds because subsection 15.3(4.1) of NI 81-102 is available only if a sales communication otherwise complies with the requirements of subsection 15.3(4) of NI 81-102. As noted above, sales communications referencing the overall Lipper Leader Ratings or Lipper Awards cannot comply with the "matching" requirement in subsection 15.3(4) of NI 81-102 because the underlying Lipper Leader Ratings are not available for the one year period, rendering the exemption in subsection 15.3(4.1) of NI 81-102 unavailable. Relief from paragraph 15.3(4)(c) of NI 81-102 is therefore required in order for the Funds to reference overall Lipper Leader Ratings and the Lipper Awards in sales communications.
35. Paragraph 15.3(4)(f) of NI 81-102 imposes certain restrictions on disclosure in sales communications. The paragraph provides that in order for a rating or ranking such as a Lipper Award to be used in an advertisement, the advertisement must be published within 45 days of the calendar month end to which the rating or ranking applies. Further, in order for the rating or ranking to be used in any other sales communication, the rating or ranking must be published within three months of the calendar month end to which the rating or ranking applies.
36. Because the evaluation of funds for the Lipper Awards will be based on data aggregated until the end of July in any given year and the results will be published in November of that year, by the time a fund receives an award in November, paragraph 15.3(4)(f) of NI 81-102 will prohibit it from publishing news of the award altogether.
37. The Exemption Sought is required in order for the FundGrade Ratings, FundGrade A+ Awards, Lipper Leader Ratings and Lipper Awards to be referenced in sales communications relating to the Funds.

General***The Exemption Sought will provide investors with helpful information***

38. The Filer submits that the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards, and Lipper Leader Ratings provide important tools for investors, as they provide them with context when evaluating investment choices.
39. The FundGrade A+ Awards, FundGrade Ratings, Lipper Awards, and Lipper Leader Ratings provide an objective, transparent and quantitative measure of performance that is based on the expertise of Fundata or Lipper, as applicable, in fund analysis and alleviates any concern that references to them may be misleading and therefore, contrary to paragraph 15.2(1)(a) of NI 81-102.

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 to permit the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards and Lipper Leader Ratings to be referenced in sales communications relating to a Fund provided that:

1. The sales communication that refers to the FundGrade A+ Awards, FundGrade Ratings, Lipper Awards or Lipper Leader Ratings complies with Part 15 of NI 81-102 other than as set out herein and contains the following disclosure in at least 10 point type:
 - a. the name of the category for which the Fund has received the award or rating;
 - b. the number of mutual funds in the category for the applicable period;
 - c. the name of the ranking entity, i.e., Fundata or Lipper;
 - d. the length of period and the ending date, or, the first day of the period and the ending date on which the FundGrade A+ Award, FundGrade Rating, Lipper Award or Lipper Leader Rating is based;
 - e. a statement that FundGrade Ratings or Lipper Leader Ratings are subject to change every month;
 - f. in the case of a FundGrade A+ Award or Lipper Award, a brief overview of the FundGrade A+ Award or Lipper Award, as applicable;
 - g. in the case of a FundGrade Rating (other than FundGrade Ratings referenced in connection with a FundGrade A+ Award) or a Lipper Leader Rating (other than Lipper Leader Ratings referenced in connection with a Lipper Award), a brief overview of the FundGrade Rating or Lipper Leader Rating, as applicable;

B.3: Reasons and Decisions

- h. where Lipper Awards are referenced, the corresponding Lipper Leader Rating that the Lipper Award is derived from is presented for each period for which standard performance data is required other than the one year and since inception periods;
 - i. where a Lipper Leader Rating is referenced, the Lipper Leader Ratings are presented for each period for which standard performance data is required other than the one year and since inception periods;
 - j. disclosure of the meaning of the FundGrade Ratings from A to E (e.g., rating of A indicates a fund is in the top 10% of its category) or Lipper Leader Ratings from 1 to 5 (e.g., rating of 5 indicates a fund is in the top 20% of its category), as applicable; and
 - k. reference to Fundata's website (www.fundata.com) for greater detail on the FundGrade A+ Awards and the FundGrade Ratings or reference to Lipper's website for greater detail on the Lipper Awards and Lipper Leader Ratings, which includes the rating methodology prepared by Fundata or Lipper, as applicable;
2. The FundGrade A+ Awards and Lipper Awards being referenced must not have been awarded more than 365 days before the date of the sales communication; and
3. The FundGrade A+ Awards, FundGrade Ratings, Lipper Awards, and Lipper Leader Ratings being referenced are calculated based on comparisons of performance of mutual funds within a specified category established by the CIFSC (or a successor to the CIFSC).

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

Application File #: 2022/0137
SEDAR File #: 3372955

B.3.3 Desjardins Investments Inc. et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from subsection 2.1(1) of National Instrument 81-102 Investment Funds to permit funds to invest more than 10% of net assets in debt securities issued by, or guaranteed fully as to principal and interest, by foreign governments or permitted supranational agencies – subject to conditions.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.1(1) and 19.1.

April 28, 2022

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
QUÉBEC AND
ONTARIO
(the “Jurisdictions”)**

AND

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

AND

**IN THE MATTER OF
DESJARDINS INVESTMENTS INC.
(the “Filer”)**

AND

**THE DESJARDINS SOCIETERRA EMERGING MARKETS BOND FUND
(the “SocieTerra Fund”)**

AND

**SUCH OTHER INVESTMENT FUNDS MANAGED BY
THE FILER OR AN AFFILIATE OF THE FILER THAT
ARE SUBJECT TO *REGULATION 81-102 RESPECTING INVESTMENT FUNDS*
(the “Future Funds”, and together with the SocieTerra Fund, the “Funds”, each a “Fund”)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (“**Decision Makers**”) has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdictions (the “**Legislation**”) for an exemption under section 19.1 of *Regulation 81-102 respecting Investment Funds* (c. V-1.1, r. 39) (“**Regulation 81-102**”) from the concentration restriction in subsection 2.1(1) of Regulation 81-102 (the “**Concentration Restriction**”) in order to permit each Fund to invest up to:

- (a) 20 % of its net asset value, immediately after the transaction, in evidences of indebtedness of any one issuer if those evidences of indebtedness are (i) issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction of Canada or the government of the United States of America and (ii) rated “AA” by S&P Global Ratings Canada (“**S&P**”) or its DRO affiliate, or have an equivalent rating by one or more other designated rating organizations; and
- (b) 35 % of its net asset value, immediately after the transaction, in evidences of indebtedness of any one issuer, if those evidences of indebtedness are (i) issued by issuers described in paragraph (a) above and (ii) rated “AAA” by S&P or its DRO affiliate, or have an equivalent rating by one or more other designated rating organizations.

(such evidences of indebtedness are collectively referred to as “**Foreign Government Securities**”), (collectively, the “**Requested Relief**”).

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

- (a) the Autorité des marchés financiers is the principal regulator for this application,
- (b) the Filer has provided notice that section 4.7(1) of *Regulation 11-102 respecting passport System* (c. V-1.1, r. 1) (“**Regulation 11-102**”) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Nunavut and Northwest Territories (collectively with the Jurisdictions, the “**Jurisdictions of Canada**”), and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions* (c. V-1.1, r. 3), *Regulation 25-101 respecting Designated Rating Organizations* (c. V-1.1, r. 8.1), *Regulation 11-102* and *Regulation 81-102* 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:

The Filer

1. The Filer is a corporation incorporated under the *Business Corporation Act* (Québec) (RSQ, c. S-31.1).
2. The Filer’s head office is located at 1 Complexe Desjardins, C.P. 7, South Tower, 25th Floor, Montréal, Québec, Canada, H5B 1B2.
3. The Filer is duly registered as an investment fund manager in Québec, Ontario and Newfoundland and Labrador.
4. The Filer, or an affiliate of the Filer, will be the investment fund manager of the Funds.
5. The Filer is not in default of securities legislation in any of the Jurisdictions of Canada.

The SocieTerra Fund

6. The SocieTerra Fund will be an open-ended investment fund trust to be established under the laws of Québec pursuant to an amended and restated declaration of trust dated February 25, 2022, as amended (the “**DoT**”). Desjardins Trust Inc. will act as trustee of the SocieTerra Fund.
7. The SocieTerra Fund filed a preliminary prospectus dated March 8, 2022 governed by *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure* (c. V-1.1, r. 38) (“**Regulation 81-101**”) in each of the Jurisdictions of Canada in order to proceed with an initial public offering. It is expected that the SocieTerra Fund will become a reporting issuer subject to both *Regulation 81-102* and *Regulation 81-107 respecting Independent Review Committee for Investment Funds* (c. V-1.1, r. 43), among others, in all Jurisdictions of Canada upon the issuance of a receipt for its final simplified prospectus (the “**Simplified Prospectus**”).
8. Desjardins Global Asset Management Inc. (“**DGAM**”) will act as portfolio manager to the SocieTerra Fund and will also be responsible for retaining portfolio sub-managers for the SocieTerra Fund.
9. DGAM is registered in the category of portfolio manager and exempt market dealer in all the Jurisdictions of Canada. DGAM is also registered in the category of investment fund manager in Québec, Alberta, Manitoba, Ontario, Nova Scotia and Newfoundland and Labrador. In addition, DGAM is registered as an adviser in Manitoba pursuant to the *Commodity Futures Act* (Manitoba) (C.C.S.M. c. C-152) (“**CFAM**”), commodity trading manager in Ontario pursuant to the *Commodity Futures Act* (Ontario) (RSO, 1990, c. C.20) (“**CFAO**”) and as derivatives portfolio manager in Québec pursuant to the *Derivatives Act* (Québec) (RSQ, c.1-14.01).
10. PIMCO Canada Corp. (the “**Sub-manager**”) will act as portfolio sub-manager to the SocieTerra Fund. The Sub-manager is registered as portfolio manager and exempt market dealer in the provinces of Québec, Alberta, British-Columbia, Prince Edward Island, Manitoba, New Brunswick, Nova Scotia, Ontario, Saskatchewan and Newfoundland and Labrador. In addition, the Sub-manager is registered as investment fund manager in the provinces of Québec, Newfoundland and

B.3: Reasons and Decisions

Labrador, Ontario. The Sub-manager is also registered in Ontario as commodity trading manager pursuant to the CFAO and as adviser in Manitoba pursuant to the CFAM.

11. The SocieTerra Fund, DGAM and the Sub-manager are not in default of securities legislation in any of the Jurisdictions of Canada.

Investment Objective of the SocieTerra Fund

12. The investment objective of the SocieTerra Fund will be to provide a high income return and some long-term capital appreciation by investing primarily in fixed-income securities from issuers in, or economically tied to, emerging or developing countries. The SocieTerra Fund follows the responsible approach to investing described in the section on “responsible investing” (“RI”) in the first part of the Simplified Prospectus.
13. The SocieTerra Fund will invest primarily in government bonds in emerging markets denominated in U.S. dollars or local currencies. The SocieTerra Fund may also invest in emerging markets corporate bonds. The SocieTerra Fund may invest up to 100 % of its assets in emerging markets securities.

The Future Funds

14. The Future Funds will be open-ended investment funds to be established under the laws of Québec or Canada pursuant to the DoT or to any other constating agreements. Desjardins Trust Inc. will act as trustee for the Future Funds established as trusts.
15. Each Future Fund will prepare and file a prospectus (collectively with the Simplified Prospectus, the “**Funds’ Prospectus**”) under Regulation 81-101 or Regulation 41-101 *General Prospectus Requirements* (c. V-1.1, r. 14) to distribute their securities in one or more of the Jurisdictions of Canada and will be a reporting issuer subject to Regulation 81-102.
16. The Future Funds will have investment objectives and strategies that permit them to invest a majority of their net assets in fixed income securities, including Foreign Government Securities.

Necessity of Requested Relief

17. The Concentration Restriction prohibits the Funds from purchasing a security of an issuer other than a “government security”, as defined in Regulation 81-102, if immediately after the purchase, more than 10 % of the net asset value of a Fund, taken at market value at the time of the purchase, would be invested in securities of any issuer.
18. Foreign Government Securities are not within the meaning of “government security” as defined in Regulation 81-102.
19. The Filer believes that the ability to purchase Foreign Government Securities beyond the limit in the Concentration Restriction in Regulation 81-102 will better enable each Fund to achieve its fundamental investment objectives, thereby benefitting each Fund’s investors.
20. Each Fund will only purchase Foreign Government Securities if the purchase is consistent with that Fund’s fundamental investment objective.
21. The Funds’ Prospectus will disclose the risks associated with concentration of net assets of the Funds in securities of a limited number of issuers.
22. The Filer believes that the Requested Relief is not contrary to the public interest, is in the best interest of the Funds and represents the business judgement of responsible persons uninfluenced by considerations other than the best interests of the Funds.

Decision

Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Makers to make the decision.

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

- (a) the Funds have investment objectives and strategies that permit them to invest a majority of their net assets in fixed income securities, including Foreign Government Securities;
- (b) paragraphs (a) and (b) of the Requested Relief cannot be combined for any one issuer;
- (c) the securities that are purchased pursuant to the Requested Relief are traded on a mature and liquid market;

B.3: Reasons and Decisions

- (d) the acquisition of the evidences of indebtedness pursuant to the Requested Relief is consistent with the fundamental investment objective of the Funds;
- (e) the Funds' Prospectus will disclose any additional risks associated with the concentration of net assets of the Funds in securities of fewer issuers, such as the potential additional exposure to the risk of default of the issuer in which the Funds have so invested and the risks, including foreign exchange risks, of investing in the country in which that issuer is located; and
- (f) the Funds' Prospectus will disclose, in the investment strategies section, the details of the exemption granted along with the conditions imposed and the type of securities covered by the Requested Relief.

"Frédéric Belleau"
Senior Director, Investment Funds

Application File #: 2022/0120
SEDAR File #: 3349158

B.3.4 Merrill Lynch Canada Inc.

Headnote

Pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the prohibition on the use of corporate officer titles by certain registered individuals in respect of institutional clients – Relief does not extend to interactions by registered individuals with retail clients.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7(1).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.18(2)(b) and 15.1(2).

April 28, 2022

**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
MERRILL LYNCH CANADA INC.
(the 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**) that pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**), the Filer and its Registered Individuals (as defined below) are exempt from the prohibition in paragraph 13.18(2)(b) of NI 31-103 that a registered individual may not use a corporate officer title when interacting with clients, unless the individual has been appointed to that corporate office by their sponsoring firm pursuant to applicable corporate law, in respect of Clients (as defined below) (the **Exemption Sought**).

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 by the Filer and its Registered Individuals (as defined below) in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, Northwest Territories and Yukon (together with the Jurisdiction, the **Jurisdictions**) in respect of the Exemption Sought.

Interpretation

Terms defined in MI 11-102 and National Instrument 14-101 *Definitions* 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 existing under the federal laws of Canada. The head office of the Filer is located in Toronto, Ontario.
2. The Filer is registered as an investment dealer in each Jurisdiction. The Filer is also registered as a dealer (futures commission merchant) in Manitoba and Ontario and as a derivatives dealer in Québec.
3. The Filer is a member of the Investment Industry Regulatory Association of Canada (**IIROC**) and the TSX Venture Exchange, is an approved participant of the Montréal Exchange and is a participating organization of the Toronto Stock Exchange.
4. Other than with respect to the subject of this decision, the Filer is not in default of securities or commodity futures legislation in any of the Jurisdictions.
5. The Filer is a wholly-owned, indirect subsidiary of Bank of America Corporation, a global financial institution providing a diversified range of financial services and products through its various subsidiaries in 35 countries around the world (the **Bank of America Group**).
6. The Filer is part of the Global Corporate & Investment Banking (GCIB) and Global Markets (GM) lines of business of Bank of America Group.
 - (a) GCIB provides traditional banking products and investment advisory and capital markets access to large U.S. and multinational corporations outside the U.S. with annual revenues in excess of \$2 billion.
 - (b) GM offers sales and trading services, including research, to institutional clients. GM product coverage includes securities and derivative products in both the primary and secondary markets. GM also

provides financing, securities clearing, settlement and custody services and risk management products to institutional clients.

7. Each of the above noted lines of business operate through the Filer in Canada and through Bank of America's various other subsidiaries worldwide.
8. The Filer does not have any retail clients. All of its clients are institutional.
9. The Filer is the sponsoring firm for registered individuals that interact with clients and use a corporate officer title without being appointed to the corporate office of the Filer pursuant to applicable corporate law (the **Registered Individuals**).
10. The number of Registered Individuals may increase or decrease from time to time as the business of the Filer changes. As of the date of this decision, the Filer has approximately 25 Registered Individuals. The Registered Individuals work within the GCIB and GM lines of business of the Filer.
11. The current titles used by the Registered Individuals include the words "Managing Director", "Director" and "Vice-President", and the Registered Individuals may use additional corporate officer titles in the future (collectively, the **Titles**). The Titles used by the Registered Individuals are consistent with the titles used at the Bank of America Group affiliates.
12. The Filer has a process in place for awarding the Titles, which sets out the criteria for each of the Titles. The Titles are based on criteria including seniority and experience, and a Registered Individual's sales activity or revenue generation is not a primary factor in the decision by the Filer to award one of the Titles.
13. The Registered Individuals interact only with institutional clients that are, each, a non-individual "institutional client" as defined in IIROC Rule 1201 (the **Clients**).
14. Section 13.18 of NI 31-103 prohibits registered individuals in their client-facing relationships from, among other things, using titles or designations that could reasonably be expected to deceive or mislead existing and prospective clients. Paragraph 13.18(2)(b) of NI 31-103 specifically prohibits the use of corporate officer titles by registered individuals who interact with clients unless the individuals have been appointed to those corporate offices by their sponsoring firms pursuant to applicable corporate law.
15. There would be significant operational and human resources challenges for the Filer to comply with the prohibition in paragraph 13.18(2)(b). In addition, the Titles are widely used and recognized throughout the institutional segment of the financial services industry within Canada and globally, and

being unable to use the Titles has the potential to put the Filer and its Registered Individuals at a competitive disadvantage as compared to non-Canadian firms that are not subject to the prohibition and who compete for the same institutional clients.

16. Given their nature and sophistication, the use of the Titles by the Registered Individuals would not be expected to deceive or mislead existing and prospective Clients.
17. For the reasons provided above, it would not be prejudicial to the public interest to grant the Exemption Sought.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, provided that, when using the Titles, the Filer and its Registered Individuals interact only with existing and prospective clients that are exclusively non-individual "institutional clients" as defined in IIROC Rule 1201.

This decision will terminate six months, or such other transition period as may be provided by law, after the coming into force of any amendment to NI 31-103 or other applicable securities law that affects the ability of the Registered Individuals to use the Titles in the circumstances described in this decision.

"Debra Foubert"
Director, Compliance and Registrant Regulation
Ontario Securities Commission

OSC File #: 2022/0147

B.3.5 Kinross Gold Corporation

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Revocation of exemptive relief from insider reporting requirements with respect to the sale of common shares of an issuer by certain insiders of the issuer under an automatic securities disposition plan – Automatic securities disposition plans (ASDPs).

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 107(2) and 144.

National Instrument 55-104 Insider Reporting Requirements and Exemptions, s. 3.3.

April 25, 2022

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA,
ALBERTA,
SASKATCHEWAN,
MANITOBA,
ONTARIO,
QUÉBEC,
NEW BRUNSWICK,
NOVA SCOTIA AND
NEWFOUNDLAND AND LABRADOR
(the Jurisdictions)

AND

IN THE MATTER OF
THE REVOCATION OF EXEMPTIVE RELIEF GRANTED
IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
KINROSS GOLD CORPORATION
(the Issuer)

DECISION

Interpretation

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

Background

1. On September 14, 2009, the local securities regulator or regulatory authority in each of the Jurisdictions (the **Decision Makers**) granted exemptive relief, subject to certain conditions, from insider reporting requirements contained in the securities legislation of the Jurisdictions (the **Legislation**) with respect to the sale of common shares of the Issuer by certain insiders of the Issuer

under an automatic securities disposition plan (the **Relief**).

2. On December 10, 2020, Canadian Securities Administrators (**CSA**) members published CSA Staff Notice 55-317 *Automatic Securities Disposition Plans (CSA SN 55-317)* that provides guidance on the use of Automatic Securities Disposition Plans (**ASDPs**). The processes outlined in the guidance were intended to be consistent with good corporate governance and transparency in connection with the establishment and use of ASDPs and the reporting of trades under the plans. The news release announcing the publication of CSA SN 55-317 states that, in the interest of promoting transparency of trading by insiders, staff of the CSA are unlikely to recommend insider reporting relief for trades under ASDPs.
3. The Jurisdictions have determined that the Relief is inconsistent with the principles articulated in CSA SN 55-317 and that the Relief should be revoked.
4. The Decision Makers are satisfied, having considered the potential impact of ASDPs on public confidence in the fairness of our capital markets, that it is appropriate to revoke the Relief.

Decision

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

- (a) the Ontario Securities Commission is the principal regulator for the Relief; and
- (b) this decision is the decision of the principal regulator and evidences the decision of each other Decision Maker.

Each of the Decision Makers, considering that to do so would not be prejudicial to the public interest, is satisfied that the decision meets the test set out in the Legislation for the Decision Makers to make the decision.

The decision of the Decision Makers under the Legislation is to revoke the Relief.

“Tim Moseley”
Vice-Chair
Ontario Securities Commission

“Frances Kordyback”
Commissioner
Ontario Securities Commission

OSC File #: 2022/0183

B.4 Cease Trading Orders

B.4.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
Green Environmental Technologies Inc.	November 8, 2005	November 18, 2005	November 18, 2005	May 2, 2022

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
THERE IS NOTHING TO REPORT THIS WEEK.		

B.4.2 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order	Date of Lapse
THERE IS NOTHING TO REPORT THIS WEEK.		

B.4.3 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	
Gatos Silver, Inc.	April 1, 2022	
NextPoint Financial Inc.	April 1, 2022	
Gatos Silver, Inc.	April 12, 2022	

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B.7 Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as in Thomson Reuters Canada's internet service SecuritiesSource (see www.westlawnextcanada.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).

B.9

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:

Fidelity American Disciplined Equity Class
 Fidelity American Disciplined Equity Currency Neutral Class
 Fidelity American Equity Class
 Fidelity American Equity Currency Neutral Class
 Fidelity AsiaStar Class
 Fidelity Asset Allocation Currency Neutral Private Pool
 Fidelity Asset Allocation Private Pool
 Fidelity Balanced Class Portfolio
 Fidelity Balanced Currency Neutral Private Pool
 Fidelity Balanced Income Currency Neutral Private Pool
 Fidelity Balanced Income Private Pool
 Fidelity Balanced Private Pool
 Fidelity Canadian Asset Allocation Class
 Fidelity Canadian Balanced Class
 Fidelity Canadian Disciplined Equity Class
 Fidelity Canadian Equity Private Pool
 Fidelity Canadian Growth Company Class
 Fidelity Canadian Large Cap Class
 Fidelity Canadian Opportunities Class
 Fidelity Canadian Short Term Income Class
 Fidelity CanAM Opportunities Class (formerly, Fidelity Active Equity Class)
 Fidelity CanAM Opportunities Currency Neutral Class (formerly, Fidelity Active Equity Currency Neutral Class)
 Fidelity China Class
 Fidelity Concentrated Canadian Equity Private Pool
 Fidelity Concentrated Value Private Pool
 Fidelity Corporate Bond Class
 Fidelity Disruptive Automation Class
 Fidelity Disruptors Class
 Fidelity Dividend Class
 Fidelity Dividend Plus Class
 Fidelity Emerging Markets Class
 Fidelity Europe Class
 Fidelity Far East Class
 Fidelity Founders Class
 Fidelity Founders Currency Neutral Class
 Fidelity Global Balanced Class Portfolio
 Fidelity Global Class
 Fidelity Global Concentrated Equity Class
 Fidelity Global Consumer Industries Class
 Fidelity Global Disciplined Equity Class
 Fidelity Global Disciplined Equity Currency Neutral Class
 Fidelity Global Dividend Class
 Fidelity Global Equity Currency Neutral Private Pool
 Fidelity Global Equity Private Pool
 Fidelity Global Financial Services Class
 Fidelity Global Growth and Value Class (formerly, Fidelity Core Global Equity Class)

Fidelity Global Growth and Value Currency Neutral Class (formerly, Fidelity Core Global Equity Currency Neutral Class)
 Fidelity Global Growth Class Portfolio
 Fidelity Global Health Care Class
 Fidelity Global Income Class Portfolio
 Fidelity Global Innovators Class
 Fidelity Global Innovators Currency Neutral Class
 Fidelity Global Intrinsic Value Class
 Fidelity Global Intrinsic Value Currency Neutral Class
 Fidelity Global Large Cap Class
 Fidelity Global Large Cap Currency Neutral Class
 Fidelity Global Natural Resources Class
 Fidelity Global Real Estate Class
 Fidelity Greater Canada Class
 Fidelity Growth Class Portfolio
 Fidelity Income Class Portfolio
 Fidelity Insights Class
 Fidelity Insights Currency Neutral Class
 Fidelity International Disciplined Equity Class
 Fidelity International Disciplined Equity Currency Neutral Class
 Fidelity International Equity Currency Neutral Private Pool
 Fidelity International Equity Private Pool
 Fidelity International Growth Class
 Fidelity Japan Class
 Fidelity Monthly Income Class
 Fidelity North American Equity Class
 Fidelity NorthStar Class
 Fidelity NorthStar Currency Neutral Class
 Fidelity Premium Fixed Income Private Pool Class
 Fidelity Small Cap America Class
 Fidelity Small Cap America Currency Neutral Class
 Fidelity Special Situations Class
 Fidelity Technology Innovators Class (formerly, Fidelity Global Technology Class)
 Fidelity True North Class
 Fidelity U.S. All Cap Class
 Fidelity U.S. All Cap Currency Neutral Class
 Fidelity U.S. Equity Currency Neutral Private Pool
 Fidelity U.S. Equity Private Pool
 Fidelity U.S. Focused Stock Class (formerly Fidelity Growth America Class)
 Fidelity U.S. Focused Stock Currency Neutral Class
 Fidelity U.S. Growth Opportunities Class
 Fidelity U.S. Growth Opportunities Systematic Currency Hedged Class
 Principal Regulator – Ontario

Type and Date:
 Final Simplified Prospectus dated Apr 25, 2022
 NP 11-202 Final Receipt dated Apr 28, 2022

Offering Price and Description:
 -

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3352029

Issuer Name:

Evolve Active Core Fixed Income Fund
Evolve Cloud Computing Index Fund
Evolve E-Gaming Index ETF
Evolve FANGMA Index ETF
Evolve Global Materials & Mining Enhanced Yield Index
ETF
Evolve Innovation Index Fund
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Apr 26, 2022
NP 11-202 Final Receipt dated Apr 27, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3355991

Issuer Name:

Vision Alternative Income Fund
Vision Market Neutral Alternative Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Apr 25, 2022
NP 11-202 Final Receipt dated Apr 26, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3354150

Issuer Name:

Veritas Absolute Return Fund
Veritas Canadian Equity Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Apr 29, 2022
NP 11-202 Final Receipt dated Apr 29, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3360119

Issuer Name:

Wealthsimple Developed Markets ex North America
Socially Responsible Index ETF
Wealthsimple North America Socially Responsible Index
ETF

Wealthsimple North American Green Bond Index ETF
(CAD-Hedged)

Wealthsimple Shariah World Equity Index ETF

Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Apr 27, 2022

NP 11-202 Final Receipt dated May 2, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3347892

Issuer Name:

GC One Equity Portfolio
GC One Fixed Income Portfolio
Guardian Canadian Bond Fund
Guardian Canadian Equity Fund
Guardian Canadian Equity Income Fund (formerly,
Guardian Equity Income Fund)
Guardian Canadian Equity Select Fund
Guardian Canadian Focused Equity Fund
Guardian Canadian Growth Equity Fund
Guardian Canadian Short-Term Investment Fund
Guardian Directed Equity Path Portfolio (formerly, Guardian
SteadyPace Equity Fund)

Guardian Directed Premium Yield Portfolio (formerly,
Guardian SteadyFlow Equity Fund)

Guardian Emerging Markets Equity Fund

Guardian Fixed Income Select Fund

Guardian Fundamental Global Equity Fund

Guardian i3 Global Dividend Growth Fund (formerly,

Guardian Global Dividend Growth Fund)

Guardian i3 Global Quality Growth Fund (formerly,
Guardian Global Equity Fund)

Guardian i3 International Quality Growth Fund (formerly,
Guardian International Equity Fund)

Guardian International Equity Select Fund

Guardian Investment Grade Corporate Bond Fund

Guardian Managed Balanced Portfolio (formerly, Guardian
Balanced Fund)

Guardian Managed Growth Portfolio

Guardian Managed Income & Growth Portfolio

Guardian Managed Income Portfolio

Guardian Risk Managed Conservative Portfolio

Guardian Short Duration Bond Fund

Guardian Strategic Income Fund

Guardian U.S. Equity All Cap Growth Fund

Guardian U.S. Equity Fund

Guardian U.S. Equity Select Fund

Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Simplified
Prospectus dated Apr 28, 2022

NP 11-202 Final Receipt dated Apr 29, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3355454

Issuer Name:

Horizons Psychedelic Stock Index ETF
Horizons US Marijuana Index ETF
Principal Regulator – Ontario

Type and Date:

Final Long Form Prospectus dated Apr 26, 2022
NP 11-202 Final Receipt dated Apr 29, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3353687

Issuer Name:

AGF American Growth Class
AGF American Growth Fund
AGF Canadian Growth Equity Class
AGF Canadian Money Market Fund
AGF Canadian Small Cap Fund
AGF China Focus Class
AGF Elements Balanced Portfolio
AGF Elements Balanced Portfolio Class
AGF Elements Conservative Portfolio
AGF Elements Conservative Portfolio Class
AGF Elements Global Portfolio
AGF Elements Global Portfolio Class
AGF Elements Growth Portfolio
AGF Elements Growth Portfolio Class
AGF Elements Yield Portfolio
AGF Elements Yield Portfolio Class
AGF Emerging Markets Bond Fund
AGF Emerging Markets Class
AGF Emerging Markets Fund
AGF Equity Income Fund
AGF European Equity Class
AGF European Equity Fund
AGF Fixed Income Plus Class
AGF Fixed Income Plus Fund
AGF Floating Rate Income Fund
AGF Global Convertible Bond Fund
AGF Global Corporate Bond Fund (formerly, AGF High Yield Bond Fund)
AGF Global Dividend Class
AGF Global Dividend Fund
AGF Global Equity Class
AGF Global Equity Fund
AGF Global Growth Balanced Fund (formerly, AGF Global Strategic Balanced Fund)
AGF Global Real Assets Class
AGF Global Real Assets Fund
AGF Global Select Fund
AGF Global Sustainable Balanced Class (formerly, AGF Diversified Income Class)
AGF Global Sustainable Balanced Fund (formerly, AGF Diversified Income Fund)
AGF Global Sustainable Growth Equity Fund
AGF Short-Term Income Class
AGF Strategic Income Fund
AGF Total Return Bond Class
AGF Total Return Bond Fund
AGF U.S. Small-Mid Cap Fund
AGFiQ Canadian Dividend Income Fund (formerly, AGFiQ Dividend Income Fund)
AGFiQ Global Balanced ETF Portfolio Fund
AGFiQ Global Income ETF Portfolio Fund
AGFiQ North American Dividend Income Class (formerly, AGF Canadian Large Cap Dividend Class)
AGFiQ North American Dividend Income Fund (formerly, AGF Canadian Large Cap Dividend Fund)
AGFiQ U.S. Sector Class
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Apr 27, 2022
NP 11-202 Final Receipt dated Apr 28, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3349474

Issuer Name:

Pembroke American Growth Fund Inc. (formerly THE GBC American Growth Fund Inc.)

Pembroke Canadian All Cap Pooled Fund (formerly The Pembroke Canadian Large Cap Fund)

Pembroke Canadian Balanced Fund (formerly Pembroke Growth and Income Fund)

Pembroke Canadian BOND FUND (formerly THE GBC Canadian Bond Fund)

Pembroke Canadian Growth Fund D (formerly THE GBC Canadian Growth Fund)

Pembroke Concentrated Fund

Pembroke Corporate Bond Fund (formerly THE GBC Corporate Bond Fund)

Pembroke Global Balanced Fund (formerly THE GBC Global Balanced Fund)

Pembroke International Growth Fund (formerly THE GBC International Growth Fund)

Pembroke Money Market Fund (formerly THE GBC Money Market Fund)

Principal Regulator – Quebec

Type and Date:

Combined Preliminary and Pro Forma Simplified

Prospectus dated Apr 29, 2022

NP 11-202 Final Receipt dated May 2, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3346993

Issuer Name:

GQG Partners U.S. Quality Equity Fund

Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Simplified

Prospectus dated Apr 26, 2022

NP 11-202 Preliminary Receipt dated Apr 27, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3372521

Issuer Name:

Yorkville Dividend Income Class
Yorkville Focused Growth Class
Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Simplified
Prospectus dated Apr 27, 2022
NP 11-202 Preliminary Receipt dated Apr 28, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3373128

Issuer Name:

CC&L Core Income and Growth Fund
CC&L Equity Income and Growth Fund
CC&L Global Alpha Fund
CC&L High Yield Bond Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Apr 29, 2022
NP 11-202 Final Receipt dated May 2, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3354168

Issuer Name:

Horizons Cash Maximizer ETF
Principal Regulator - Ontario

Type and Date:

Amendment #4 to Final Long Form Prospectus dated April
20, 2022
NP 11-202 Final Receipt dated Apr 27, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3267081

Issuer Name:

Horizons Global BBIG Technology ETF
Horizons High Interest Savings ETF
Principal Regulator - Ontario

Type and Date:

Amendment #3 to Final Long Form Prospectus dated April
20, 2022
NP 11-202 Final Receipt dated Apr 27, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3186503

Issuer Name:

High Interest Savings Account Fund
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Long Form Prospectus dated April
26, 2022
NP 11-202 Final Receipt dated May 2, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3250573

Issuer Name:

Symphony Floating Rate Senior Loan Fund
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus (NI 44-102) dated April 27,
2022
NP 11-202 Preliminary Receipt dated April 28, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3373044

Issuer Name:

Sustainable Power & Infrastructure Split Corp.
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus (NI 44-102) dated April 28, 2022
NP 11-202 Receipt dated April 29, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3360091

NON-INVESTMENT FUNDS

Issuer Name:

A2Z Smart Technologies Corp.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated April 26, 2022
Preliminary Receipt dated April 27, 2022

Offering Price and Description:

CAD\$64,000,000.00 - Common Shares, Warrants, Options,
Subscription Receipts, Debt Securities, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3372216

Issuer Name:

Anaergia Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated April 27, 2022
Preliminary Receipt dated April 27, 2022

Offering Price and Description:

\$250,000,000.00 - Subordinate Voting Shares, Warrants,
Subscription Receipts, Debt Securities, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3372834

Issuer Name:

Bausch + Lomb Corporation
Principal Regulator - Ontario

Type and Date:

Amendment dated April 28, 2022 to Preliminary Long Form
Prospectus dated March 30, 2022
Preliminary Receipt dated April 28, 2022

Offering Price and Description:

US\$ 35,000,000.00 - Common Shares
Price: US\$ per Common Share

Underwriter(s) or Distributor(s):

MORGAN STANLEY CANADA LIMITED
GOLDMAN SACHS CANADA INC.
CITIGROUP GLOBAL MARKETS CANADA INC.
J.P. MORGAN SECURITIES CANADA INC.
BARCLAYS CAPITAL CANADA INC.
MERRILL LYNCH CANADA INC.
JEFFERIES SECURITIES, INC.
WELLS FARGO SECURITIES CANADA, LTD.
HSBC SECURITIES (CANADA) INC.

Promoter(s):

BAUSCH HEALTH COMPANIES INC.

Project #3326303

Issuer Name:

Brookfield Business Corporation
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated April 25, 2022
Preliminary Receipt dated April 26, 2022

Offering Price and Description:

US\$1,500,000,000

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3371561

Issuer Name:

Brookfield Business Partners L.P.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated April 25, 2022
Preliminary Receipt dated April 26, 2022

Offering Price and Description:

US\$1,500,000,000.00 - Class A Exchangeable Subordinate
Voting Shares of Brookfield Business Corporation Limited
Partnership Units of Brookfield Business Partners L.P.
(issuable or deliverable upon exchange, redemption or
acquisition of Class A Exchangeable Subordinate Voting
Shares)

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3371558

Issuer Name:

Coho Collective Kitchens Inc.
Principal Regulator - British Columbia

Type and Date:

Amendment dated April 29, 2022 to Preliminary Long Form
Prospectus dated March 30, 2022
Preliminary Receipt dated April 29, 2022

Offering Price and Description:

Minimum: \$5,000,001.00 - 16,666,670 Common Shares
Maximum: \$8,000,001 - 26,666,670 Common Shares
Price: \$0.30 Per Common Share

Underwriter(s) or Distributor(s):

CANACCORD GENUITY CORP.

Promoter(s):

-

Project #3360157

Issuer Name:

Discovery Silver Corp. (formerly, Discovery Metals Corp.)
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated April 27, 2022
Preliminary Receipt dated May 2, 2022

Offering Price and Description:

\$250,000,000.00 - Common Shares, Warrants,
Subscription, Receipts, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3373449

Issuer Name:

MegaWatt Lithium and Battery Metals Corp. (formerly,
Walcott Resources Ltd.)

Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated April 28, 2022
Preliminary Receipt dated April 29, 2022

Offering Price and Description:

\$20,000,000.00 - Common Shares, Warrants

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3357411

Issuer Name:

DRI Healthcare Trust
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated April 27, 2022
Preliminary Receipt dated April 27, 2022

Offering Price and Description:

\$500,000,000.00 – Units, Subscription Receipts, Debt,
Securities

Underwriter(s) or Distributor(s):

-

Promoter(s):

Behzad Khosrowshahi

Project #3372852

Issuer Name:

Summa Silver Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated April 27, 2022
Preliminary Receipt dated April 27, 2022

Offering Price and Description:

\$50,000,000.00 - Common Shares, Debt Securities,
Subscription Receipts, Warrants, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3372910

Issuer Name:

Filament Health Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated April 29, 2022
Preliminary Receipt dated April 29, 2022

Offering Price and Description:

\$25,000,000.00 - COMMON SHARES, DEBT
SECURITIES, SUBSCRIPTION RECEIPTS,
CONVERTIBLE SECURITIES, WARRANTS, UNITS

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3375077

Issuer Name:

Swarmio Media Holdings Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated April 28, 2022
Preliminary Receipt dated April 29, 2022

Offering Price and Description:

CAD\$30,000,000.00 - Common Shares, Debt Securities,
Warrants, Subscription Receipts, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

Vijai Karthigesu

Project #3373955

Issuer Name:

Halo Tek Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Long Form Prospectus dated April 28, 2022
Preliminary Receipt dated April 29, 2022

Offering Price and Description:

* Common Shares

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3374391

Issuer Name:

The Real Brokerage Inc. (formerly ADL Ventures Inc.)
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated April 26, 2022
Preliminary Receipt dated April 26, 2022

Offering Price and Description:

US\$200,000,000 Common Shares, Warrants, Units, Debt
Securities, Subscription Receipts

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3372138

Issuer Name:

Tokens.com Corp.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated April 29, 2022
Preliminary Receipt dated May 2, 2022

Offering Price and Description:

\$50,000,000.00 - Common Shares, Debt Securities,
Warrants, Subscription Receipts, Convertible Securities,
Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3375417

Issuer Name:

BSR Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated April 26, 2022
Receipt dated April 26, 2022

Offering Price and Description:

US\$100,096,000 - 5,120,000 Units
Price: US\$19.55

Underwriter(s) or Distributor(s):

BMO NESBITT BURNS INC.
RBC DOMINION SECURITIES INC.
CIBC WORLD MARKETS INC.
DESJARDINS SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.
ECHELON WEALTH PARTNERS INC.
RAYMOND JAMES LTD.
CANACCORD GENUITY CORP.
IA PRIVATE WEALTH INC.

Promoter(s):

-

Project #3367517

Issuer Name:

Dream Residential Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated April 29, 2022
Receipt dated April 29, 2022

Offering Price and Description:

US\$125,060,000.00 - 9,620,000 Units

Underwriter(s) or Distributor(s):

TD SECURITIES INC.
SCOTIA CAPITAL INC.
CIBC WORLD MARKETS INC.
RBC DOMINION SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
CANACCORD GENUITY CORP.
DESJARDINS SECURITIES INC.
CORMARK SECURITIES INC.
ECHELON WEALTH PARTNERS INC.
IA PRIVATE WEALTH INC.
LAURENTIAN BANK SECURITIES INC.
RAYMOND JAMES LTD

Promoter(s):

DREAM DRR ASSET MANAGEMENT LLC
PAULS REALTY SERVICES, LLC
Project #3364478

Issuer Name:

Element Nutritional Sciences Inc.
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated April 28, 2022
Receipt dated April 29, 2022

Offering Price and Description:

\$5,000,000.00 - 20,000,000 Common Shares

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3352000

Issuer Name:

Geologica Resource Corp
Principal Regulator - British Columbia

Type and Date:

Final Long Form Prospectus dated April 27, 2022
Receipt dated April 29, 2022

Offering Price and Description:

Minimum Offering of 6,500,000 Shares at \$0.10 per Share
for Gross Proceeds of \$650,000.00
Maximum Offering of 10,000,000 Shares at \$0.10 per
Share for Gross Proceeds of \$1,000,000.00

Underwriter(s) or Distributor(s):

Research Capital Corp

Promoter(s):

Douglas H. Unwin

Project #3353803

Issuer Name:

NG Energy International Corp.
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated April 28, 2022
Receipt dated April 28, 2022

Offering Price and Description:

Up to \$20,000,000.00 - 8.0% Unsecured Convertible
Debenture Units

PRICE: \$1,000 per Convertible Debenture Unit

Underwriter(s) or Distributor(s):

CANACCORD GENUITY CORP.
BEACON SECURITIES LIMITED

Promoter(s):

-

Project #3361257

Issuer Name:

Nighthawk Gold Corp.
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated April 27, 2022
Receipt dated April 27, 2022

Offering Price and Description:

\$29,362,765.00 - 10,000,000 Units, 9,085,142 FT
Units. 15,310,000 Premium FT Units

Price: \$0.70 per Unit \$0.81 per FT Unit \$0.98 per Premium
FT Unit

Underwriter(s) or Distributor(s):

SPROTT CAPITAL PARTNERS LP BY ITS GENERAL
PARTNER, SPROTT CAPITAL PARTNERS GP INC.
LAURENTIAN BANK SECURITIES INC.
LEEDE JONES GABLE INC.
BMO NESBITT BURNS INC.
HAYWOOD SECURITIES INC.
NATIONAL BANK FINANCIAL INC.
PI FINANCIAL CORP.
SCOTIA CAPITAL INC.

Promoter(s):

-

Project #3367470

Issuer Name:

Triple Flag Precious Metals Corp.
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated April 28, 2022
Receipt dated April 28, 2022

Offering Price and Description:

US\$1,000,000,000 Common Shares, Preferred Shares,
Debt Securities, Subscription Receipts, Warrants, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

TRIPLE FLAG MINING ELLIOTT AND MANAGEMENT
CO-INVEST GP LTD., in its capacity as general partner of
TRIPLE FLAG MINING ELLIOTT AND MANAGEMENT
CO-INVEST LP
TRIPLE FLAG MINING AGGREGATOR S.À R.L.

Project #3365186

B.10 Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Bitvo Inc.	Restricted Dealer	April 26, 2022
Consent to Suspension (Pending Surrender)	Radin Capital Partners Inc.	Portfolio Manager, Exempt Market Dealer, and Investment Fund Manager	April 26, 2022
New Registration	Almore Capital Ltd.	Exempt Market Dealer	April 26, 2022
Voluntary Surrender	Mercury CAC Holdings Limited	Exempt Market Dealer	April 26, 2022

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B.11

SROs, Marketplaces, Clearing Agencies and Trade Repositories

B.11.2 Marketplaces

B.11.2.1 Toronto Stock Exchange – Housekeeping Rule Amendments to the TSX Company Manual – Notice

TORONTO STOCK EXCHANGE

NOTICE OF HOUSEKEEPING RULE AMENDMENTS TO THE TSX COMPANY MANUAL

Introduction

In accordance with the Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 (the “**Protocol**”), Toronto Stock Exchange (“**TSX**”) has adopted, and the Ontario Securities Commission (“**OSC**”) has approved, certain housekeeping amendments (the “**Amendments**”) to TSX Company Reporting Form 12 – Notice of Intention to Make a Normal Course Issuer Bid (“**NCIB**”) (“**Reporting Form 12**”) and TSX Company Reporting Form 12 – Notice of Intention to Make a Normal Course Issuer Bid (“**NCIB**”) – Filing Instructions (“**Filing Instructions**”) of the TSX Company Manual (the “**Manual**”). The Amendments are Housekeeping Rules under the Protocol and therefore have not been published for comment. The OSC has not disagreed with the categorization of the Amendments as Housekeeping Rules. In accordance with Section 5 of the Protocol, TSX has obtained a waiver from the OSC in connection with the requirements to obtain approval by the board of directors of TSX.

Summary and Rationale of the Non-Public Interest Amendments

	Section of the Manual	Amendment	Rationale
1.	Reporting Form 12	Include reference and hyperlink to the Filing Instructions.	The reference and hyperlink to the Filing Instructions have been added to Reporting Form 12 to assist issuers in locating the Filing Instructions. The Filing Instructions include certain information meant to assist users in completing Reporting Form 12, including when and how to file a form.
2.	Reporting Form 12 – Section 1. Securities Sought (b)(i) and (ii)	Amend the language to clarify when stating the number of issued and outstanding securities of the issuer, the number must be within two calendar weeks of the commencement of the normal course issuer bid (“ NCIB ”). Remove extra spaces in sentence.	As a matter of practice, when reviewing a submitted Reporting Form 12, TSX Staff asks issuers to confirm that the number of securities issued and outstanding is within two calendar weeks of the commencement of the NCIB. The revised language clarifies the information currently sought by TSX from issuers when completing this section of the form and consolidates the information required into one document (i.e. in the form). Correct typographical errors.
3.	Reporting Form 12 – Section 1. Securities Sought (f)(i)	Amend the language to include information required by corporate issuers relating to the number of shares purchased pursuant to a previous NCIB on TSX during the most recent six calendar months and the daily limit.	As a matter of practice, TSX Staff asks issuers to confirm the number of shares purchased during the most recent six calendar months in order to confirm the calculation of the average daily trading volume and daily limit. The revised language clarifies the information currently sought by TSX from issuers when

B.11: SROs, Marketplaces, Clearing Agencies and Trade Repositories

			completing this section of the form and consolidates the information required into one document (i.e. in the form).
4.	Reporting Form 12 – Section 12 Participating Organization Information	Replace reference to “Fax number” in Participating Organization Information with “Email address” in Section 12 of Reporting Form 12.	Update the means in which TSX may contact Participating Organizations from fax to email.
5.	Filing Instructions – Section 3(a) Method of Acquisition	Amend language to clarify that if an issuer intends to make purchases in the NCIB through other means (such as off-exchange trades), it must include certain prescribed language in Reporting Form 12 indicating so. Remove extra space in sentence.	Purchases in the NCIB by means other than through the facilities of TSX, other designated exchanges and/or alternative Canadian trading systems, such as off-exchange trades, may be permitted if the issuer has obtained permission by the applicable securities regulator to do so, and if the issuer provides the appropriate disclosure in Reporting Form 12. The amendments seek to clarify the language that the issuer must include in Reporting Form 12 in this regard. Fix typographical error.
6.	Filing Instructions – Section 7 Previous Purchases	Amend language to require an issuer to provide an email explanation if it has purchased significantly less securities under an NCIB within the past 12 months than its approved maximum.	As a matter of practice, TSX Staff currently requests an email explanation by the issuer if it has purchased significantly less than the approved maximum in a previous NCIB (within the past 12 months) to ensure issuers are not simply stating the approved maximum every year. The amendment is intended to clarify the information required by TSX in this regard.
7.	Filing Instructions – Section 13 Disclosure of any Significant Information Regarding the NCIB not Otherwise Disclosed	Amend language to require an issuer, if purchasing under an NCIB during a blackout period, to provide a statement confirming that there is no material undisclosed information despite being in a blackout period.	During a blackout period, there is a presumption that the issuer is in possession of material undisclosed information, which would preclude starting the NCIB. However, an issuer may begin the NCIB during a blackout period if the issuer provides TSX with written confirmation that there is no material undisclosed information despite being in a blackout period. This confirmation by issuers has generally been included in Section 13 of Reporting Form 12. The proposed amendment clarifies that the confirmation should be included in Reporting Form 12 (i.e. in Section 13, which asks for other significant information regarding the NCIB not otherwise disclosed in the form).

Text of the Amendments

The Amendments are set out as blacklined text at **Appendix A**. For ease of reference, a clean version of the Amendments are set out at **Appendix B**.

Effective Date

The Amendments become effective on May 5, 2022.

APPENDIX "A"

BLACKLINE OF
NON-PUBLIC INTEREST AMENDMENTS TO THE TSX COMPANY MANUAL

Amendments 1 to 4

[...]

[Please refer to the filing instructions for assistance filling out this form.](#)

1. **Securities Sought** – State the following:

- a) Class(es) of securities subject to the NCIB: _____
- b) Total number of securities:
 - i) issued and outstanding [\(number must be within two calendar weeks of the commencement date of the NCIB\)](#): (as of _____): _____
 - ii) if applicable, in the total public float ~~is~~ (as of _____): _____

[...]

f) Is the issuer an investment fund: _____

[i\) If the answer is NO:](#)

[\(a\)](#) ~~i) If the answer is NO,~~ the average daily trading volume for six months prior to date hereof:

[\(b\)](#) [the number of shares purchased pursuant to a previous NCIB on TSX during the most recent six calendar months:](#)

[\(c\)](#) [the daily limit \(25% of ADTV\).](#)

[...]

12. **Participating Organization Information** –

- a) Name of brokerage firm: _____
- b) Name of registered representative: _____
- c) Address of brokerage firm: _____
- d) ~~Fax number:~~ _____
[Email address:](#) _____
- e) Telephone number: _____

[...]

Amendments 5 to 7

[...]

<p>Section 3(a) Method of Acquisition</p>	<p>If the issuer intends to also purchase on Canadian marketplaces other than TSX (e.g. Alpha, Pure, etc.), then the Notice must state: "Purchases will be made on the open market through the facilities of TSX, other designated exchanges and/or alternative Canadian trading systems".</p>
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	<p>If the issuer intends to purchase securities by any other means, such as off-exchange trades, then Notice must state the following:</p> <p>“Purchases will be made on the open market through the facilities of TSX, other designated exchanges and/or alternative Canadian trading systems”- or by such other means as may be permitted by the applicable securities regulator.”</p>
--	--

[...]

<p>Section 7</p> <p>Previous Purchases</p>	<p>Report purchases made within the past rolling 12 months. Alternatively, report purchases made under the previous NCIB. If no purchases have been made under the previous NCIB, this should be disclosed in the press release.</p> <p>If the issuer has purchased significantly less than its approved maximum, please provide a written explanation via email.</p>
--	---

[...]

<p>Section 13</p> <p>Disclosure of any Significant Information Regarding the NCIB not Otherwise Disclosed</p>	<p>During a blackout period, there is a presumption that the issuer is possession of material undisclosed information, which would preclude it from commencing the NCIB. However, an issuer may begin the NCIB during a blackout period if the issuer provides written confirmation that there is no material undisclosed information despite being in a blackout period.</p> <p>No additional disclosure is needed for the press release for this matter.</p>
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APPENDIX "B"

CLEAN VERSION OF
NON-PUBLIC INTEREST AMENDMENTS TO THE TSX COMPANY MANUAL

Amendments 1 to 4

Please refer to the [filing instructions](#) for assistance filling out this form.

1. Securities Sought – State the following:

- a) Class(es) of securities subject to the NCIB: _____
- b) Total number of securities:
 - i) issued and outstanding (number must be within two calendar weeks of the commencement date of the NCIB): (as of _____): _____
 - ii) if applicable, in the total public float: (as of _____): _____

[...]

- f) Is the issuer an investment fund: _____
 - i) If the answer is NO:
 - (a) the average daily trading volume for six months prior to date hereof: _____

 - (b) the number of shares purchased pursuant to a previous NCIB on TSX during the most recent six calendar months: _____
 - (c) the daily limit (25% of ADTV): _____

[...]

2. Participating Organization Information –

- a) Name of brokerage firm: _____
- b) Name of registered representative: _____
- c) Address of brokerage firm: _____
- d) Email address: _____
- e) Telephone number: _____

[...]

Amendments 5 to 7

[...]

<p>Section 3(a) Method of Acquisition</p>	<p>If the issuer intends to also purchase on Canadian marketplaces other than TSX (e.g. Alpha, Pure, etc.), then the Notice must state:</p> <p>“Purchases will be made on the open market through the facilities of TSX, other designated exchanges and/or alternative Canadian trading systems”.</p> <p>If the issuer intends to purchase securities by any other means, such as off-exchange trades, then Notice must state the following:</p>
--	--

B.11: SROs, Marketplaces, Clearing Agencies and Trade Repositories

	<p>“Purchases will be made on the open market through the facilities of TSX, other designated exchanges and/or alternative Canadian trading systems or by such other means as may be permitted by the applicable securities regulator”.</p>
--	---

[...]

<p><u>Section 7</u> Previous Purchases</p>	<p>Report purchases made within the past rolling 12 months. Alternatively, report purchases made under the previous NCIB. If no purchases have been made under the previous NCIB, this should be disclosed in the press release.</p> <p>If the issuer has purchased significantly less than its approved maximum, please provide a written explanation via email.</p>
--	---

[...]

<p><u>Section 13</u> Disclosure of any Significant Information Regarding the NCIB not Otherwise Disclosed</p>	<p>During a blackout period, there is a presumption that the issuer is possession of material undisclosed information, which would preclude it from commencing the NCIB. However, an issuer may begin the NCIB during a blackout period if the issuer provides written confirmation that there is no material undisclosed information despite being in a blackout period.</p> <p>No additional disclosure is needed for the press release for this matter.</p>
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B.11.2.2 TSX Inc. – Proposed Amendments and Request for Comments – Notice 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” relating to proposed amendments to the Toronto Stock Exchange Rule Book (the “**TSX Rules**”) to reflect the introduction of allocation priority for price setting orders (the “**Amendments**”).

Market participants are invited to provide comments. Comments should be in writing and delivered by June 6, 2022 to:

Joanne Sancı
Legal Counsel, 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 staff at the Ontario Securities Commission (“**OSC**”), and in the absence of any regulatory concerns, a notice will be published to confirm approval by the OSC.

Background

TSX operates a real-time, continuous auction market that matches individual orders with continual price discovery from 9:30 AM to 4:00 PM (Toronto time) in the central limit order book (“**CLOB**”). This period is referred to as the “regular session”. All order types are accepted during this session. During the regular session, orders are individually displayed in the CLOB. Displayed portions of CLOB orders are given trading priority in the following order:

1. Price (best price gets priority ie. highest bid and lowest offer);
2. Broker (broker preferencing ie. buy and sell orders from the same broker get preference);
3. Long Life order type (“Long Life” or “LL”); and
4. Time priority (orders entered first get priority over orders entered after them) (please see example below).

Set out below is an example of the sequence of execution of orders pursuant to the current allocation priority rules as set out above:

Trading Priority Example 1:

An incoming market order (“**MKT**”) to Sell 1000 shares from Broker 7 is entered against the buy order book below.

Order #	Side	Shares	Price	Broker No.	LL
1	B	100	10.00	2	N

Order #	Side	Shares	Price	Broker No.	LL
2	B	200	10.00	7	N
3	B	300	10.00	5	Y
4	B	400	10.00	7	Y

Orders are numbered based on their time of entry. For example, Order #1 was entered first, and prior to Order #2. Correspondingly, Order #4 was entered last. Based on the existing allocation priority rules, and given that the price is the same for all four orders, the sequence of execution would be as follows:

Order Priority:

1. Order 4 (broker preference for broker 7 and Long Life)
2. Order 2 (broker preference for broker 7)
3. Order 3 (Long Life order)
4. Order 1 (no broker preference, non-Long Life)

Long Life Orders Type

Long Life is a special order type that was designed to enhance the quality of execution by providing allocation benefit within a price level to participants who are willing to commit liquidity to the book for a period of time.

In exchange for this allocation benefit, Long Life orders commit to a one second minimum resting time in the CLOB, during which time the order cannot be modified or canceled.

As noted above, pursuant to the current TSX Rules, the allocation priority for orders identified is as follows:

1. Price
2. Broker
3. Long Life
4. Time

While Long Life has been successful since its inception, one of its unintended consequences has been its use to jump over price setting orders (i.e. orders that set the best price at TSX see definition below), an activity that we have dubbed as *tailgating*. The manner in which such *tailgating* happens is as follows:

- When TSX Liquidity Providers (“LPs”) create new price levels, the price levels are untested (no other orders exist at price level) and LP’s create them without using Long Life.
- Fractions of seconds later, a second party will join, having seen that the new level is not immediately taken.
- This second participant enters a Long Life order and hence is provided priority over the original order that set a new price level despite the second order (i.e. the Long Life order incurring far less risk).

The prevalence of such tailgating disincentivizes liquidity provision on TSX at new price levels negatively impacting price discovery in the Canadian market.

Overview of the Amendments

Pursuant to the Amendments, Rule 4-801(1) – “Establishing Priority” will be amended to give a price setting order (i.e. an order that sets the best price on TSX), the same allocation priority as a Long Life order entered after such price setting order, subject to other applicable priority allocation rules.

B.11: SROs, Marketplaces, Clearing Agencies and Trade Repositories

Pursuant to the Amendments, the allocation priority for orders identified would be as follows:

1. Price
2. Broker
3. Long Life/Price Setting
4. Time priority

Pursuant to the Amendments, the sequence of execution as per the previous example outlined above would be as follows:

Trading Priority Example 1:

An incoming order to Sell 1000 shares @ MKT from Broker 7 is entered against the buy order book below:

Order #	Side	Shares	Price	Broker	LL	Price Setter
1	B	100	10.00	2	N	Y
2	B	200	10.00	7	N	N
3	B	300	10.00	5	Y	N
4	B	400	10.00	7	Y	N

Based on the proposed allocation priority, the sequence of execution would be as follows:

Order Priority:

1. Order 4 (broker preference for broker 7 and Long Life)
2. Order 2 (broker preference for broker 7)
3. Order 1 (Price Setting order that came before a Long Life order)
4. Order 3 (Long Life Order)

Pursuant to the Amendments, Long Life orders will no longer have priority over price setting orders, which may help mitigate the current disincentive of setting improved prices on TSX.

A blackline of the Amendments against the existing TSX Rules is attached as **Appendix A** hereto for ease of reference.

Rationale for the Proposed Amendments

The Amendments seek to address the tailgating issue described above by providing Long Life priority benefits to those orders that create new price levels (a “**price setting order**”) without the obligation for the order to rest in the book for a minimum of 1 second as with Long Life. TSX is of the view that creating new price levels is at least as beneficial, and accepts at least as much risk, as Long Life orders that remain in the CLOB for 1 second on an established price level.

Expected Date of Implementation

The Amendments are expected to be implemented following receipt of regulatory approval, and are anticipated to be implemented in Q3 2022.

Expected Impact on Market

The Amendments are not expected to have a negative impact on the markets. TSX expects that the Amendments will eliminate the current disincentive of setting new price levels on the TSX thereby leading to higher price setting activity on TSX which in turn should improve price discovery and execution quality. As such, TSX is of the view that the Amendments will support the maintenance of fair and orderly markets.

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

The Amendments are in compliance with Ontario securities laws and do not impact fair access to markets or the maintenance of fair and orderly markets.

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

The Amendments are expected to have a positive impact on the market participants. Members would need to adjust their trading workflows and strategies to benefit fully from the Amendments. No changes are required from participating organizations in order to take advantage of the Amendments. No changes would be required by service vendors. A new value will be created and passed in an existing private tag (Exchange Admin tag) to identify price-setting priority trades.

Do the Amendments Currently Exist in Other Markets or Jurisdictions

TSX is the only marketplace in Canada with a Long Life order type, and therefore, no other Canadian marketplace has a similar priority allocation for price setting orders. TSX is unaware of order types similar to Long Life in the U.S. or European markets.

APPENDIX A

BLACKLINE OF
AMENDMENTS TO TSX RULE BOOK

DIVISION 8 - POST OPENING

Rule 4-801 “Establishing Priority”

(1) ~~A~~Subject to Rule 4-802(3)(a), a Long Life order at a particular price shall be executed prior to an order that is not a Long Life order at that price (“long-life priority”), ~~except in the case of an Undisclosed Order, in which case no long-life priority is provided~~ life priority”). In the case of an order that sets the best price on the Exchange (i.e. a price setting order), that order will get the same priority as a Long Life order entered after the order that set such price, subject to Rule 4-801(3).

Added (November 16, 2015)

Amended (c. 2022)

The following text is provided for reference purposes only:

Rule 4-801 “Establishing Priority”

[...]

- (3) Subject to Rule 4-801(1), Rule 4-801(2), and Rule 4-802, an order at a particular price shall be executed prior to any orders at that price entered subsequently, and after all orders entered previously (“time priority”), except as may be provided otherwise.

[...]

Rule 4-802 Allocation of Trades

[...]

- (3) Subject to Rule 4-801(1), Rule 4-801(2), and any conditions imposed on either the tradeable order or the offsetting order that would otherwise prevent the two orders from executing against each other, a tradeable order that is entered in the Book shall be executed on allocation in the following sequence:
- (a) to offsetting orders entered in the Book by the Participating Organization that entered the tradeable order according to the time of entry of the offsetting order in the Book, provided that the offsetting order is undisclosed, or in the case where the offsetting order is disclosed, neither the tradeable order nor the offsetting order is an unattributed order; then
 - (b) to offsetting orders in the Book according to the time of entry of the offsetting order in the Book; then
 - (c) to a Market Maker if the tradeable order is disclosed and is eligible for a Minimum Guaranteed Fill.

[...]

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Editor's Note: On Friday, April 29, 2022, the Securities Commission Act, 2021, came into force by proclamation of the Lieutenant Governor of Ontario. The new structural and governance changes are now reflected in the Bulletin index with the use of the "Capital Markets Tribunal" designation to differentiate those proceedings from the proceedings of the Ontario Securities Commission: www.capitalmarketstribunal.ca.

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