

The Ontario Securities Commission

OSC Bulletin

May 26, 2022

Volume 45, Issue 21

(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
416-609-3800 or 1-800-387-5164

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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.2 Other Notices

A.2 Other Notices

A.2.1 Sean Daley and Kevin Wilkerson

FOR IMMEDIATE RELEASE
May 18, 2022

**SEAN DALEY AND
KEVIN WILKERSON,
File No. 2019-39**

TORONTO – The Tribunal issued its Reasons and Decision and an Order in the above noted matter.

A copy of the Reasons and Decision and the Order dated May 17, 2022 are available at capitalmarketstribunal.ca.

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A.2.2 ByBit Fintech Limited

FOR IMMEDIATE RELEASE
May 20, 2022

**BYBIT FINTECH LIMITED,
File No. 2021-21**

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

A copy of the Order dated May 20, 2022 is available at capitalmarketstribunal.ca.

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A.2.3 Stableview Asset Management Inc. and Colin Fisher

FOR IMMEDIATE RELEASE
May 24, 2022

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

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on May 25, 26, and 27, 2022 will not proceed as scheduled.

The hearing on the merits will continue on May 30, 2022 at 10:00 a.m.

Registrar, Governance & Tribunal Secretariat
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A.3 Orders

A.3 Orders

A.3.1 Sean Daley and Kevin Wilkerson – ss. 127(1), 127.1

**IN THE MATTER OF
SEAN DALEY AND
KEVIN WILKERSON**

File No. 2019-39

Adjudicators: M. Cecilia Williams (chair of the panel)
Lawrence P. Haber
Craig Hayman

May 17, 2022

**ORDER
(Subsection 127(1) and Section 127.1 of the Securities Act, RSO 1990, c S.5)**

WHEREAS on March 3, 2022, the Capital Markets Tribunal held a hearing by videoconference to consider the sanctions and costs that the Tribunal should impose on Sean Daley and Kevin Wilkerson (the **Respondents**) as a result of the findings in the Reasons and Decision on the merits, issued October 12, 2021;

ON READING the materials filed by Staff of the Commission and Mr. Daley, and on hearing the submissions of the representatives for Staff of the Commission and Mr. Daley, with Mr. Daley also appearing on his own behalf, and no one appearing on behalf of Mr. Wilkerson;

IT IS ORDERED THAT:

1. pursuant to paragraph 6 of subsection 127(1) of the *Securities Act*, RSO 1990, c S.5 (the **Act**), the Respondents are reprimanded;
2. pursuant to paragraphs 7 and 8.1 of subsection 127(1) of the Act, the Respondents shall immediately resign from any positions they hold as director or officer of any issuer or registrant;
3. pursuant to paragraphs 8 and 8.2 of subsection 127(1) of the Act, the Respondents are prohibited from becoming or acting as a director or officer of any issuer or registrant for a period of five years;
4. pursuant to paragraph 8.5 of subsection 127(1) of the Act, the Respondents are prohibited from becoming or acting as a registrant or promoter for a period of five years; and
5. pursuant to section 127.1 of the Act, the Respondents shall pay costs to the Commission of \$184,000, as follows:
 - (a) Mr. Daley shall pay costs to the Commission of \$92,000; and
 - (b) Mr. Wilkerson shall pay costs to the Commission of \$92,000.

“M. Cecilia Williams”

“Lawrence P. Haber”

“Craig Hayman”

A.3.2 ByBit Fintech Limited

IN THE MATTER OF
BYBIT FINTECH LIMITED

File No. 2021-21

Adjudicator: M. Cecilia Williams

May 20, 2022

ORDER

WHEREAS on May 20, 2022, the Capital Markets Tribunal held a hearing by teleconference;

ON HEARING the submissions of the representatives for Staff of the Commission and for ByBit Fintech Limited;

IT IS ORDERED THAT the final interlocutory attendance in this matter is scheduled for June 3, 2022 at 10:00 a.m., by teleconference, or on such other date and time as may be agreed to by the parties and set by the Governance & Tribunal Secretariat.

“M Cecilia Williams”

A.4 Reasons and Decisions

A.4 Reasons and Decisions

A.4.1 Sean Daley and Kevin Wilkerson – ss. 127(1), 127.1

Citation: *Daley (Re)*, 2022 ONCMT 10
Date: 2022-05-17
File No. 2019-39

**IN THE MATTER OF
SEAN DALEY AND
KEVIN WILKERSON**

**REASONS AND DECISION
(Subsection 127(1) and section 127.1 of the *Securities Act*, RSO 1990, c S.5)**

Adjudicators: M. Cecilia Williams (chair of the panel)
Lawrence P. Haber
Craig Hayman

Hearing: By videoconference, March 4, 2022

Appearances: Hanchu Chen For Staff of the Ontario Securities Commission
Rebecca Shoom For Sean Daley
Sean Daley On their own behalf
No one appearing for Kevin Wilkerson

REASONS AND DECISION

1. BACKGROUND

- [1] In a merits decision dated March 4, 2022 (the **Merits Decision**),¹ the panel found that Sean Daley and Kevin Wilkerson obstructed Staff of the Ontario Securities Commission's investigation into Mr. Daley's and Mr. Wilkerson's raising of funds from the public through Ascension Foundation, by, among other means, encouraging their investors, subscribers and the public not to co-operate with the investigation or comply with the Commission's summonses (**Obstruction Proceeding**). In this regard, the panel found that the behaviour of the respondents engaged the animating principles of the *Securities Act* (the **Act**) and was abusive of the capital markets.
- [2] These reasons relate to the sanctions and costs hearing for the Obstruction Proceeding. Staff has requested an order against Mr. Daley and Mr. Wilkerson that imposes permanent market participation bans, reprimands them, and requires Mr. Daley to pay costs of C\$155,000 and Mr. Wilkerson to pay costs of C\$80,000.
- [3] There is a separate but related proceeding in this matter based on an investigation by Staff into Mr. Daley and Mr. Wilkerson which is ongoing. On August 6, 2019, a temporary cease trade order was issued against Sean Daley, Sean Daley carrying on business as the Ascension Foundation, OTO.Money, SilentVault and CryptoWealth, Wealth Distributed Corp., Cybervision MMX Inc., Kevin Wilkerson and Aug Enterprises Inc. (the **TCTO Proceeding**). The temporary cease trade order has been extended a number of times, most recently on October 29, 2021. The current temporary order is set to expire on the public release of these reasons.
- [4] Although the TCTO Proceeding is related to this proceeding, including the merits phase, the proceedings have been treated separately by this Panel. The sanctions imposed below are related only to the conduct by Mr. Daley and Mr. Wilkerson in the Obstruction Proceeding.

¹ *Daley (Re)*, 2021 ONSEC 27, 44 OSCB 8747 (**Merits Decision**)

² RSO 1990, c S.5

- [5] For the reasons that follow, we find that it is in the public interest to order that Mr. Daley and Mr. Wilkerson:
- a. be reprimanded;
 - b. resign immediately from any position they might hold as a director or officer of a registrant or issuer;
 - c. be banned from acting as a director or officer of a registrant or issuer, or as a registrant or promoter for five years;
 - d. pay costs in the amount of \$184,000, split equally between them.

[6] Mr. Daley was represented in the sanctions hearing by counsel from the Legal Assistance Program. Mr. Wilkerson did not participate in the sanctions hearing, despite having been properly served.

2. ANALYSIS

2.1 Are Lyra / OTO “securities”?

- [7] Staff asks that we make a ruling that Lyra / OTO are “securities”, as defined in s. 1(1) of the Act, as part of our decision on sanctions and costs. We decline to make such a ruling, for the reasons below.
- [8] Staff submits that Mr. Daley has been unequivocal in his intent to resume selling Lyra / OTO as soon as the temporary order in the TCTO Proceeding is lifted, when these reasons are issued. Staff also submits that Daley made frequent requests for the Panel to rule on whether Lyra / OTO are securities, and that the Panel indicated at various points prior to and during the merits hearing that whether Lyra / OTO are securities was a live issue in this matter.
- [9] Staff further submits that all the parties, Mr. Wilkerson included, made submissions on this issue and had the opportunity to introduce evidence in support of their submissions. A ruling on this issue, Staff submits, would provide all parties, including the respondents, with regulatory guidance.
- [10] Mr. Daley submits that a ruling on whether Lyra / OTO are securities is unnecessary to this Panel’s task of determining appropriate sanctions and costs. Mr. Daley submits that such a ruling is irrelevant to the obstruction conduct that is the subject of this hearing.
- [11] Mr. Daley also submits that such a ruling would be a material breach of procedural fairness. The Statement of Allegations in a regulatory proceeding must contain the material facts alleged, in support of the alleged contraventions, so that a respondent has sufficient notice of the case they must meet and be able to make full answer and defence.³
- [12] Mr. Daley submits that the sole allegation against him in the Statement of Allegations is that he obstructed Staff’s investigation. In addition to not making any allegations about Mr. Daley’s activities in Lyra / OTO, Mr. Daley submits the Statement of Allegations does not ask for a ruling that Lyra / OTO are securities. Mr. Daley further submits that, having failed to properly raise the issue during the merits phase of this proceeding, Staff cannot now seek to raise it as a new substantive issue in the sanctions phase of this proceeding.
- [13] Additionally, Mr. Daley submits that as the investigation underlying the TCTO Proceeding remains open, it cannot reasonably be considered that he has received full disclosure of the matters under investigation and consequently has not been able to make full answer and defence to those issues.
- [14] The sole issue before the Panel in the merits hearing was to determine whether Mr. Daley and Mr. Wilkerson obstructed Staff’s investigation of their activities, and the activities of a number of companies related to them. During the merits hearing, Staff took the position that s. 11 of the Act broadly permits Staff to investigate any matter considered expedient for the due administration of Ontario securities law or the regulation of the capital markets of Ontario. Staff submitted that there is no requirement of a finding that Lyra / OTO are securities in order to engage the Commission’s jurisdiction at the investigation stage.
- [15] As set out in the Meris Decision, the Panel accepted these submissions and found it was not necessary, in coming to its decision that Mr. Daley and Mr. Wilkerson obstructed the investigation, to consider the issue of whether Lyra / OTO are securities.
- [16] The purpose of this hearing is to determine what sanctions are proportionate to the circumstances of the case in order to provide general and specific deterrence, thereby protecting investors and the capital markets. In the circumstances of determining the appropriate sanctions for obstruction of Staff’s investigation, a ruling on whether Lyra / OTO are securities would be wholly unrelated to that purpose and therefore inappropriate.

³ *Eley (Re)*, 2021 ONSEC 19, 44 OSCB 7281 at para 55

[17] A “sanctions” hearing on the issue of obstruction is not the appropriate forum for determining whether Lyra / OTO are securities. Should Staff wish to pursue the issue, they must do so in the context of a full hearing by way of a Statement of Allegations that identifies the issue(s) for consideration with disclosure and submissions by all relevant parties on the issue(s).

2.2 Legal Framework for Sanctions

[18] The Capital Markets Tribunal may impose sanctions pursuant to s. 127(1) of the Act where it finds that it is in the public interest to do so. The Tribunal must exercise its jurisdiction in a manner that is consistent with the Act’s purposes, which include protection of investors from unfair, improper and fraudulent practices, and the fostering of fair and efficient capital markets and confidence in the capital markets.⁴

[19] Sanctions are preventive and protective and are intended to prevent future harm to investors and the capital markets.⁵

[20] A non-exhaustive list of factors to be considered with respect to sanctions generally include the seriousness of the misconduct, whether the misconduct was isolated or recurrent, whether there has been recognition of the seriousness of the misconduct, the need to deter the respondent and other like-minded individuals from engaging in similar abuses of the capital markets in the future, the level of a respondents’ activity in the market and the amount of any profit earned or loss avoided. Sanctions must be proportionate to the respondent’s conduct in the circumstances.⁶

2.3 Appropriate Sanctions

[21] Staff seeks permanent market participation bans and a reprimand for both respondents. Staff submits that the respondents’ misconduct was serious, deliberate and recurrent. In addition, the respondents have not recognized the seriousness of their misconduct and have shown no remorse. Therefore, Staff submits there is no place for them in the capital markets and the permanent market participation bans are an appropriate specific and general deterrent. A reprimand is appropriate to reinforce the importance of compliance with Staff summonses and cooperation with Staff investigations.

[22] Mr. Daley’s position is that the sanctions should be nominal and include no more than a reprimand. Mr. Daley submits that a permanent market participation ban is disproportionate to and disconnected from the obstruction contravention. The requested sanctions are more related to Mr. Daley’s cryptocurrency activities which are the subject of an ongoing investigation and have not been found to violate the Act, Mr. Daley submits.

[23] Mr. Daley also submits that there are mitigating factors that should be considered: the novelty of the obstruction finding under the Act, the isolated nature of Mr. Daley’s conduct and the lack of profit arising from the conduct. Mr. Daley submits he could not reasonably have known that his conduct would constitute a violation of the Act and lead to the extensive sanctions sought by Staff.

[24] We apply the sanctioning factors relevant to the circumstances of this matter in turn.

2.3.1 Seriousness of the misconduct

[25] Mr. Daley’s and Mr. Wilkerson’s obstruction of Staff’s investigation is serious misconduct. In the merits stage of this proceeding, we found their conduct to be “reprehensible”, “demonstrated egregious disregard of Staff’s investigation” and “undermined the Commission’s public interest mandate”.⁷

[26] A panel has previously found that “unwillingness to cooperate with Staff” and unforthcoming behaviour “are not what the Commission expects from participants in the capital markets”.⁸

[27] To pursue its mandate of protecting investors and ensuring fair, efficient and competitive capital markets, the Commission has a range of investigative tools. The ability to summons is fundamental to the Commission’s investigative process.

[28] Mr. Daley refused to comply with his summons. Mr. Daley and Mr. Wilkerson wrote the May 4, 2019 email to investors outlining their case that one need not comply with a Commission summons or cooperate with a Staff investigation (**May 4 Email**). Mr. Daley’s and Mr. Wilkerson’s behaviour undermined Staff’s ability to investigate them by encouraging potential witnesses to ignore lawfully issued summonses. They also potentially undermined future investigations by publicly posting the May 4 Email.

⁴ Act, s 1.1

⁵ *Committee for the Equal Treatment of Asbestos Minority Shareholders v Ontario (Securities Commission)*, [2001] 2 SCR 132 at para 36

⁶ *MOAG Copper Gold Resources Inc (Re)*, 2020 ONSEC 29, 43 OSCB 9467 at para 14

⁷ Merits Decision at paras 64 and 71

⁸ *Doullis Re*, 2011 ONSEC 23, 34 OSCB 9597 (**Doullis**) at para 45

2.3.2 Was the conduct isolated or recurrent

- [28] Staff submits that Mr. Daley's conduct was not isolated. He refused to comply with Staff's investigation for three years, including failing to attend the interview required by his summons. In addition, Staff submits that the effect of the May 4 Email was not isolated as it dissuaded three potential witnesses from complying with their summonses and was posted on a public site, potentially reaching a broader audience.
- [29] Mr. Daley submits that that his conduct was isolated. It involved two actions (failing to comply with a summons and drafting the May 4 Email), both connected to the same investigation.
- [30] We find that Mr. Daley's and Mr. Wilkerson's obstruction of Staff's investigation was not an isolated incident. Mr. Daley refused to comply with the lawfully issued summons. In addition, by drafting and distributing the May 4 Email, Mr. Daley and Mr. Wilkerson frustrated Staff's ability to investigate by causing three witnesses not to comply with summonses and have potentially dissuaded others from cooperating with Staff going forward.

2.3.3 Recognition of the seriousness of the misconduct

- [31] Staff submits that neither Mr. Daley nor Mr. Wilkerson has shown any remorse or concern for the integrity of the Commission's investigative process. Mr. Daley stated that he wrote the May 4 Email for "good reason" and referred to the investigation as a "hit job". He also consistently took the position that the Commission lacks jurisdiction over his crypto asset activities, thereby frustrating Staff's attempts to investigate and determine the extent to which those activities may be in breach of the Act or otherwise raise public interest concerns about Ontario's capital markets.
- [32] Staff submits that Mr. Wilkerson has been consistently disrespectful of the Commission and its mandate. In his submissions at the merits hearing, he referred to the Commission as a "kangaroo court" with "only the most tenuous ties to some ill-specified investing public's poorly defined good". Mr. Wilkerson also stated that he "considered any order concerning [him]" by the Commission "to be null, void, and of no force or effect". Mr. Wilkerson also stated that "if anything I wrote actually frustrated your investigation in some meaningful way, then you lot deserved it, it was the right thing to do, I'm proud of doing it, and would gladly do it again under similar circumstances".
- [33] Mr. Daley submits that he took a principled position that the Commission's only recourse for failure to comply with a summons was a contempt order from the court and stuck to that position.
- [34] We conclude that the respondents' obstruction of Staff's investigation demonstrates a lack of recognition of the essential role the Commission is mandated to perform in protecting the capital markets and how fundamental its powers to investigate are to that role. By failing to comply with a summons and refusing to acknowledge Staff's right to investigate (Mr. Daley), failing to cooperate in any way with Staff and celebrating the frustration of the investigation (Mr. Wilkerson), and by actively and effectively discouraging others from complying and cooperating with the Commission (Mr. Daley and Mr. Wilkerson by writing, sharing and posting the May 4 Email), the respondents have demonstrated they do not recognize the seriousness of their misconduct.

2.3.4 Activity in the market

- [35] Mr. Daley submits that he did not engage in any activity within the scope of the Commission's jurisdiction. Mr. Daley's activity was solely relating to crypto securities and there has been no finding that that is within the Commission's jurisdiction.
- [36] Staff submits that Mr. Daley and Mr. Wilkerson impeded an investigation which was squarely within the Commission's jurisdiction.
- [37] The misconduct in question is the respondents' obstruction of Staff's investigation, which is fundamental to the Commission's ability to achieve its mandate. The Ontario Court of Appeal has recognized that "[i]t is difficult to imagine anything that could be more important to protecting the integrity of the capital markets than ensuring that those involved in those markets, whether as direct participants or as advisors, provide full and accurate information to the OSC."⁹ Through their misconduct the respondents impeded Staff's ability to obtain information from each of them as well as other relevant witnesses, frustrating the investigation and undermining the Commission's ability to protect the capital markets.

2.3.5 Size of any profit gain or loss avoided

- [38] Mr. Daley submits that he gained no profit and avoided no loss from his obstructive misconduct. The fact that the investigation remains open means that Mr. Daley cannot be considered to have yet benefited from his obstruction of that process.

⁹ *Wilder v Ontario Securities Commission*, 2001 CanLII 24072 (ON CA) (*Wilder*) at para 22

- [39] Staff submits that the benefit the respondents achieved was the obstruction of Staff's investigation.
- [40] Delay of an investigation can be a benefit – memories fade and contact with potential witnesses may be lost or the witnesses may become otherwise unavailable. In this case, the respondents' obstruction also discouraged three witnesses from testifying and there is a possibility that they will continue to not comply with their summonses. We conclude that the respondents' obstruction has benefited them as a result.

2.3.6 Mitigating factor – novelty of the offence

- [41] Mr. Daley submits that we should consider the novelty of obstruction being a violation of Ontario securities law as a mitigating factor. He argues that there is no offence of obstruction in the Act and previous attempts to add such an offence have not proceeded. He concludes that he could not, therefore, reasonably have known that his misconduct might constitute a violation of the Act.
- [42] Staff submits that the integrity of Staff investigations is not a new concept. The importance of market participants providing full and accurate information to the Commission has been recognized by the Ontario Court of Appeal.¹⁰ Courts and tribunals have previously rebuked persons who seek to impede investigations by securities regulators.¹¹
- [43] Staff also submits that Mr. Daley, as a trained lawyer, should have known his conduct was inappropriate and that he failed to meet the high standard of professional conduct expected of him. Mr. Daley submits that, regardless of his status as a lawyer, he could not reasonably have known his conduct was inappropriate since obstruction as an offence under the Act is novel. He also submits that there is no basis for the suggestion that his conduct failed to meet the professional standards applicable to him as a lawyer as the Law Society of Ontario was kept apprised of this proceeding and closed its investigations with respect to Mr. Daley.
- [44] We do not consider the fact that there is no offence of obstruction a mitigating factor in our analysis. The Tribunal has a broad public interest jurisdiction that can be used to protect the capital markets even in the absence of a breach of the Act.¹² What misconduct might, in any given situation, engage the Tribunal's public interest jurisdiction does not need to be known for the Tribunal to exercise that jurisdiction.
- [45] We do not consider Mr. Daley's status as a lawyer a relevant factor in our analysis. Mr. Daley was not before us in his capacity as a lawyer and we do not find it appropriate, necessary, nor within our jurisdiction, to apply the Law Society of Ontario's professional standards of conduct in these circumstances.

2.4 Conclusion on appropriate sanctions

- [46] We have concluded that the respondents' misconduct was serious and recurrent, they have not recognized its seriousness, they have benefited from a delayed and potentially undermined investigation, and that the alleged novelty of the obstruction offense is not a mitigating factor. In the circumstances, significant sanctions are warranted as a specific deterrent for Mr. Daley and Mr. Wilkerson and as a general deterrent to others who might seek to avoid regulatory oversight by obstructing a Staff investigation.
- [47] However, trading bans, in our view, are not warranted in this instance. The misconduct at issue here is obstruction. It is not apparent to us how barring the respondents from being able to trade in Ontario's capital markets, for any period, would prevent them from obstructive behaviour in the future. In the circumstances of this case, trading bans may be a more appropriate outcome after a finding at a merits hearing of unregistered trading in a security and / or trading in a security without a prospectus. The investigation that might, or might not, lead to such a finding remains open.
- [48] Sanctions are intended to provide general and specific deterrence, not to punish. Given the loose connection in this instance between the respondents' obstruction of Staff's investigation and trading in the capital markets, trading bans, in our view, lean more toward punishment than deterrence.
- [49] We conclude that a five-year ban from acting as a director or officer of a registrant or issuer or as a registrant or promoter, for both Mr. Daley and Mr. Wilkerson, is appropriate in this instance. To protect the capital markets, high standards of behaviour are expected of persons who participate in those markets, particularly of those who occupy leadership roles within market participants. Mr. Daley's and Mr. Wilkerson's lack of recognition of the seriousness of their obstructive behaviour causes us grave concerns about the behaviour they would model as a director or officer of a registrant or issuer, or as a registrant or promoter. The five-year ban is appropriate to send a message to the respondents and others who might seek to obstruct a Staff investigation that there will be serious consequences to such misconduct.

¹⁰ *Wilder* at para 22

¹¹ For example, see *Ontario (Securities Commission) v Robinson*, (2009) 99 OR (3d) 739 at para 40; *Doulis* at para 34; *Fletcher (Re)*, 2012 ABASC 222 at paras 120-21; *TransCap Corp (Re)*, 2013 ABASC 201 at paras 135-41 and 155

¹² *Merits Decision* at para 48

[50] Based on the same reasoning, it is appropriate that Mr. Daley and Mr. Wilkerson resign immediately from any position they hold as a director or officer of a registrant or issuer.

[51] Staff has asked that the respondents be reprimanded. Mr. Daley's and Mr. Wilkerson's conduct was reprehensible and not in keeping with the high standards expected of those who participate in Ontario's capital markets. We conclude that a reprimand of the respondents is appropriate in this instance to "reinforce the importance of compliance" with Staff summonses and cooperation with Staff investigations.¹³

3. COSTS ANALYSIS

3.1 Legal Framework for Costs

[52] We turn now to consider Staff's request that Mr. Daley and Mr. Wilkerson pay some of the costs associated with this matter.

[53] The Tribunal may order a person to pay the costs of an investigation and hearing where that person has acted in a manner that is abusive to the capital markets and which engages the animating principles of the Act. A costs order is not a sanction but a means to recover investigation and hearing costs.

3.2 Staff's Request

[54] Staff submitted evidence supporting total costs and disbursements of the investigation and proceeding in this matter of approximately \$320,000, which only reflects the time spent by the lead investigator and the lead litigators until the issuance of the Merits Decision. The fees for Staff's time are based on hourly rates previously approved by a panel.¹⁴ Staff further reduced the amount sought by 25% to \$240,000 and seeks to have this apportioned 65% to Mr. Daley and 35% to Mr. Wilkerson, rounded down to the nearest \$5,000 increment, amounting to \$155,000 for Mr. Daley and \$80,000 for Mr. Wilkerson.

[55] The Tribunal considers a number of factors in making a cost order, including:

- a. whether Staff provided early notice of an intention to seek costs;
- b. the reasonableness of the requested costs;
- c. the seriousness of the allegations and the respondents' conduct;
- d. the importance of the issues;
- e. whether the respondents contributed to a shorter, more efficient and effective proceeding or whether the respondents' conduct unnecessarily lengthened the proceeding; and
- f. whether the respondents denied or refused to admit something that should have been admitted.¹⁵

[56] Staff submits that its request for costs, and the proposed allocation between the respondents is appropriate because:

- a. both Mr. Daley and Mr. Wilkerson contested the Commission's jurisdiction to investigate them, which position was rejected in the Merits Decision;
- b. both engaged in the egregious and reprehensible conduct;
- c. neither conceded a single fact in the Statement of Allegations; and
- d. Mr. Daley contributed to the length of the proceeding, including by:
 - i. making a disclosure motion containing 23 requests, many of which were frivolous and all of which were denied;
 - ii. his "choice not to devote any attention to this matter in the approximately 17 months between the Statement of Allegations and the start of the [merits hearing]"¹⁶;

¹³ *Threegold Resources Inc (Re)*, 2021 ONSEC 5, 44 OSCB 1069 at para 14

¹⁴ *Moncasa Capital Corp (Re)*, 2013 ONSEC 49, 37 OSCB 229 at paras 53-55

¹⁵ *Bradon Technologies Ltd.(Re)*, 2016 ONSEC 9, 39 OSCB 4907 at para 115

¹⁶ Merits Decision at para 28

- iii. making two last-minute requests to adjourn the merits hearing, both of which were denied;
- iv. making an “oral, without notice” motion pursuant to the *Canadian Charter of Rights and Freedoms*¹⁷ during the merits hearing to stay the proceeding, which was denied; and
- v. conducting an abusive cross-examination, including repetitive and irrelevant questions and suggesting without basis and on multiple occasions that Staff intentionally misinterpreted evidence to further Staff’s own careers.

[57] Mr. Daley submits that the costs sought are disproportionate and excessive in the circumstances. Mr. Daley cites the panel’s decision in *Miner Edge Inc. (Re)*¹⁸ as a recent example of a panel finding Staff’s cost request excessive despite a substantial discount having been included.

[58] Mr. Daley submits that his conduct warrants a further reduction of costs because:

- a. he initiated discussions about a potential agreed statement of facts in March 2021, although no agreement was reached;
- b. while he didn’t concede the facts in the Statement of Allegations, he did not contest the facts underlying Staff’s obstruction allegation, with the result being that only the legal issues needed to be determined at the merits hearing;
- c. he participated in the Legal Assistance Program for the merits hearing and for this sanctions and cost hearing, contributing to the efficiency of those stages of the proceeding.

[59] With respect to Staff’s submission that Mr. Daley contributed to the proceeding’s length by bringing motions, he submits that as a respondent he is entitled to bring motions and the fact they were denied does not make them unreasonable.

[60] On the apportionment of 65% of the costs to him, Mr. Daley submits this effectively punishes him for participating in the proceeding and will incent others, such as Mr. Wilkerson, to refuse to engage with Staff in any way.

Appropriate Costs

[61] We conclude that an award of costs is warranted given the seriousness of the obstruction allegation and the importance of the issue of ensuring the respondents and others are aware that frustrating a Staff investigation can have serious consequences.

[62] However, as we discuss below, there has been a conflating of costs associated with the underlying investigation that was obstructed and this proceeding about the obstruction conduct itself that warrants a further reduction of the costs Staff is seeking.

[63] We do not agree with Staff that Mr. Daley contributed to the length of the proceeding. As a respondent Mr. Daley was well within his rights to bring a disclosure motion and seek adjournments. His lack of success with those motions does not, in itself, make them unreasonable. Mr. Daley’s motion under the *Charter* was dealt with at the time it was raised during the merits hearing and did not result in a significant delay.

[64] We also do not agree with Mr. Daley that his actions warrant a further reduction. Discussions among parties to come to an agreed statement of facts are encouraged and normal in Tribunal proceedings and may be initiated by either party. Also “not contesting the facts underlying the obstruction allegation” is not equivalent to conceding any of the facts. In the absence of any concession on the facts, Staff still had to prepare its case assuming all of the facts were in contention. We appreciate the participation of counsel in the Legal Assistance Program and recognize the benefits they bring to a proceeding.

[65] We reject Mr. Daley’s submission that the decision in *Miner Edge* assists his position for a further discount of costs. In that case the respondents conceded “all the alleged contraventions” and “the related necessary facts”, “acknowledged their misconduct and substantially reduced [the] sic hearing to less than one full hearing day.”¹⁹ This is not the case here.

[66] A reduction in Staff’s claim for costs is warranted by the fact that Staff appears, as we discuss below, to have conflated this Obstruction Proceeding with the TCTO Proceeding.

¹⁷ Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11 (the *Charter*)

¹⁸ 2021 ONSEC 31, 44 OSCB 8745 (*Miner Edge*)

¹⁹ *Miner Edge* at paras 107-108

- [67] Staff's claim for costs includes Staff time spent investigating from July 3, 2018 to August 15, 2019. While we appreciate that there had to be an investigation for the respondents to obstruct for this proceeding to take place, we do not agree that the costs of that investigation should be awarded in the Obstruction Proceeding. To the best of our knowledge, the investigation remains open. Should that investigation lead to a Statement of Allegations and proceed through to a merits decision in Staff's favour, it would be open to Staff to claim their investigation costs at that time. We remove from the claim for costs time spent during the investigative phase.
- [68] Mr. Chen confirmed during the sanctions hearing that Staff continued to investigate while the obstruction allegation was being litigated. The exhibits to Ms. Spain's affidavit regarding the costs claim, dated January 7, 2022, have defined periods for the investigation phase and the litigation phase, with the former ending on August 15, 2019. The exhibits do not provide any breakdown of what, if any, time was claimed for the ongoing investigative work during the litigation phase. Given Mr. Chen's comment and the absence of any claim for investigation time after August 15, 2019, we must conclude that the time claimed during the litigation phase includes time spent on the investigation. We do not know how much time was spent during that period.
- [69] The litigation period, for which Staff is claiming their time spent, commences on August 16, 2019 and ends with the date of the merits decision on October 21, 2021. August 16, 2019 was the date of the first extension hearing in the TCTO Proceeding. The Obstruction Proceeding commenced on November 18, 2019. The TCTO Proceeding is a separate matter. It is not appropriate to claim as a cost of this Obstruction Proceeding the time spent during the three months between the first hearing date in that other matter and the start of this proceeding. We do not know how much, if any, of the costs Staff is seeking includes time spent during that three-month period on the TCTO Proceeding.
- [70] As it is impossible to determine with any precision how much time was spent on the underlying investigation during the litigation phase of this Obstruction Proceeding and if any of the time spent during the three months prior to the start of this proceeding was with respect to the TCTO Proceeding, we apply a further 20% discount to Staff's claim for costs.
- [71] Staff also claims reimbursement of out-of-pocket costs for interview transcription services. The invoices for those services are from 2018 and 2019 and relate to interviews conducted by Staff during the investigation of the underlying conduct, and cancellation fees for scheduled interviews that did not proceed. As with the investigative costs, these disbursements are more appropriately the subject of a claim for costs should the TCTO Proceeding proceed.
- [72] We award Staff costs in the amount of \$184,000 calculated as follows:

Investigative phase	\$0.0
Litigation phase	\$229,918.75 x 20% discount = \$183,935
Expenses	\$0.0
Total	\$183,935 (rounded up to \$184,000)

This amounts to an approximate 57% discount of Staff's costs incurred of \$422,385.62 or a further approximate 24% discount of Staff's claimed costs.

- [73] We reject Staff's proposed apportioning of the costs 65% to Mr. Daley and 35% to Mr. Wilkerson. Both respondents were equally responsible for the obstructive conduct that is the subject of this matter and should, therefore, equally bear 50% of the costs.

4. CONCLUSION

- [74] For the reasons above we will issue an order that provides that:
 - a. pursuant to paragraph 6 of subsection 127(1) of the Act, Mr. Daley and Mr. Wilkerson are reprimanded;
 - b. pursuant to paragraphs 7 and 8.1 of subsection 127(1) of the Act, Mr. Daley and Mr. Wilkerson immediately resign from any position they hold as a director or officer of an issuer or registrant;
 - c. pursuant to paragraphs 8 and 8.2 of subsection 127(1) of the Act, Mr. Daley and Mr. Wilkerson are prohibited from acting as a director or officer of any issuer or registrant for a period of five years;
 - d. pursuant to paragraph 8.5 of subsection 127(1) of the Act, Mr. Daley and Mr. Wilkerson are prohibited from becoming or acting as a registrant or promoter for a period of five years; and

A.4: Reasons and Decisions

- e. pursuant to section 127.1 of the Act, the Respondents shall pay costs to the Commission of \$184,000, as follows:
 - i. Mr. Daley shall pay costs to the Commission of \$92,000; and
 - ii. Mr. Wilkerson shall pay costs to the Commission of \$92,000.

Dated at Toronto this 17th day of May, 2022.

“M. Cecilia Williams”

“Lawrence P. Haber”

“Craig Hayman”

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B. Ontario Securities Commission

B.2 Orders

B.2 Orders

B.2.1 Taiga Gold Corp.

Headnote

Application for an order that the issuer is not a reporting issuer under applicable securities laws – requested relief granted.

Applicable Legislative Provisions

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

May 13, 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
TAIGA GOLD 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 each of Alberta and Saskatchewan, 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

¶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 incorporated under the *Business Corporations Act* (Alberta) (the **Act**);
 2. the Filer's head office is in Cranbrook, British Columbia;
 3. the Filer is a reporting issuer in each of British Columbia, Alberta, Saskatchewan and Ontario;
 4. the Filer's authorized share capital consists of an unlimited number of common shares (Common Shares);
 5. on April 14, 2022, all of the Common Shares were acquired by SGO Mining Inc. by way of a plan of arrangement under the Act;
 6. the Filer has no securities outstanding other than the Common Shares;
 7. the Common Shares were delisted from the Canadian Securities Exchange on April 18, 2022;
 8. the Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. 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;
 12. the Filer has no current intention to seek public financing by way of an offering of its securities in Canada;
 13. the Filer is not in default of securities legislation in any jurisdiction of Canada, other than the obligation to file by May 2, 2022, its interim financial statements and related management's discussion and analysis for the interim period ended March 31, 2022, as required under National Instrument 51-102 *Continuous Disclosure Obligations* and the related certification of interim filings as required under National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings* (collectively, the Filings);
 14. consequently, the Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* as it is in default for failure to file the Filings; and
 15. the Filer, upon granting of the Order Sought, will no longer be a reporting issuer in any jurisdiction of Canada.

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 #: 2022/0193

B.3 Reasons and Decisions

B.3 Reasons and Decisions

B.3.1 Convergence Blended Finance, Inc.

Headnote

Application for relief from trade confirmation and account statement requirements contained in the securities laws and National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Filer operates an online platform focused on blended financing for international development projects – Investment is limited to non-individual permitted clients – Filer is not involved in the negotiation, documentation, financing and transaction closing of any investment – relief granted subject to certain terms and conditions – decision is time-limited and will expire in five years.

Applicable Legislative Provisions

Statute Cited

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 36 and 147.

Instrument Cited

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 14.12, 14.14, and 15.1.

May 19, 2022

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

AND

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

IN THE MATTER OF
CONVERGENCE BLENDED FINANCE, INC.
(the Filer)

DECISION

Background

The Filer is a not-for-profit organization that operates a global network relating to blended finance. Blended finance is the application of government funds, philanthropic funds and private investments to projects in emerging and frontier markets and underserved communities in developed nations that support global sustainable development goals, such as ending poverty, improving health and education, reducing inequality, addressing climate change and preserving the oceans and forests. In particular, the Filer supports the development and growth of blended finance through information sharing about blended finance and grants for the design and testing of new blended finance models. The Filer also brings together:

- Parties seeking global funding for potential projects (**Deal Sponsors**);
- Governmental entities (such as ministries of finance, ministries of foreign affairs, development agencies, development banks) and philanthropic organizations (such as foundations and other charitable/non-profit organizations) (collectively, **Donors**) who make concessional commitments (i.e., grants or below market rate loans); and
- Global public and private investors.

B.3: Reasons and Decisions

The Filer operates a limited business model and does not conduct the full range of activities typically associated with a dealer. Apart from facilitating contact among Deal Sponsors, Donors and public and private investors in relation to development projects, and providing a forum for certain members to discuss and evaluate whether to engage in discussions to support potential projects, the Filer does not provide any other securities-related services to any persons. The Filer is not involved in the negotiation, documentation, execution or funding of an investment in a project. The Filer does not hold any investor or issuer funds or other client assets of any kind at any time. The Filer registered as a restricted dealer in Ontario and Québec and received time-limited relief from certain requirements under securities laws in the decision *In the Matter of Convergence Blended Finance, Inc.* dated November 16, 2016. The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for relief from the following:

- a. under Section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**):
 - i. the requirement in Section 14.12 [*Content and delivery of trade confirmation*] of NI 31-103 that a registered dealer that has acted on behalf of a client in connection with a purchase or sale of a security promptly deliver to the client a written confirmation of the transaction setting out certain prescribed information (the **trade confirmation requirement**); and
 - ii. the requirement in Section 14.14 [*Account statements*] of NI 31-103 that a registered dealer deliver to a client a statement containing certain prescribed information at least once every three months or, if the client has requested to receive statements on a monthly basis, for each one-month period (the **account statement requirement**); and
- b. under section 147 of the *Securities Act* (Ontario) (the **Act**) and its counterpart in the securities legislation of Québec, from the requirement found in section 36(1) [*Confirmation of trade*] of the Act and its counterpart in the securities legislation of Québec that every registered dealer who has acted as principal or agent in connection with a purchase or sale of a security or derivative shall promptly send or deliver to the customer a written confirmation of the transaction (the **trade confirmation delivery requirement**, together with the trade confirmation requirement and the account statement requirement, the **Requested Relief**);

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

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

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision unless otherwise defined in this decision (the **Decision**).

Representations

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

The Filer

1. The Filer is organized as a not-for-profit corporation under the *Canada Not-for-profit Corporations Act*. The Filer's head office is in Toronto, Ontario.
2. The purposes expressed in the Filer's articles of incorporation are:
 - a. to facilitate the alignment of capital from public, private and philanthropic actors in global development by providing information, services and resources to these groups on a cost-recovery basis; and
 - b. to receive and maintain government grants and similar funds, and apply all or part of the principal and income thereafter, from time to time, to organizations that are for- and not-for-profit organizations engaged in global development.
3. The mandate of the Filer is to serve as a knowledge broker and accelerator for innovative development finance models for global development projects through establishing an online platform to raise awareness and promote blended financing mechanisms, and to help public, private and philanthropic actors find and connect with each other to co-invest in blended finance projects that address critical investment gaps in health and education delivery, business growth and infrastructure development support. Blended finance is the strategic use of development finance and philanthropic funds

to mobilize private capital flows for global development projects in emerging and frontier markets and underserved communities in developed nations.

4. To carry out its mandate, the Filer offers four services in person and through an online platform:
 - a. Knowledge Products are intended for educational purposes to increase understanding of and share knowledge of blended finance, including training, workshops, working groups, case studies, and a database of past blended finance deals and their financial and social performance.
 - b. The Design Funding Facility is intended to provide grants from the Filer to any person or entity to design new blended finance products or to test and enhance existing blended finance products suitable for scaling. This is not limited to Deal Sponsors or Investors (as defined below).
 - c. Membership Services on a subscription fee basis, which services include facilitation of member-to-member engagement, provision of members-only content and training, customized services to enhance individual members' understanding of and ability to implement blended finance solutions in their work, messaging function and for certain members, access to an online **Live Deals Database**. Members include Donors, Deal Sponsors, private and public investors, consultants, universities/scholars, think tanks and other individuals who wish to learn about blended finance. The Live Deals Database enables Deal Sponsors, on the one hand, and global public and private investors and Donors (together, **Investors**), on the other hand, to identify and connect with one another online and may only be accessed by Deal Sponsors and Investors. Donor Services as described in paragraph 24 below.
5. As the Filer is based in Ontario and its Membership Services involve the facilitation of trades in securities of issuers to investors in Ontario and Quebec, among other foreign jurisdictions, the Filer is registered as a restricted dealer in the provinces of Ontario and Quebec.
6. In 2016, the Filer received five years of start-up operational funding from the Canadian government. The Filer's current expected primary sources of revenue are government and philanthropic funding, membership and other service fees (including fees from the Donor Services (as defined below)) and design funding fees, which are earned from the administration and management of The Design Funding Facility, based on a percentage of the grant award or on staff time commitments.
7. The Filer is not in default of securities legislation in any province or territory in Canada.

Access to the online platform

8. The Filer limits access to the Live Deals Database to Investors who:
 - a. are not individuals;
 - b. where such Investors are resident in Canada, are "permitted clients", as defined in section 1.1 of NI 31-103; and
 - c. where such Investors are resident in a foreign jurisdiction, are analogous to "permitted clients", as defined in section 1.1 of NI 31-103.
9. As a condition to gaining access to the Live Deals Database, the Filer will require all potential Investors:
 - a. to provide information sufficient to permit the Filer to take reasonable steps to verify each Investor's status as a permitted client, if resident in Canada, or analogous to a permitted client under the applicable laws of the Investor's home jurisdiction, if resident in a foreign jurisdiction; and
 - b. to waive in writing the suitability obligations of the Filer, as permitted by subsection 13.3.1(1) of NI 31-103.
10. The Filer has established, maintains and applies policies and procedures reasonably designed to ensure that access to the Live Deals Database is limited to non-individual permitted clients or the analogous to permitted clients in foreign jurisdictions.

Investment projects

11. Investment projects are limited to those projects within Convergence's mandate described in paragraph 3 (**Investment Projects**).
12. Deal Sponsors apply to the Filer to post an Investment Project on the Live Deals Database.

B.3: Reasons and Decisions

13. Prior to submitting an application for the Investment Project to be posted, the Deal Sponsor acknowledges that it is responsible for ensuring any eventual financing will be made in compliance with all applicable laws.
14. In order for an Investment Project to be posted, the projects are reviewed by the Filer for the following criteria:
 - a. is a blended finance deal;
 - b. is intended to address the United Nations Sustainable Development Goals;
 - c. has provided the information satisfactory to the Filer for an Investment Project posting;
 - d. has a Deal Sponsor;
 - e. is seeking a minimum total investment of USD\$5 million; and
 - f. will not be listed on a “marketplace”, as defined in NI 31-103.
15. If an Investment Project meets the criteria specified in paragraph 14, the Filer posts the project on the Live Deals Database.
16. The Deal Sponsor has the ability to edit information about the Investment Project posted on the Live Deals Database. Any subsequent changes to the Investment Project description are monitored and reviewed by the Filer.

Investment process

17. Investors are able to view all Investment Projects posted to the Live Deals Database on a personalized dashboard and are able to filter Investment Project using a variety of objective project criteria, including size, type of financing required, sector, geography, and other criteria.
18. In addition, Investors may elect to receive automated e-mail notifications when Investment Projects which meet their filtered project criteria (as described above) are posted to the Live Deals Database. Based on Investors’ self-selected project criteria, a Deal Sponsor with an Investment Project posted on the Live Deals Database may obtain a list of Investors and may request that the Filer introduce the Dealer Sponsor to the Investors on the list.
19. The Filer does not make any recommendations or referrals to Investors, including any recommendations or referrals based on Investors’ expressed filter preferences, nor does it make any recommendations or referrals to Deal Sponsors, including any recommendations based on the Deal Sponsors’ project criteria.
20. Investors may use the online messaging tool at any point to contact any other Convergence members. Deal Sponsors will only be able to initiate contact with Investors while their Investment Projects are posted on the Live Deals Database.
21. The Filer monitors communications that take place on the platform to ensure that discussions about any Investment Project remain on an introductory level and is limited to whether an Investor is interested in proceeding with an Investment Project.
22. If an Investor is interested in an Investment Project and decides to proceed, negotiation, documentation, financing and transaction closing occur between the Investor and the Deal Sponsor directly and off Convergence’s online platform. The Filer is not involved in the negotiation, documentation, execution or funding of an investment in an Investment Project, other than any incidental involvement due to its providing Donor Services.
23. Apart from making available the Live Deals Database and facilitating the introductory contact between Investors and Deal Sponsors, the Filer does not provide any other securities-related services to any persons.
24. The Filer intends to provide Donor Services on a paid basis which is carried on off Convergence’s online platform. Donor Services are provided only to Donors and may include:
 - a. Providing information and analysis and making broad policy recommendations, which could include how a Donor may choose to allocate its overall development aid budget to types of blended finance projects to achieve the Donor’s development goals;
 - b. Advising on Donors’ strategies to achieve the Donors’ development goals, which could include recommendations to focus on specific geographies, sectors, project stages (such as proof of concept or investment stage), and transaction structures;
 - c. Advising on setting up blended finance departments or initiatives;

- d. Assisting Donors with conducting calls for proposals regarding potential projects that meets the development goals, which could include structuring the call process and reviewing submissions on how they meet the Donor's development goals;
 - e. Advising on the project selection process, which could include recommendations regarding screening, conducting due diligence (e.g., operability of the proposal and likelihood of achieving the development goals), and selecting relevant criteria for consideration;
 - f. Convening Donor groups to review projects that are aligned with the Donors' strategy or specifications; and
 - g. Participating in Donor project selection committees that review and compile blended finance projects that meet the Donors' selected criteria.
25. The projects considered or identified through the provision of the Donor Services may include Investment Projects posted on the Live Deals Database. The Filer has established and applies policies and procedures to address conflicts, including a Conflict of Interest policy, which staff of the Filer are required to review and acknowledge annually.
26. The Filer does not promote any investment or provide any advice on the suitability of any investment opportunities, including in any Investment Project, nor does it carry on any other advising activity as defined in the Legislation.
27. The Filer does not engage in any direct trading or settlement of securities in respect of any particular securities offerings.
28. The Filer does not act as an underwriter, on either a firm commitment or agency basis.
29. The Filer does not hold any Investor or issuer funds or other client assets of any kind at any time, in connection with an offering of securities.
30. The Filer conducts periodic reviews of the Live Deals Database to ensure that all posted Investment Projects are active and seeking investment.
31. The Filer charges user fees for access to some of its service offerings, but does not charge nor earn commissions, transaction-based compensation or incentive fees in connection with Investment Projects.
32. The Filer receives financial support for its operations from the Government of Canada and other sources. The Filer charges membership, training and service membership fees to cover the balance of its expenses, so that as a whole it operates on a cost-recovery basis.
33. As a not-for-profit corporation, the Filer's activities are required to be carried on without the purpose of gain for its members, and any profits or other accretions to the Filer are to be used in furtherance of its purposes.
34. Members of the Filer's Board of Directors serve without remuneration.
35. The Filer has established, maintains and applies policies and procedures that establish a system of controls and supervision sufficient to:
- a. provide reasonable assurance that the Filer and each individual acting on its behalf complies with securities legislation; and
 - b. manage the risks associated with its business in accordance with prudent business practices.

Relief from trade confirmation, account statement and trade confirmation delivery requirements

36. The Filer submits that compliance with the trade confirmation requirement, the account statement requirement, and the trade confirmation delivery requirement are unnecessary in the circumstances and would impose an undue regulatory burden on the Filer and that the cost of such compliance would outweigh the benefits to its Investors.
37. The trade confirmation requirement in Section 14.12 of NI 31-103 applies to "a registered dealer that has acted on behalf of a client in connection with a purchase or sale of a security".
38. Unlike a conventional dealer, the Filer does not act on behalf of Investors as clients in connection with a purchase or sale of securities, since:
- a. the Filer's role is generally limited to providing an online introductory platform whereby potential Investors may be made aware of potential Investment Projects meeting the Investor's self-selected criteria;

- b. the Filer does not act on behalf of any Investor as a client in connection with that Investor's purchase or sale of any securities and has no involvement in negotiation, execution or funding of an Investment Project posted on the Live Deals Database; and
- c. the Filer does not hold or have access to any Investor or issuer funds or securities.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision. The decision of the principal regulator under the Legislation is that the Requested Relief is granted provided and for so long as:

- a. unless otherwise exempted by this Decision or by a further decision of the Decision Makers, the Filer complies with all of the registration requirements of a registered dealer under Ontario securities law, including the Act and NI 31-103, and any other terms, conditions, restrictions or requirements imposed by a securities regulatory authority or regulator on the Filer;
- b. the Filer deals fairly, honestly and in good faith with users of the platform;
- c. the Filer has its head office in Ontario or Québec;
- d. the Filer remains a not-for-profit corporation under the *Canada Not-for-profit Corporations Act*;
- e. the Filer's mandate remains focused on blended finance for global development projects in emerging and frontier markets;
- f. the Filer ensures that access to the Live Deals Database is limited in Canada to non-individual permitted clients or in foreign jurisdictions to clients analogous to "permitted clients", as defined in section 1.1 of NI 31-103, who, in each case, waive the requirement for the Filer to conduct a suitability assessment, in accordance with subsection 13.3.1(1) of NI 31-103;
- g. where the Filer charges user fees, the Filer charges access fees and does not receive any commissions or transaction-based fees or incentive fees for its services;
- h. neither the Filer nor any representative of the Filer provides a recommendation or advice to any investor in connection with an offering of securities or potential offering of securities;
- i. the Filer is not involved in the negotiation, documentation, financing and transaction closing of any investment;
- j. the Filer does not hold, handle or have access to any funds or securities of any investor or issuer in connection with an offering of securities;
- k. the Filer does not engage in any direct trading or settlement of securities in respect of any particular securities offering; and
- l. the Filer does not act as an underwriter, on either a firm commitment or agency basis.
- m. This Decision shall expire on the earlier of:
 - i. five years after the date hereof; and
 - ii. 90 days after any material change in the Filer's business.
- n. This Decision may be amended by the Director from time to time upon prior written notice to the Filer.

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

OSC File #: 2021/0682

B.3.2 Fidelity Investments Canada ULC and Sterling Mutuals Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the requirement in s.3.2.01 of NI 81-101 to deliver a fund facts document to investors who purchase mutual fund securities of series only sold under an initial sales charge pursuant to changes in systematic instructions related to pre-authorized purchase plans that contemplated investment in certain series only sold under deferred sales charge options – subject to conditions.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 3.2.01 and 6.1.

May 19, 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
FIDELITY INVESTMENTS CANADA ULC
(Fidelity)**

AND

**IN THE MATTER OF
STERLING MUTUALS INC.
(the Representative Dealer, and, together with Fidelity, the Filers)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from Fidelity on behalf of each mutual fund managed by Fidelity (the **Funds**) and the Representative Dealer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Funds from the requirement in subsection 3.2.01 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure (NI 81-101)* which requires a dealer, unless the dealer has previously done so, to deliver the most recently filed fund facts document to the purchaser before the dealer accepts an instruction from the purchaser for the purchase of a security of a mutual fund (the **Fund Facts Delivery Requirement**) in respect of purchases of initial sales charge (**ISC**) series of securities of a mutual fund made in connection with a Change of Systematic Instructions (as defined below), pursuant to implementation of the prohibition on deferred sales charges (**DSC Ban**) for mutual fund sales (the **Requested Relief**).

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

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

Interpretation

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

Representations

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

Fidelity

1. Fidelity is a corporation amalgamated under the laws of Alberta and has its head office in Toronto, Ontario.
2. Fidelity is registered as an investment fund manager in Ontario, Québec and Newfoundland and Labrador, as a portfolio manager in each of the Jurisdictions, as a commodity trading manager in Ontario and as a mutual fund dealer in each of the Jurisdictions.
3. Fidelity is not in default of securities legislation in any of the Jurisdictions.

The Funds

4. Fidelity is the investment fund manager and trustee of the existing mutual funds established as mutual fund trusts and the investment fund manager of the existing mutual funds which are classes of shares of a mutual fund corporation.
5. Each Fund is an open-end mutual fund trust created under the laws of the Province of Ontario or an open-end mutual fund that is a class of shares of a mutual fund corporation.
6. Each Fund is a reporting issuer in some or all of the provinces and territories of Canada and subject to National Instrument 81-102 *Investment Funds (NI 81-102)*. The securities of the Funds are qualified for distribution pursuant to a simplified prospectus, Fund Facts and annual information form that have been prepared and filed in accordance with NI 81-101.
7. The Funds are not in default of any of the requirements of securities legislation in the Jurisdictions.

The Representative Dealer

8. Securities of the Funds are distributed through dealers that are unaffiliated with Fidelity, including the Representative Dealer (the **Dealers**, and each, a **Dealer**).
9. The Representative Dealer is a corporation existing under the laws of Canada with its head office located in Windsor, Ontario.
10. The Representative Dealer is a member of the Mutual Fund Dealers Association of Canada (**MFDA**) and is registered as a dealer in the category of mutual fund dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Québec and Saskatchewan, and is registered as a dealer in the category of exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Nunavut, Ontario and Saskatchewan.
11. Each Dealer is registered as a dealer in the applicable Jurisdictions. The Dealers are members of either the Investment Industry Regulatory Organization of Canada or the MFDA, or registered as a mutual fund dealer with the Autorité des marchés financiers in Québec, if such Dealer is only registered in Québec.
12. The Representative Dealer is not in default of any of the requirements of securities legislation in the Jurisdictions.

Deferred Sales Charge Ban

13. The Funds have a separate series structure for DSC and ISC purchase options within the same mutual fund.
14. Series A, Series T5 and Series T8 securities of the Funds are sold on a DSC basis, including the low load deferred sales option and low load 2 deferred sales option (**DSC Series**). Series B, Series S5 and Series S8 securities of the Funds are sold on an ISC basis (**ISC Series**).
15. Under the DSC Ban, no new sales of mutual funds will be permitted using the DSC purchase option as of June 1, 2022.
16. As a result of the DSC Ban, combined with Fidelity's separate series structure, the change of instructions from DSC to ISC Series on pre-authorized purchase plans and other systematic transactions (**Change of Systematic Instructions**), will trigger a fund facts delivery obligation for the Dealers in respect of the first purchase of the ISC Series, which we believe is unnecessary.
17. In a previous decision dated December 21, 2017, Fidelity obtained exemptive relief from the OSC from the Fund Facts Delivery Requirement in connection with the automatic conversions (the **Automatic Conversions**) of securities of the

B.3: Reasons and Decisions

Funds sold on a DSC basis to securities sold on an ISC basis to permit investors to benefit from lower management fees and operating expenses once their DSC securities had matured.

18. The only differences (the **Series Differences**) between DSC Series securities and ISC Series securities of the same Fund, in addition to the feature that allows Automatic Conversions, are that:
 - (i) DSC Series are sold on a DSC basis and ISC Series are sold on an ISC basis;
 - (ii) the management fees for ISC Series securities are lower than the respective management fees for DSC Series securities;
 - (iii) investors in ISC Series securities are able to potentially benefit from tiered management and administration fee reductions; and
 - (iv) the trailing commissions paid to dealers on ISC Series securities are higher than those paid on DSC Series securities.
19. While the trailing commissions paid to dealers on ISC Series securities are higher than those paid on DSC Series securities, the overall management expense ratio is lower for investors.
20. Each Fund's simplified prospectus and DSC Series Fund Facts disclose:
 - (i) that the DSC Series securities, as applicable, will be automatically switched following the expiry of the applicable minimum period specified in the simplified prospectus on the applicable switch date, to ISC Series securities, as the case may be, of the same Fund;
 - (ii) that such ISC Series securities will have a lower management fee than the corresponding DSC Series securities, will not be subject to a deferred/low load sales charge with a redemption fee, and may qualify for tiered management fee reductions based on the level of assets invested;
 - (iii) the rate of the management fee for ISC securities, as applicable; and
 - (iv) the trailing commission rates payable by Fidelity in respect of the ISC securities.
21. As each investor subject to a Change of Systematic Instructions has received a DSC Series Fund Facts and is informed of the Series Differences, there would be no benefit for such investor to receive a Fund Facts in connection with a Change of Systematic Instructions.
22. The exemption from the Fund Facts Delivery Requirement in connection with the Change of Systematic Instructions is comparable to the Automatic Conversions, as a result of the regulatory changes prohibiting DSC sales.
23. The investment in ISC Series securities pursuant to the Change of Systematic Instructions will be in securities of the same Fund with the same underlying pool of assets, the same investment objectives and investment strategies and the same valuation procedures and will be otherwise identical, except for the Series Differences.
24. In the absence of the Requested Relief, the Change of Systematic Instructions are not capable of being implemented without compliance with the Fund Facts Delivery Requirement.

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 Requested Relief is granted provided that:

1. no ISC is charged in connection with a purchase of securities of ISC Series of a mutual fund made in connection with a Change of Systematic Instructions;
2. for investors purchasing securities of ISC Series of a mutual fund made in connection with a Change of Systematic Instructions, the Filer sends to such investors a notice advising that they will not receive the Fund Facts upon the Change of Systematic Instructions, but that:
 - a. they may request the most recently filed Fund Facts for the relevant series by calling a specified toll-free number or by sending a request via email to a specified address or email address;
 - b. the most recently filed Fund Facts will be sent or delivered to them at no cost;

B.3: Reasons and Decisions

- c. the most recently filed Fund Facts may be found either on the SEDAR website or on the Filer's website; and
 - d. they will not have the right to withdraw from an agreement of purchase and sale in respect of a purchase of Series B, Series S5 and Series S8 securities made pursuant to a Change of Systematic Instructions, but they will have the right of action for damages or rescission in the event any Fund Facts or document incorporated by reference into a simplified prospectus for the Series B, Series S5 and Series S8 securities, as applicable, contains a misrepresentation, whether or not they request the Fund Facts;
- 3. the Filer provides to the principal regulator 60 days after the date upon which the Requested Relief is first relied upon by a Dealer, a list of all such Dealers that have relied on, or intend to rely on, the Requested Relief;
 - 4. prior to a Dealer relying on the Requested Relief, the Filer provides to the Dealer a disclosure statement informing the Dealer of the implications of this decision.

“Darren McKall”

Manager, Investment Funds and Structured Products Branch
Ontario Securities Commission

Application File #: 2022/0107

B.3.3 RBC Global Asset Management Inc.

Headnote

National Policy 11-203 – Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted from NI 41-101 to funds offering exchange-traded and conventional mutual fund series under a single simplified prospectus – subject to conditions – Technical relief granted from Parts 9, 10 and 14 of NI 81-102 to permit each fund to treat its exchange-traded and conventional mutual fund series as if each such series was a separate fund for the purpose of compliance with Parts 9, 10 and 14 of NI 81-102 – subject to conditions.

Applicable Legislative Provisions

National Instrument 41-101 – General Prospectus Requirements, ss. 3.1(2) and 19.1.
National Instrument 81-102 – Investment Funds, Parts 9, 10 and 14 and s. 19.1.

May 12, 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
RBC GLOBAL ASSET MANAGEMENT INC.
(the Filer)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the RBC Funds, RBC Private Pools, RBC Alternative Mutual Funds and the PH&N Funds (collectively, the **Existing Funds**) and any additional funds (collectively, the **Future Funds** and together with the Existing Funds, the **Funds**, and each, a **Fund**) of which the Filer, or an affiliate of the Filer, may act as trustee and/or manager of in the future, for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that:

- (a) exempts the Filer and each Fund from the requirement to prepare and file a long form prospectus for the ETF Securities (defined below) in the form prescribed by Form 41-101F2 *Information Required in an Investment Fund Prospectus* (the **Form 41-101F2**) provided that the Filer files (i) a prospectus for the ETF Securities in accordance with the provisions of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**), other than the requirements pertaining to the filing of a fund facts document; and (ii) an ETF facts document in accordance with Part 3B of NI 41-101 (the **ETF Prospectus Form Relief**); and
- (b) to permit the Filer and each Fund to treat the ETF Securities and the Mutual Fund Securities (as defined below) as if such securities were separate funds in connection with their compliance with the provisions (the **Sales and Redemptions Requirements**) of Parts 9, 10 and 14 of NI 81-102 (the **Sales and Redemptions Relief**),

(collectively, the ETF Prospectus Form Relief and the Sales and Redemptions Relief, the **Requested Relief**).

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

- (a) the Ontario Securities Commission is the principal regulator; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in all of the provinces and territories of Canada other than Ontario (together with Ontario, the **Jurisdictions**).

Interpretation

Capitalized terms used herein have the meaning ascribed thereto below (or in National Instrument 14-101 *Definitions*, MI 11-102 and NI 81-102, as applicable) unless otherwise defined in this Decision.

Affiliate Dealer means a registered dealer that is an affiliate of an Authorized Dealer or Designated Broker and that participates in the re-sale of Creation Units (defined below) from time to time.

Authorized Dealer means a registered dealer that has entered, or intends to enter, into an agreement with the manager of a Fund authorizing the dealer to subscribe for, purchase and redeem Creation Units from one or more Funds on a continuous basis from time to time.

Basket of Securities means, in relation to the ETF Securities of a Fund, a group of securities or assets representing the constituents of the Fund.

Designated Broker means a registered dealer that has entered, or intends to enter, into an agreement with the Filer or an affiliate of the Filer on behalf of a Fund to perform certain duties in relation to the ETF Securities of the Fund, including the posting of a liquid two-way market for the trading of the Fund's ETF Securities on the Exchange or another Marketplace.

ETF Facts means an ETF facts document prepared, filed and delivered in accordance with Part 3B of NI 41-101.

ETF Securities means securities of an exchange-traded series of a Fund that are listed or will be listed on the Exchange or another Marketplace and that will be distributed pursuant to a simplified prospectus prepared in accordance with NI 81-101 and Form 81-101F1.

Exchange means the Toronto Stock Exchange or the Neo Exchange Inc., as applicable.

Form 81-101F1 means Form 81-101F1 *Contents of Simplified Prospectus*.

Marketplace means a "marketplace" as defined in National Instrument 21-101 *Marketplace Operations* that is located in Canada.

Mutual Fund Securities means securities of a non-exchange-traded series of a Fund that are or will be distributed pursuant to a simplified prospectus prepared in accordance with NI 81-101 and Form 81-101F1.

Other Dealer means a registered dealer that is not an Authorized Dealer, Designated Broker or Affiliate Dealer.

Prescribed Number of ETF Securities means, in relation to a Fund, the number of ETF Securities of the Fund determined by the Filer from time to time for the purpose of subscription orders, exchanges, redemptions or for other purposes.

Prospectus Delivery Requirement means the requirement that a dealer, not acting as agent of the purchaser, who receives an order or subscription for a security offered in a distribution to which the prospectus requirement of the Legislation applies, send or deliver to the purchaser or its agent, unless the dealer has previously done so, the latest prospectus and any amendment either before entering into an agreement of purchase and sale resulting from the order or subscription, or not later than midnight on the second business day after entering into that agreement.

Securityholders means beneficial or registered holders of ETF Securities or Mutual Fund Securities of a Fund, as applicable.

Representations

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

The Filer

1. The Filer is a corporation formed by amalgamation pursuant to articles of amalgamation dated November 1, 2013 under the federal laws of Canada and its head office is located in Toronto, Ontario.
2. The Filer is an indirect, wholly-owned subsidiary of Royal Bank of Canada.
3. The Filer is registered as an adviser in the category of portfolio manager and as a dealer in the category of exempt market dealer under the securities legislation of each Jurisdiction, is registered as an investment fund manager in each of British Columbia, Ontario, Québec and Newfoundland and Labrador and is also registered in Ontario as a commodity trading manager.
4. The Filer, or an affiliate of the Filer, is or will be, the investment fund manager of each of the Funds.
5. The Filer is not in default of securities legislation in any of the Jurisdictions.

The Funds

6. Each Fund is, or will be, an open-ended mutual fund established as either a trust or a class of shares of a mutual fund corporation under the laws of the province of Ontario. Each Fund is, or will be, a reporting issuer in the Jurisdictions in which its securities are distributed. Each Fund that relies on the Requested Relief will offer ETF Securities and Mutual Fund Securities.
7. Subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities, each Fund is, or will be, subject to NI 81-102 and Securityholders will have the right to vote at a meeting of Securityholders in respect of matters prescribed by NI 81-102.
8. Each of the Existing Funds currently offers one or more series of Mutual Fund Securities under a simplified prospectus.
9. The Filer anticipates filing a preliminary and pro forma prospectus with the securities regulatory authorities in each of the Jurisdictions in respect of Mutual Fund Securities and ETF Securities of certain of the Funds.
10. The Filer will apply to list any ETF Securities of the Funds on the Exchange or another Marketplace. The Filer will not file a final simplified prospectus for any of the Funds in respect of the ETF Securities until the Exchange or other applicable Marketplace has conditionally approved the listing of the ETF Securities.
11. No Existing Fund is in default of securities legislation in any of the Jurisdictions.

Sales and Redemptions Requirements

12. Mutual Fund Securities may be subscribed for or purchased directly from a Fund through appropriately registered dealers.
13. ETF Securities will be distributed on a continuous basis in one or more of the Jurisdictions under a simplified prospectus. ETF Securities may generally only be subscribed for or purchased directly from the Funds (**Creation Units**) by Authorized Dealers or Designated Brokers. Generally, subscriptions or purchases may only be placed for a Prescribed Number of ETF Securities (or a multiple thereof) on any day when there is a trading session on the Exchange or other Marketplace. Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the Exchange or another Marketplace.
14. In addition to subscribing for and reselling their Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers will also generally be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market.
15. Each Designated Broker or Authorized Dealer that subscribes for Creation Units must deliver, in respect of each Prescribed Number of ETF Securities to be issued, a Basket of Securities and/or cash in an amount sufficient so that the value of the Basket of Securities and/or cash delivered is equal to the net asset value of the Prescribed Number of ETF Securities next determined following the receipt of the subscription order. In the discretion of the Filer, the Funds may also accept subscriptions for Creation Units in cash only, in securities other than Baskets of Securities and/or in a combination of cash and securities other than Baskets of Securities, in an amount equal to the net asset value of the Prescribed Number of ETF Securities next determined following the receipt of the subscription order.
16. The Designated Brokers and Authorized Dealers will not receive any fees or commissions in connection with the issuance of Creation Units to them. On the issuance of Creation Units, the Filer or the Fund may, in the Filer's discretion, charge a fee to a Designated Broker or an Authorized Dealer to offset the expenses incurred in issuing the Creation Units.
17. Each Fund will appoint a Designated Broker to perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.
18. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally will not be able to be purchased directly from a Fund. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the Exchange or another Marketplace in Canada. ETF Securities may also be issued directly to Securityholders upon a reinvestment of distributions of income or capital gains.
19. Securityholders that are not Designated Brokers or Authorized Dealers that wish to dispose of their ETF Securities may generally do so by selling their ETF Securities on the Exchange or other Marketplace, through a registered dealer, subject only to customary brokerage commissions. A Securityholder that holds a Prescribed Number of ETF Securities or multiple thereof may exchange such ETF Securities for Baskets of Securities and/or cash in the discretion of the Filer. Securityholders may also redeem ETF Securities for cash at a redemption price equal to 95% of the net asset value of the ETF Securities on the date of redemption.

ETF Prospectus Form Relief

20. The Filer believes it is more efficient and expedient to include all series of Mutual Fund Securities and ETF Securities of each Fund in one prospectus form instead of two different prospectus forms and that this presentation will assist in providing full, true and plain disclosure of all material facts relating to the securities of the Funds by permitting disclosure relating to all series of securities to be included in one prospectus.
21. The Filer will ensure that any additional disclosure included in the simplified prospectus relating to the ETF Securities will not interfere with an investor's ability to differentiate between the Mutual Fund Securities and the ETF Securities and their respective attributes.
22. The Funds will comply with the provisions of NI 81-101 when filing any prospectus or amendment thereto.
23. The Funds will comply with Part 3B of NI 41-101 when preparing, filing and delivering ETF Facts for the ETF Securities of the Funds.

Sales and Redemption Relief

24. Parts 9, 10 and 14 of NI 81-102 do not contemplate both Mutual Fund Securities and ETF Securities being offered in a single fund structure. Accordingly, without the Requested Relief, the Filer and the Funds would not be able to technically comply with those parts of NI 81-102.
25. The Sales and Redemptions Relief will permit the Filer and the Funds to treat the ETF Securities and the Mutual Fund Securities as if such securities were separate funds in connection with their compliance with Parts 9, 10 and 14 of NI 81-102. The Requested Relief will enable each of the ETF Securities and Mutual Fund Securities to comply with Parts 9, 10 and 14 of NI 81-102, as appropriate, for the type of security being offered.

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.

1. The decision of the principal regulator is that the ETF Prospectus Form Relief is granted, provided that the Filer will be in compliance with the following conditions:
 - (a) the Filer files a simplified prospectus in respect of the ETF Securities in accordance with the requirements of NI 81-101 and Form 81-101F1, other than the requirements pertaining to the filing of a fund facts document;
 - (b) the Filer includes disclosure required pursuant to Form 41-101F2 (that is not contemplated by Form 81-101F1 or Form 81-101F2) in respect of the ETF Securities in each Fund's simplified prospectus;
 - (c) the Filer prepares, files and delivers ETF Facts in respect of the ETF Securities in accordance with Section 3B of NI 41-101; and
 - (d) the Filer includes disclosure regarding this decision under the heading "Additional Information" in each Fund's simplified prospectus.
2. The decision of the principal regulator is that the Sales and Redemptions Relief is granted, provided that the Filer and each Fund will be in compliance with the following conditions:
 - (a) with respect to its Mutual Fund Securities, each Fund complies with the provisions of Parts 9, 10 and 14 of NI 81-102 that apply to mutual funds that are not exchange-traded mutual funds; and
 - (b) with respect to its ETF Securities, each Fund complies with the provisions of Parts 9 and 10 of NI 81-102 that apply to exchange-traded mutual funds.

The decision of the principal regulator is that the Requested Relief is granted.

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

Application File #: 2022/0127

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
THERE IS NOTHING TO REPORT THIS WEEK.				

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Samco Gold Limited	May 6, 2022	May 17, 2022
Tracesafe Inc.	May 9, 2022	May 17, 2022
Yooma Wellness Inc.	May 6, 2022	May 17, 2022

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	
Bhang Inc.	May 3, 2022	
Gamelancer Gaming Corp.	May 3, 2022	
RYAH Group Inc.	May 3, 2022	
Red White & Bloom Brands Inc.	May 4, 2022	
Emerald Health Therapeutics, Inc.	May 5, 2022	
Magnetic North Acquisition Corp.	May 5, 2022	

B.4: Cease Trading Orders

Cansortium Inc.	May 6, 2022	
CoinAnalyst Corp.	May 6, 2022	

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:

Mackenzie Conservative Income ETF Portfolio
 Mackenzie Global Green Bond Fund
 Mackenzie US Growth Fund
 Principal Regulator - Ontario

Type and Date:

Preliminary Simplified Prospectus dated May 12, 2022
 NP 11-202 Final Receipt dated May 18, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3349618

Issuer Name:

Tradex Bond Fund
 Tradex Equity Fund Limited
 Tradex Global Equity Fund
 Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated May 17, 2022
 NP 11-202 Final Receipt dated May 17, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3368541

Issuer Name:

Hamilton Australian Bank Equal-Weight Index ETF
 Hamilton Canadian Bank Mean Reversion Index ETF
 Hamilton Financials Innovation ETF
 Hamilton Global Financials ETF
 Hamilton U.S. Mid/Small-Cap Financials ETF
 Principal Regulator – Ontario

Type and Date:

Pro Forma Long Form Prospectus dated May 18, 2022
 NP 11-202 Final Receipt dated May 18, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3366822

Issuer Name:

Meritage American Equity Portfolio
 Meritage Balanced Income Portfolio
 Meritage Balanced Portfolio
 Meritage Canadian Equity Portfolio
 Meritage Conservative Income Portfolio
 Meritage Conservative Portfolio
 Meritage Diversified Fixed Income Portfolio
 Meritage Global Balanced Portfolio
 Meritage Global Conservative Portfolio
 Meritage Global Equity Portfolio
 Meritage Global Growth Plus Portfolio
 Meritage Global Growth Portfolio
 Meritage Global Moderate Portfolio
 Meritage Growth Income Portfolio
 Meritage Growth Plus Income Portfolio
 Meritage Growth Plus Portfolio
 Meritage Growth Portfolio
 Meritage International Equity Portfolio
 Meritage Moderate Income Portfolio
 Meritage Moderate Portfolio
 Meritage Tactical ETF Balanced Portfolio
 Meritage Tactical ETF Equity Portfolio
 Meritage Tactical ETF Growth Portfolio
 Meritage Tactical ETF Moderate Portfolio
 NBI Balanced Portfolio
 NBI Bond Fund
 NBI Canadian All Cap Equity Fund
 NBI Canadian Bond Index Fund
 NBI Canadian Bond Private Portfolio
 NBI Canadian Equity Fund (formerly, NBI Jarislowsky
 Fraser Select Canadian Equity Fund)
 NBI Canadian Equity Growth Fund
 NBI Canadian Equity Index Fund
 NBI Canadian Equity Private Portfolio
 NBI Canadian High Conviction Equity Private Portfolio
 NBI Canadian Preferred Equity Private Portfolio
 NBI Conservative Portfolio
 NBI Corporate Bond Fund
 NBI Corporate Bond Private Portfolio
 NBI Diversified Emerging Markets Equity Fund
 NBI Equity Income Private Portfolio
 NBI Equity Portfolio
 NBI Floating Rate Income Fund
 NBI Global Balanced Growth Fund
 NBI Global Diversified Equity Fund (formerly, National Bank
 Global Diversified Equity Fund)
 NBI Global Equity Fund
 NBI Global Real Assets Income Fund
 NBI Global Tactical Bond Fund
 NBI Growth Portfolio
 NBI High Yield Bond Fund
 NBI Income Fund

B.9: IPOs, New Issues and Secondary Financings

NBI International Equity Index Fund
NBI International High Conviction Equity Private Portfolio
NBI Jarislowsky Fraser Select Balanced Fund
NBI Jarislowsky Fraser Select Income Fund
NBI Moderate Portfolio
NBI Money Market Fund
NBI Multiple Asset Class Private Portfolio
NBI Non-Traditional Capital Appreciation Private Portfolio
NBI Non-Traditional Fixed Income Private Portfolio
NBI North American Dividend Private Portfolio
NBI Precious Metals Fund
NBI Preferred Equity Fund
NBI Preferred Equity Income Fund
NBI Presumed Sound Investments Fund
NBI Quebec Growth Fund
NBI Resource Fund
NBI Science and Technology Fund
NBI Secure Portfolio
NBI Small Cap Fund
NBI SmartBeta Canadian Equity Fund
NBI SmartBeta Global Equity Fund
NBI SmartData International Equity Fund
NBI SmartData U.S. Equity Fund
NBI Sustainable Canadian Bond Fund
NBI Sustainable Canadian Equity Fund
NBI Sustainable Global Equity Fund
NBI Tactical Asset Allocation Fund
NBI Tactical Equity Private Portfolio
NBI U.S. Bond Private Portfolio
NBI U.S. Equity Fund
NBI U.S. Equity Index Fund
NBI U.S. Equity Private Portfolio
NBI U.S. High Conviction Equity Private Portfolio
NBI Unconstrained Fixed Income Fund
Principal Regulator – Quebec

Type and Date:

Combined Preliminary and Pro Forma Simplified
Prospectus dated May 13, 2022
NP 11-202 Final Receipt dated May 17, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3353776

Issuer Name:

HSBC Sustainable Balanced Fund
Principal Regulator – British Columbia
Type and Date

Securities Description:

D Series units
Investor Series units
Institutional Series units
Premium Series units
Project #03385997

Type and Date:

Combined Preliminary and Pro Forma Simplified
Prospectus dated May 17, 2022
NP 11-202 Preliminary Receipt dated May 18, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3385997

Issuer Name:

Renaissance Money Market Fund
Renaissance Canadian T-Bill Fund
Renaissance U.S. Money Market Fund
Renaissance Short-Term Income Fund
Renaissance Canadian Bond Fund
Renaissance Real Return Bond Fund
Renaissance Corporate Bond Fund
Renaissance U.S. Dollar Corporate Bond Fund
Renaissance High-Yield Bond Fund
Renaissance Floating Rate Income Fund
Renaissance Flexible Yield Fund
Renaissance Global Bond Fund
Renaissance Canadian Balanced Fund
Renaissance U.S. Dollar Diversified Income Fund
Renaissance Optimal Conservative Income Portfolio
Renaissance Optimal Income Portfolio
Renaissance Optimal Growth & Income Portfolio
Renaissance Canadian Dividend Fund
Renaissance Canadian Monthly Income Fund
Renaissance Diversified Income Fund
Renaissance High Income Fund
Renaissance Canadian Core Value Fund
Renaissance Canadian Growth Fund
Renaissance Canadian All-Cap Equity Fund
Renaissance Canadian Small-Cap Fund
Renaissance U.S. Equity Income Fund
Renaissance U.S. Equity Value Fund
Renaissance U.S. Equity Growth Fund
Renaissance U.S. Equity Growth Currency Neutral Fund
Renaissance U.S. Equity Fund
Renaissance International Dividend Fund
Renaissance International Equity Fund
Renaissance International Equity Currency Neutral Fund
Renaissance Global Markets Fund
Renaissance Optimal Global Equity Portfolio
Renaissance Optimal Global Equity Currency Neutral Portfolio
Renaissance Global Value Fund
Renaissance Global Growth Fund
Renaissance Global Growth Currency Neutral Fund
Renaissance Global Focus Fund
Renaissance Global Focus Currency Neutral Fund
Renaissance Global Small-Cap Fund
Renaissance China Plus Fund
Renaissance Emerging Markets Fund
Renaissance Optimal Inflation Opportunities Portfolio
Principal Regulator - Ontario

Type and Date:

Amendment #3 to Final Simplified Prospectus dated May 13, 2022
NP 11-202 Final Receipt dated May 17, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3247938

Issuer Name:

High Interest Savings Account Fund
Principal Regulator - Ontario

Type and Date:

Amendment #3 to Final Long Form Prospectus dated May 13, 2022

NP 11-202 Final Receipt dated May 17, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3250573

Issuer Name:

Mackenzie Canadian Equity Fund
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated May 16, 2022

NP 11-202 Final Receipt dated May 17, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3262124

Issuer Name:

CIBC Multifactor Canadian Equity ETF
CIBC Multifactor U.S. Equity ETF
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Long Form Prospectus dated May 16, 2022

NP 11-202 Final Receipt dated May 17, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3300963

Issuer Name:

Counsel Conservative Portfolio
Counsel Balanced Portfolio
Counsel Growth Portfolio
Counsel All Equity Portfolio
Counsel Retirement Preservation Portfolio
Counsel Retirement Foundation Portfolio
Counsel Retirement Accumulation Portfolio
Counsel Canadian Dividend
Counsel Canadian Growth
Counsel Canadian Value
Counsel Global Dividend
Counsel Global Real Estate
Counsel Global Small Cap
Counsel International Growth
Counsel International Value
Counsel U.S. Growth
Counsel U.S. Value
Counsel Fixed Income
Counsel High Yield Fixed Income
Counsel Money Market
Counsel Short Term Bond
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated May 12, 2022

NP 11-202 Final Receipt dated May 19, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3278349

Issuer Name:

Mackenzie Canadian Equity Fund
Mackenzie Global Growth Fund
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated May 16, 2022

NP 11-202 Final Receipt dated May 17, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3229103

Issuer Name:

IPC Essentials Income Portfolio
IPC Essentials Balanced Portfolio
IPC Essentials ESG Balanced Portfolio
IPC Essentials Growth Portfolio
IPC Essentials Equity Portfolio
IPC Focus Conservative Portfolio
IPC Focus Equity Portfolio
IPC Conservative Income Portfolio
IPC Monthly Income Portfolio
Principal Regulator - Ontario

Type and Date:

Amendment #1 to Final Simplified Prospectus dated May 12, 2022

NP 11-202 Final Receipt dated May 19, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3275755

NON-INVESTMENT FUNDS

Issuer Name:

Glacier Credit Card Trust
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated May 19, 2022
NP 11-202 Preliminary Receipt dated May 19, 2022

Offering Price and Description:

Up to \$1,500,000,000.00 - Credit Card Asset-Backed Notes

Underwriter(s) or Distributor(s):

BMO NESBITT BURNS INC.
CIBC WORLD MARKETS INC.
DESJARDINS SECURITIES INC.
MUFG SECURITIES (CANADA), LTD.
NATIONAL BANK FINANCIAL INC.
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
TD SECURITIES INC.

Promoter(s):

CANADIAN TIRE BANK

Project #3386960

Issuer Name:

Mount Logan Capital Inc. (formerly, Marret Resource Corp.)
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated May 16, 2022
NP 11-202 Preliminary Receipt dated May 17, 2022

Offering Price and Description:

\$45,000,000.00 - Common Shares, Debt Securities,
Subscription Receipts, Warrants, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3385349

Issuer Name:

NervGen Pharma Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated May 16, 2022
NP 11-202 Preliminary Receipt dated May 17, 2022

Offering Price and Description:

\$100,000,000.00 - Common Shares, Debt Securities,
Subscription Receipts, Warrants, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3385504

Issuer Name:

QYOU Media Inc.
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated May 20, 2022
NP 11-202 Preliminary Receipt dated May 20, 2022

Offering Price and Description:

C\$30,000,000.00 - Common Shares Subscription Receipts
Warrants Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3387411

Issuer Name:

Zacapa Resources Ltd.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated May 18, 2022
NP 11-202 Preliminary Receipt dated May 18, 2022

Offering Price and Description:

\$100,000,000.00 Common Shares, Warrants, Subscription
Receipts, Units, Share Purchase Contracts

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3386510

Issuer Name:

Calfrac Well Services Ltd.
Principal Regulator - Alberta

Type and Date:

Final Shelf Prospectus dated May 19, 2022
NP 11-202 Receipt dated May 19, 2022

Offering Price and Description:

\$500,000,000.00 - Common Shares, Subscription Receipts,
Warrants, Debt Securities, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3380377

B.9: IPOs, New Issues and Secondary Financings

Issuer Name:

Spitfyre Capital Inc.
Principal Regulator - Ontario

Type and Date:

Amendment dated May 13, 2022 to Final CPC Prospectus
dated December 23, 2021
NP 11-202 Receipt dated May 18, 2022

Offering Price and Description:

Minimum Offering: \$225,000.00 - 1,125,000 Common
Shares)

Maximum Offering: \$250,000.00 - 1,250,000 Common
Shares

Price: \$0.20 per Common Share

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3291874

B.10 Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
THERE IS NOTHING TO REPORT THIS WEEK.			

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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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