

The Ontario Securities Commission

OSC Bulletin

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

The Ontario Securities Commission

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

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A. Capital Markets Tribunal

A.1 Notices of Hearing

A.1 Notices of Hearing

A.1.1 Mughal Asset Management Corporation et al. – ss. 127(1), 127.1

FILE NO.: 2022-15

IN THE MATTER OF
MUGHAL ASSET MANAGEMENT CORPORATION,
LENLE CORPORATION and
USMAN ASIF

NOTICE OF HEARING

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

PROCEEDING TYPE: Enforcement Proceeding

HEARING DATE AND TIME: July 21, 2022 at 1:00 p.m.

LOCATION: By Videoconference

PURPOSE

The purpose of this proceeding is to consider whether it is in the public interest for the Capital Markets Tribunal to make the order requested in the Statement of Allegations filed by Staff of the Commission on June 14, 2022.

The hearing set for the date and time indicated above is the first attendance in this proceeding, as described in subsection 5(1) of the *Capital Markets Tribunal Practice Guideline*.

REPRESENTATION

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

FAILURE TO ATTEND

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

FRENCH HEARING

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

AVIS EN FRANÇAIS

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

Dated at Toronto this 16th day of June, 2022.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For more information

Please visit <http://www.capitalmarketstribunal.ca/en> or contact the Registrar at registrar@osc.gov.on.ca.

**IN THE MATTER OF
MUGHAL ASSET MANAGEMENT CORPORATION,
LENLE CORPORATION and
USMAN ASIF**

STATEMENT OF ALLEGATIONS

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

A. OVERVIEW

1. This proceeding serves to caution the public and hold an individual and companies he controlled accountable for using the veneer of a legitimate investment firm to perpetrate a multi-million dollar investment fraud.
2. Mughal Asset Management Corporation (**Mughal**) was a sham investment corporation operated by Usman Asif (**Asif**). Over a five-year period, Mughal and Asif raised approximately CAN\$2.73 million and US\$264,000 from over 80 investors by representing that Mughal was a legitimate investment firm that traded in securities on behalf of individuals. Asif primarily targeted Ontario investors from the Pakistani community, using advertisements in Urdu on a local radio station, advertisements and events connected to the Ryerson Pakistani Students Association and his own networking in that community.
3. Mughal and Asif promised investors a significant return on their investment. Mughal had a website, an office in Toronto, detailed client agreements, and provided investors with monthly statements showing the growth of their investments. Asif hired several individuals to work in the office. In reality, Asif was using Mughal and Lendle Corporation (**Lendle**), a new corporation started by Asif in 2019, to operate a Ponzi scheme in which new investor funds were used to pay "returns" to old investors. This scheme also funded Asif's lifestyle and personal expenses, including the purchase of residential real estate in the Greater Toronto Area.
4. During the investigation of his conduct, Asif repeatedly misled and interfered with the work of several investigation teams (collectively, the **Investigation Team**). Asif lied to and misled the Investigation Team while testifying under oath and in correspondence. Asif also failed to produce documents required by a summons and concealed the existence of certain documents from the Investigation Team, unlawfully disclosed the nature or content of the investigation and details regarding a summons, coached a witness on how to draft a written response to the Investigation Team and encouraged other witnesses not to speak with the Investigation Team during the investigation.
5. This dishonest, deceitful and fraudulent conduct by Mughal, Lendle and Asif (the **Respondents**) harmed investors, including vulnerable individuals, and threatened the integrity of Ontario's capital markets. In order to protect investors from future fraudulent activity, Mughal, Lendle and Asif should be disqualified from any future participation in Ontario's capital markets.

B. FACTS

The following allegations of fact are made:

(i) Dishonest Representations to Investors

6. From October 2016 until December 2021 (the **Material Time**), Mughal and Asif raised approximately CAN\$2.73 million and US\$264,000 from over 80 investors by making false representations that Mughal was an investment firm and managed various investment funds. Mughal and Asif represented that investor funds would be pooled and used to invest in securities. Asif was at all times the sole director, shareholder, chief executive officer, and directing mind of Mughal.
7. The investments in Mughal constituted "securities" as defined by sub-section 1(1) of the *Securities Act*, RSO 1990, c S.5, as amended (the **Act**).
8. In the course of marketing investments in Mughal to investors and prospective investors, Mughal and Asif made false representations regarding:
 - (a) the business and operations of Mughal (that it was an investment firm operating several investment funds);
 - (b) the nature of the investment (that investor funds were being invested into different investment funds, such as a "Quarterly Income Fund" or "Growth Fund," or were being used directly to purchase securities in initial public offerings (**IPOs**));
 - (c) the use of the investment proceeds (that investors would be paid all profits on the investment in securities less a 2 percent management fee); and
 - (d) the expected returns on the invested funds (that investors could expect to earn 2 to 5 percent in monthly returns).

9. Mughal and Asif advertised in various ways, including:
- (a) the Mughal website (www.mughalassetmanagement.com), which advertised Mughal as an investment firm. The website stated that Mughal “specialize[s] in helping families, businesses and individuals meet their financial needs through investing.” The website also provided a “Client Log-In” portal where investors were told they could log in to view their investments.
 - (b) numerous advertisements on a local radio station (Canadian Multicultural Radio (CMR) 101.3 FM) in English and Urdu from 2018 to 2020 advertising that Mughal was an investment firm, managed an investment fund, and that Mughal averaged a return on investment (ROI) of 2 to 5 percent per month.
 - (c) Asif used business cards and sent emails in which he referred to himself as a “Fund Manager.” Asif also hired various employees to work in the Toronto office and gave them titles such as “Assistant Fund Manager.”
 - (d) several social media sites, including YouTube, Instagram and Facebook. Mughal arranged for a promotional video to be posted on the Ryerson Pakistani Students Association Facebook page soliciting investments for Mughal from Ryerson students. A comment from Asif on that video stated that Mughal would be operating a booth at Pakistani Students Association events and invited students to stop by.
 - (e) Mughal provided investors with “Client Forms” that represented that Mughal was using investor money to invest in securities. The Client Form provided a description of Mughal’s management fees and provided investors with the opportunity to select the type of investment fund, such as the “Quarterly Income Fund” or the “Growth Fund.”
 - (f) Mughal “monthly reports,” which showed the amount of the investment and the alleged “profits” or “losses” to the investor’s funds during that month and since their investment. Certain investors were also paid “return payments,” which they believed was the profits on their investment.
10. In addition, investors and prospective investors met with Asif in the Mughal office in Toronto and spoke with him on the phone and by text message. In these conversations, Asif provided general descriptions of what he was investing client funds in, including “stocks” and “bonds”. Investors believed their funds were being pooled and invested in securities.
11. Asif told investors and prospective investors that they could expect a significant return on their investments. Asif also represented to certain investors that he could provide specialized services for their investments or their Mughal accounts, such as providing registered tax-free savings accounts or investing directly in IPOs.
- (ii) Deprivation and Harm to Investors**
12. Mughal was a sham and did not operate an investment firm. Mughal had no brokerage account, never directly purchased securities, never set up any investment fund, generated no revenue and took no meaningful steps to engage in any revenue generating activity other than raising funds from investors.
13. There is no evidence that Asif made any real attempt to operate an investment fund or adhere to any representations made to investors. Although Asif transferred approximately five percent of total investor funds through his personal bank accounts to his personal Questrade brokerage account, he used these funds to make risky investments and incurred substantial losses. There is no evidence that these investments in Asif’s personal account were made for the benefit of the Mughal investors.
14. Instead, investor funds were primarily used to pay back other investors, either as simulated return payments or to satisfy withdrawal requests. Of the approximately \$2.9 million raised (CAN\$2.73 million and US\$264,000), at least \$1.9 million was transferred back to old investors.
15. Investor funds were also used for Asif’s personal spending, transferred into his personal accounts or funneled into Lendle. During the Material Time, in the Mughal bank accounts, there was approximately \$560,000 in personal spending, credit card payments, cash withdrawals and transfers to Asif’s personal account. Asif used Mughal investor funds to buy gifts for family members, including a Kawasaki motorcycle. Asif also used Mughal investor funds to purchase a 5-bedroom house in Vaughan, Ontario for himself and a condominium in North York, Ontario in his brother’s name.
16. Investors in Mughal never received any real return on their investment. Any investors who were not paid back with someone else’s money lost all of their invested funds.
- (iii) Lendle Participated in Mughal Fraud on Investors**
17. In or around November 2019, Asif incorporated Lendle, a purported credit and loan corporation, which up until January 2022 shared an office location with Mughal. Asif is the chief executive officer and directing mind of Lendle. Asif and his brother are the sole directors of Lendle. Since incorporation, Asif has used Lendle as a vehicle to further the fraud on

Mughal investors, including by transferring investor funds from Mughal to fund Lendle operations and by using Lendle to pay back Mughal investors.

(iv) Misleading Investigation Team and Interference with Investigation

Previous Investigations and Warning Letters

18. Mughal and Asif have been the subjects of previous investigations focused on potential unregistered trading in breach of section 25 of the Act. In the course of the previous investigations, Asif made multiple false or misleading statements to the Investigation Team by email, in response to Requests for Information (**RFIs**) and under oath in a voluntary examination on August 20, 2018.
19. During the previous investigations, Asif described Mughal's business as teaching investment courses. On multiple occasions, including by email and testimony under oath, Asif reassured the Investigation Team that Mughal was only teaching investment courses and was not raising investment funds from the public. Asif provided the Investigation Team materials from the purported investment courses. Asif told the Investigation Team in his voluntary examination: "You can conduct a full investigation, I promise you, you'll realize we're just teaching."
20. Asif also coached a witness, who was a former employee of Mughal, in how to respond to a RFI sent by the Investigation Team. The written response to the RFI dated April 11, 2019, prepared by Asif, stated that Mughal "generates revenue by teaching students how to trade the stock market."
21. Mughal and Asif were sent two warning letters on July 2, 2019 and April 20, 2020 regarding potential unregistered trading. In response to the first letter, Asif wrote to the Investigation Team stating that: "Trading is a gray area and I have stopped it all together, [e]specially after the letter, until I know I am completely ready to meet the registration requirements. All I do now is teach and help manage finances for individuals and businesses."
22. In June and July 2021, two individuals alleged that they had made investments with Mughal and understood that Mughal was investing their funds in securities. These new complaints alerted the Investigation Team that Asif was not truthful in his statements made in the previous investigations and was ignoring the warning letters he received in 2019 and 2020.

Misleading Statements and Interference with Investigation

23. Asif made several false or misleading statements to the Investigation Team in response to a September 21, 2021 summons and in a compelled examination that took place on October 22, 2021. For example, in response to the summons, Asif's counsel sent a letter on October 14, 2021 which provided an inaccurate investor list and made the following false and/or misleading statements:
 - (a) "Our client hereby confirms that since the above-noted warning letter was received, dated 20 April 2020, that our client has ceased any further similar conduct and altogether, halted any operation of Mughal Asset Management."
 - (b) "All alleged investors were immediate family members or friends. There were no efforts to market the company to a wider audience."
 - (c) "Mughal Asset Management did not operate as a formalized entity to entice third party investors; as stated above, all alleged investors were immediate family members or friends. The company never created any client forms, investment agreements, client account statements, monthly financial reports and other client forms. As such, no productions are available to disclose."
24. In his compelled interview under oath on October 22, 2021, Asif made the following false and/or misleading statements:
 - (a) Mughal was just a registered name that never actually conducted business;
 - (b) Mughal did not earn any revenue and did not raise any funds;
 - (c) other than an investment club which Asif ran personally with his family and friends, Mughal never accepted any investment funds;
 - (d) Mughal is no longer in business and ceased providing any services following receipt of the warning letter in 2019;
 - (e) there were no radio station advertisements for Mughal;
 - (f) Mughal never had any agreements or forms that it gave to clients for investment services;

A.1: Notices of Hearing

- (g) Mughal never provided any monthly statements or accounting of returns for investors;
 - (h) Mughal only had a bank account with RBC and did not have a bank account with any other bank;
 - (i) no individuals sent money to Mughal's TD Bank account as an investment in Mughal;
 - (j) Asif only received approximately \$5,000-6,000 in compensation from Mughal;
 - (k) Mughal has never provided any funds to Lendle;
 - (l) Mughal and Asif never accepted funds from a person and then used those funds to pay another person; and
 - (m) Mughal and Asif never accepted funds from an individual and then used those funds for personal spending.
25. Asif also made several attempts to disrupt the investigation into his conduct both during and following his compelled interview on October 22, 2021. For example:
- (a) Mughal's primary bank account at TD Bank was closed on September 27, 2021, a few days after Asif received the section 13 summons;
 - (b) Asif made several false statements about where he and Mughal had bank accounts, including stating that Mughal only had a bank account with RBC;
 - (c) Asif avoided answering questions in his compelled interview by stating that he "did not know" or "did not recall" the answer to approximately 215 questions in a five-hour interview;
 - (d) Asif opened a new bank account at HSBC a few days after his compelled interview and deposited investor funds into that account;
 - (e) Asif used his personal bank account to accept investor funds following his compelled interview; and
 - (f) after a cease trade order against Mughal and Asif was issued on December 17, 2021, Asif used his personal bank account to pay back Mughal investors.
26. In the course of the investigation, Asif also made several attempts to discourage Mughal investors from speaking with the Investigation Team. Asif disclosed that he and Mughal were being investigated, including the nature or content of the investigation order issued under section 11 of the Act, and disclosed details regarding his September 21, 2021 summons issued under section 13 of the Act.
27. Asif also told at least one Mughal investor in 2022 that he had settled enforcement proceedings with the Ontario Securities Commission and that he would be able to pay investors back. At the time, there was no settlement in place and Mughal and Asif were still subject to a cease trade order issued on December 17, 2021 and freeze directions issued on March 11, 2022.

C. BREACHES OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

The following breaches of Ontario securities law and/or conduct contrary to the public interest are made:

(i) Breaches of the Act

28. Mughal, Lendle and Asif engaged in or participated in acts, practices, or a course of conduct relating to securities that they knew or reasonably ought to have known perpetrated a fraud on persons or companies contrary to subsection 126.1(1)(b) of the Act.
29. In addition, Asif:
- (a) authorized, permitted or acquiesced in the non-compliance of the Act by Mughal and Lendle contrary to section 129.2 of the Act;
 - (b) misled the Investigation Team by:
 - (i) making false or misleading statements on material matters and/or omitting facts required to make the statements not materially misleading contrary to subsection 122(1)(a) of the Act;
 - (ii) failing to produce documents compelled under section 13, contrary to section 13 of the Act; and

- (c) disclosed the nature or content of a section 11 order and details regarding a section 13 summons, contrary to section 16 of the Act;

(ii) Conduct Contrary to the Public Interest

30. In addition to the specific breaches of the Act described above, Asif also engaged in conduct contrary to the public interest in the following manner:
- (a) as set out in paragraphs 19 to 23 above, Asif disregarded warning letters sent in 2019 and 2020;
 - (b) as set out in paragraphs 24 to 27 above, Asif concealed the existence of documents, such as client forms, monthly reports and other client documents, and information, such as investor lists and bank account information, from the Investigation Team during the investigation;
 - (c) as set out in paragraphs 19 to 27 above, Asif interfered with the investigation, including by coaching a witness on their written response to an RFI, encouraging witnesses not to speak with the Investigation Team, and attempting to conceal banking activity from the Investigation Team; and
 - (d) as set out in paragraph 28 above, Asif told at least one investor that he had settled enforcement proceedings when no settlement had occurred.

D. ORDERS SOUGHT

31. It is requested that the Capital Markets Tribunal (the **Tribunal**) make the following orders:
- (a) as against each of Mughal and Lendle:
 - (i) that it cease trading in any securities or derivatives permanently or for such period as is specified by the Tribunal, pursuant to paragraph 2 of subsection 127(1) of the Act;
 - (ii) that it be prohibited from acquiring any securities permanently or for such period as is specified by the Tribunal, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
 - (iii) that any exemption contained in Ontario securities law not apply to it permanently or for such period as is specified by the Tribunal, pursuant to paragraph 3 of subsection 127(1) of the Act;
 - (iv) that it be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
 - (v) that it be prohibited from becoming or acting as a registrant or promoter permanently or for such period as is specified by the Tribunal, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
 - (vi) that it pay an administrative penalty of not more than \$1 million for each failure to comply with Ontario securities law, pursuant to paragraph 9 of subsection 127(1) of the Act;
 - (vii) that it disgorge any amounts obtained as a result of non-compliance with Ontario securities law, pursuant to paragraph 10 of subsection 127(1) of the Act;
 - (viii) that it pay costs of the investigation and the hearing, pursuant to section 127.1 of the Act; and
 - (ix) such other order as the Tribunal considers appropriate in the public interest.
 - (b) as against Asif:
 - (i) that he cease trading in any securities or derivatives permanently or for such period as is specified by the Tribunal, pursuant to paragraph 2 of subsection 127(1) of the Act;
 - (ii) that he be prohibited from acquiring any securities permanently or for such period as is specified by the Tribunal, pursuant to paragraph 2.1 of subsection 127(1) of the Act;
 - (iii) that any exemption contained in Ontario securities law not apply to him permanently or for such period as is specified by the Tribunal, pursuant to paragraph 3 of subsection 127(1) of the Act;
 - (iv) that he be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
 - (v) that he resign any position he may hold as a director or officer of any issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;

A.1: Notices of Hearing

- (vi) that he be prohibited from becoming or acting as a director or officer of any issuer permanently or for such period as is specified by the Tribunal, pursuant to paragraph 8 of subsection 127(1) of the Act;
- (vii) that he resign any position he may hold as a director or officer of any registrant, pursuant to paragraph 8.1 of subsection 127(1) of the Act;
- (viii) that he be prohibited from becoming or acting as a director or officer of any registrant permanently or for such period as is specified by the Tribunal, pursuant to paragraph 8.2 of subsection 127(1) of the Act;
- (ix) that he be prohibited from becoming or acting as a registrant or promoter permanently or for such period as is specified by the Tribunal, pursuant to paragraph 8.5 of subsection 127(1) of the Act;
- (x) that he pay an administrative penalty of not more than \$1 million for each failure to comply with Ontario securities law, pursuant to paragraph 9 of subsection 127(1) of the Act;
- (xi) that he disgorge any amounts obtained as a result of non-compliance with Ontario securities law, pursuant to paragraph 10 of subsection 127(1) of the Act;
- (xii) that he pay costs of the investigation and the hearing, pursuant to section 127.1 of the Act; and
- (xiii) such other order as the Tribunal considers appropriate in the public interest.

32. These allegations may be amended and further and other allegations may be added as counsel may advise and the Tribunal may permit.

DATED this 14th day of June, 2022.

ONTARIO SECURITIES COMMISSION

20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S8

Sarah McLeod

Litigation Counsel, Enforcement Branch

Email: smcleod@osc.gov.on.ca

Tel: (416) 597-7809

**IN THE MATTER OF
BYBIT FINTECH LIMITED**

NOTICE OF HEARING

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

PROCEEDING TYPE: Public Settlement Hearing

HEARING DATE AND TIME: June 22, 2022 at 11:00 a.m.

LOCATION: By videoconference

PURPOSE

The purpose of this hearing is to consider whether it is in the public interest for the Capital Markets Tribunal to approve the Settlement Agreement dated June 9, 2022 between Staff of the Commission and Bybit Fintech Limited in respect of the Statement of Allegations filed by Staff of the Commission dated June 21, 2021.

REPRESENTATION

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

FAILURE TO ATTEND

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

FRENCH HEARING

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

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

Dated at Toronto this 20th day of June 2022.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For more information

Please visit <http://www.capitalmarkettribunal.ca/en> or contact the Registrar at registrar@osc.gov.on.ca.

A.2 Other Notices

A.2 Other Notices

A.2.1 Mughal Asset Management Corporation et al.

FOR IMMEDIATE RELEASE
June 16, 2022

**MUGHAL ASSET MANAGEMENT CORPORATION,
LENLE CORPORATION and
USMAN ASIF,
File No. 2022-15**

TORONTO – The Tribunal issued a Notice of Hearing dated June 16, 2022, setting the matter down to be heard on July 21, 2022 at 1:00 p.m. or as soon thereafter as the hearing can be held in the above named matter.

A copy of the Notice of Hearing dated June 16, 2022 and Statement of Allegations dated June 14, 2022 are available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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A.2.2 Stableview Asset Management Inc. and Colin Fisher

FOR IMMEDIATE RELEASE
June 20, 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 June 22 and 23, 2022 will not proceed as scheduled.

The hearing on the merits will continue on July 18, 2022 at 10:00 a.m.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.2.3 Bybit Fintech Limited

**FOR IMMEDIATE RELEASE
June 20, 2022**

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

TORONTO – The Tribunal issued a Notice of Hearing for a hearing to consider whether it is in the public interest to approve a settlement agreement entered into by Staff of the Commission and Bybit Fintech Limited in the above named matter.

The hearing will be held on June 22, 2022 at 11:00 a.m.

A copy of the Notice of Hearing dated June 20, 2022 is available at capitalmarketstribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.2.4 Bybit Fintech Limited

**FOR IMMEDIATE RELEASE
June 20, 2022**

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

TORONTO – Take notice that the merits hearing in the above named matter scheduled to commence on June 22, 2022 and continue on June 23, 24, 27, 28, 29, and 30, 2022 will not proceed as scheduled.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.2.5 Stableview Asset Management Inc. and Colin Fisher

**FOR IMMEDIATE RELEASE
June 21, 2022**

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

TORONTO – The Tribunal issued its Reasons for Decision on a Motion in the above named matter.

A copy of the Reasons for Decision on a Motion dated June 20, 2022 is available at capitalmarkettribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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

A.2.6 Majd Kitmitto et al.

**FOR IMMEDIATE RELEASE
June 21, 2022**

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

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

A copy of the Order dated June 21, 2022 is available at capitalmarkettribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

For Media Inquiries:

media_inquiries@osc.gov.on.ca

For General Inquiries:

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inquiries@osc.gov.on.ca

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A.3 Orders

A.3 Orders

A.3.1 Majd Kitmitto et al.

IN THE MATTER OF
MAJD KITMITTO,
STEVEN VANNATTA,
CHRISTOPHER CANDUSSO,
CLAUDIO CANDUSSO,
DONALD ALEXANDER (SANDY) GOSS,
JOHN FIELDING
AND
FRANK FAKHRY

File No. 2018-70

Adjudicators: M. Cecilia Williams (chair of the panel)
Sandra Blake
Geoffrey Creighton

June 21, 2022

ORDER

WHEREAS on June 21, 2022, the Capital Markets Tribunal held a hearing by videoconference with respect to scheduling a sanctions and costs hearing with respect to Majd Kitmitto, Steven Vannatta, Christopher Candusso, Donald Alexander (Sandy) Goss and Frank Fakhry (collectively, the **Respondents**) who were found to have contravened Ontario securities law in the Reasons and Decision dated May 26, 2022;

ON HEARING the submissions of the representatives for Staff of the Ontario Securities Commission and for each of the Respondents;

IT IS ORDERED THAT:

1. Staff shall serve and file written submissions and any evidence on sanctions and costs by 4:30 p.m. on July 20, 2022;
2. the Respondents shall serve and file written submissions and any evidence on sanctions and costs by 4:30 p.m. on September 7, 2022;
3. Staff shall serve and file written reply submissions and reply evidence on sanctions and costs, if any, by 4:30 p.m. on September 21, 2022;
4. the hearing with respect to sanctions and costs shall be heard by videoconference on October 11 and 13, 2022, at 10:00 a.m. on each day, or on such other dates and times as may be agreed to by the parties and set by the Governance and Tribunal Secretariat.

“Sandra Blake”

“M. Cecilia Williams”

“Geoffrey Creighton”

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A.4

Reasons and Decisions

A.4 Reasons and Decisions

A.4.1 Stableview Asset Management Inc. and Colin Fisher – Rule 28 of the Rules of Procedure and Forms

Citation: *Stableview Asset Management Inc (Re)*, 2022 ONCMT 14

Date: 2022-06-20

File No. 2020-40

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

**REASONS FOR DECISION ON A MOTION
(Rule 28 of the *Rules of Procedure and Forms*)**

Adjudicator: Tim Moseley

Hearing: By videoconference, April 27, 2022

Appearances: Johanna Braden For Staff of the Ontario Securities Commission
Sarah McLeod

Brendan F. Morrison For Colin Fisher
Sarah Bittman

No one appearing for Stableview Asset Management Inc.

REASONS FOR DECISION ON A MOTION

1. OVERVIEW

- [1] In this proceeding, Staff of the Ontario Securities Commission alleges that Stableview Asset Management Inc., a registered investment fund manager, portfolio manager and exempt market dealer, and its principal Colin Fisher, committed numerous breaches of Ontario securities law by improperly investing client funds, among other things.
- [2] With the merits hearing approaching, Staff served three draft affidavits containing the intended testimony of three of Staff's witnesses, all of them members of Staff – two accountants in the Commission's Compliance and Registrant Regulation Branch and one accountant in the Enforcement Branch. Staff did this as required by an order of the Tribunal¹ that provided Fisher an opportunity to review the draft affidavits before they were filed with the Tribunal, and to determine whether there were any portions to which Fisher objected.
- [3] Fisher objected to the entire contents of one affidavit on the ground that its contents were irrelevant. He objected to various portions of the other two affidavits, because the particular portion was irrelevant, or was improper opinion evidence, or was improper commentary on the evidence of others.
- [4] After reviewing the draft affidavits and the parties' written submissions, and hearing the parties' oral submissions, I issued an order² providing that, for reasons to follow, certain portions of the affidavits were inadmissible at the merits hearing. These are my reasons for that decision.

¹ *Stableview Asset Management Inc (Re)*, (2022) 45 OSCB 1449

² *Stableview Asset Management Inc (Re)*, (2022) 45 OSCB 4681

2. ANALYSIS

2.1 Introduction

[5] Staff and Fisher agreed that the Statement of Allegations in an enforcement proceeding defines the issues,³ and that it therefore determines relevance.⁴ The test of relevance is a low threshold, but in order to be relevant, proposed evidence must have some tendency to influence the likelihood of a proposition for which it is advanced.⁵

[6] The above principles must be observed carefully, in order to ensure that respondents receive proper notice of the case against them.⁶

[7] My decision on this motion about what evidence would be admissible is determined by what would be relevant at the merits hearing only. Evidence that is irrelevant at the merits hearing but that would become relevant at the sanctions and costs hearing, if there is one, is not admissible at this stage. Therefore, I cannot accept Staff's submission that relevance can be determined by the specific sanctions that Staff intends to seek if a sanctions and costs hearing occurs.

[8] The Statement of Allegations in this case presents the following central questions (a list that might change at a merits hearing depending on the parties' submissions and witnesses, but that would still be governed by the Statement of Allegations):

- a. What investment parameters and restrictions applied to the ways in which Stableview could invest client funds, either because those parameters and restrictions were imposed by law, or because they were communicated to clients?
- b. How did Stableview invest the funds, and did those investments conform to applicable parameters and restrictions?
- c. If there were changes to the above, did Stableview communicate those to its clients?
- d. Did Stableview receive consulting fees from a third party, and if so, were those permitted, did they constitute an impermissible conflict of interest, and were they disclosed to Stableview's clients?
- e. What was the extent of Fisher's involvement and interest?
- f. What is the status of the receivership of Stableview?

[9] With those issues in mind, I now consider the three draft affidavits.

2.2 Affidavit of Trevor Walz

[10] Trevor Walz is a Senior Accountant in the Commission's Compliance and Registrant Regulation Branch.

[11] Walz's draft affidavit describes:

- a. introductory details, including:
 - i. his experience, employment with the Commission and professional qualifications;
 - ii. the Commission's Compliance and Registrant Regulation Branch, its responsibilities and activities; and
 - iii. how he became involved in this matter;
- b. terms and conditions that were imposed on Stableview's registrations and that were in effect until Stableview was placed under receivership, and how those terms and conditions came to be imposed; and
- c. Walz's experiences in assisting with the administration of the terms and conditions, including:
 - i. discussions with Fisher about his living expenses;
 - ii. the communication (if any) by Fisher of the terms and conditions to Stableview's clients;
 - iii. requests for redemptions from the two pooled funds managed by Stableview; and

³ *Pushka v Ontario (Securities Commission)*, 2016 ONSC 3041 at para 82; *Solar Income Fund Inc (Re)*, 2021 ONSC 2 (*Solar*) at para 16

⁴ *Khan (Re)*, 2013 ONSC 36 at para 34; *Solar* at para 23

⁵ *R v J-LJ*, 2000 SCC 51 at para 47

⁶ *Anderson (Re)*, 2004 ONSC 13 at para 25

- iv. an alleged attempt by Fisher to use money from one fund to make loans to the other two funds managed by Stableview.
- [12] Fisher submitted that all of Walz's testimony was irrelevant. I agreed and ruled that none of it was admissible at the merits hearing, except for a portion of paragraph 9 that referred to the existence of terms and conditions placed on Stableview's registration.
- [13] There is no allegation in the Statement of Allegations that would make relevant the process of how the terms and conditions came to be in place. Similarly, there is no allegation that would make relevant Walz's experiences in administering those terms and conditions.
- [14] The Statement of Allegations refers to the terms and conditions only once, explicitly or otherwise. Paragraph 7 of that document states that in 2019, Staff in the Compliance and Registrant Regulation Branch conducted a compliance review of Stableview and identified what in their opinion were numerous deficiencies. The terms and conditions resulted.
- [15] There is no other reference in the Statement of Allegations, even indirectly, to the terms and conditions. Even the reference mentioned above is completely disconnected from the alleged contraventions of Ontario securities law. There is, for example, no allegation that either of the respondents violated any of the terms and conditions, or that Fisher engaged in any misconduct in his interactions with the Commission or its Staff.
- [16] That last point is central to my response to Staff's submission that without Walz's evidence, the panel will not have the whole story about what transpired between Staff and the Respondents over this time period. Staff's submission may well be correct. But even if so, Staff will not have been impeded from proving the case that it has alleged. The scope of the "story" is defined by the Statement of Allegations and its role of giving proper notice to the respondents. A mere mention of the terms and conditions does not make those terms and conditions relevant unless there is some explanation in the Statement of Allegations as to why they are relevant. This Statement of Allegations contains no such explanation.
- [17] My view about Walz's evidence extends to the brief references to the inter-fund loans mentioned in paragraph [11](c)(iv) above. In his draft affidavit, Walz referred to a request he received from the funds' custodian about the payment of management fees associated with different funds. According to Walz, the custodian advised Staff that Fisher had approved a loan from one fund to two other funds for the purpose of paying management fees. However, Walz describes this as part of an "attempt" by Fisher to use money from one fund to lend to the other funds. As Fisher submits, Walz's evidence appears to address contemplated transactions that were not ultimately completed. His evidence therefore did not relate to the allegations in the Statement of Allegations about loans that were actually made.
- [18] On that point, I note that another of Staff's affiants, Sherry Brown, describes the inter-fund loans that were made and provides a transaction summary to support the related allegation. Fisher made no objection to that evidence (except to the extent that part of it purported to repeat what was in Walz's affidavit). Brown's affidavit describes the inter-fund loans directly, with support, and is not entangled in the administration of the terms and conditions, which is an irrelevant context, as I have explained above.
- [19] As a general matter, opening the door to the evidence in Walz's affidavit would have significantly broadened the scope of, and lengthened, the merits hearing, as is evident from the breadth of Walz's affidavit. It is reasonable to expect that there would have been considerable cross-examination of Walz, and that Fisher would have felt it necessary to call a number of witnesses to rebut Walz's testimony, as Fisher indicated he would.
- [20] Based on summaries of witnesses' anticipated evidence delivered by Fisher to Staff as required, Staff was concerned that some of Fisher's witnesses would testify about some or all of the issues set out in Walz's draft affidavit. Such summaries are not filed with the Tribunal, except where there is some dispute about the summary itself, or the timing of its delivery. I did not consider summaries from Staff or Fisher in determining this motion.
- [21] To that point, however, where a respondent serves a witness summary that purports to foreshadow the introduction of evidence that is beyond the scope of the Statement of Allegations, that summary does not make relevant what would otherwise be irrelevant. The rules apply equally to Staff and respondents, and if during a hearing a respondent attempts to introduce evidence that is irrelevant, Staff's remedy is to object to its introduction at that time.
- [22] In conclusion with respect to Walz's proposed testimony, it was not probative of any issue that would be before the merits hearing panel (other than the existence of the terms and conditions). For these reasons, I granted Fisher's motion in respect of Walz's affidavit, except for that one portion.

2.3 Affidavit of Catherine Muhindi

2.3.1 Introduction

[23] Catherine Muhindi is an Accountant in the Commission's Compliance and Registrant Regulation Branch. Among other things, her affidavit described a compliance review of Stableview that the Branch conducted, and a subsequent interview of Fisher.

[24] Fisher submitted that portions of Muhindi's draft affidavit:

- a. were irrelevant;
- b. contained improper opinion evidence;
- c. drew legal conclusions on issues to be determined by the Tribunal; and/or
- d. improperly put forward the contents of an interview of Fisher with Compliance and Registrant Regulation Staff, which Fisher voluntarily attended, or a summary of the testimony he gave at that interview.

[25] I will address each category in turn.

2.3.2 Irrelevant evidence

[26] I ordered that the following portions of Muhindi's affidavit were inadmissible at the merits hearing, on the ground that they were irrelevant: the opening words of paragraph 25, the first sentence of paragraph 43, the opening words of subparagraph 43a, the opening words of paragraph 45, and the last sentence of paragraph 46. All of these recounted that Staff formed certain opinions or conclusions during the compliance review. The timing of when Staff arrived at those conclusions does not relate to an issue in this proceeding.

2.3.3 Improper opinion evidence

[27] Opinion evidence is generally inadmissible in proceedings before the Tribunal. An exception is made for properly qualified experts who give relevant opinion evidence that is outside the experience and knowledge of the Tribunal and that would enable the Tribunal to appreciate the matters at issue due to their technical nature.⁷

[28] In this proceeding, Staff did not seek to call any expert evidence.

[29] Another exception exists to the general prohibition against opinion evidence. Staff indirectly cited the Supreme Court of Canada's decision in *R v Graat*⁸ for the proposition that an exception may also be made in limited circumstances where a witness who has not been qualified as an expert:

- a. has personal knowledge;
- b. is in a better position than the trier of fact to form the opinion;
- c. has the necessary experiential capacity to make the conclusion; and
- d. gives the opinion as a compendious mode of speaking and could not as accurately, adequately and with reasonable facility describe the facts that they are testifying about.

[30] I do not accept that *R v Graat* applies here. In that case, the opinion evidence at issue was that of police officers who had observed the accused operating a motor vehicle, and who formed an opinion as to the accused's degree of impairment. In those circumstances, the experienced police officers were in a better position than the court to form an opinion about the accused's state at the relevant time. The same cannot be said about the kinds of opinions that Staff's witnesses expressed in their affidavits, e.g., as to whether a fund was overly concentrated in a particular security. Such opinions in the context of this case are not admissible.

[31] After considering the parties' submissions, I ordered that the following portions of Muhindi's affidavit were inadmissible at the merits hearing, on the ground that they were improper opinion evidence:

- a. the first sentence of paragraph 21, which expressed an opinion about the "situation";

⁷ *Paramount Equity Financial Corporation (Re)*, 2020 ONSC 12 at para 5

⁸ 1982 CanLII 33 (SCC), [1982] 2 SCR 819

- b. the first sentence of paragraph 23, which expressed an opinion about how the respondents' conduct caused many of the deficiencies noted by Staff in the compliance review;
- c. paragraph 24a, which summarized opinions set out elsewhere in the affidavit about the results of the impugned investments;
- d. the first sentence of paragraph 43, which expressed an opinion about whether conflicts of interest had been disclosed (this portion was also irrelevant, as noted above);
- e. the opening words of subparagraph 43a, which tied facts that were stated later in the subparagraph to Muhindi's conclusions about her review (this portion was also irrelevant, as noted above);
- f. the opening words of paragraph 45, which tied an opinion that followed to conclusions reached by Staff in the Compliance and Registrant Regulation Branch (this portion was also irrelevant, as noted above); and
- g. the last sentence of paragraph 46 (this portion was also irrelevant, as noted above) and the first sentence of paragraph 52, which expressed opinions about the significance of findings from the compliance review.

2.3.4 Legal conclusions on issues to be determined by the Tribunal

[32] I ordered that the following portions of Muhindi's affidavit were inadmissible at the merits hearing, on the ground that they were improper opinion evidence. However, with respect to these portions, the opinions were on issues that the Tribunal would be called upon to determine, and they purported to be based on facts contained in the impugned portion. In the order, I therefore provided that while Muhindi's opinion itself was inadmissible, Staff was entitled to adduce the underlying facts in support of a submission that the Tribunal ought to reach the same conclusion:

- a. the second sentence of paragraph 21, which expressed an opinion about whether the relevant investment portfolios were overly concentrated in a single company's illiquid securities;
- b. the second sentence of paragraph 23, which expressed an opinion about Fisher's role in the impugned investments;
- c. the portion of paragraph 25 not already ruled inadmissible, which expressed opinions about whether the respondents breached investment parameters, whether Stableview was in a conflict of interest, and whether there was adequate support for a valuation of certain securities;
- d. paragraphs 34 and 35, which expressed opinions about diversification and compliance with investment parameters;
- e. the first and last sentences of paragraph 37, and the fourth sentence of paragraph 39, which expressed opinions about compliance with investment restrictions and parameters;
- f. paragraph 41, which gave a subjective characterization of certain disclosure made by Stableview to its clients, and which gave a legal conclusion about the extent of written disclosure; and
- g. the remainder of paragraph 45, which expressed an opinion about the adequacy of Stableview's support for a valuation, and about the liquidity of specified securities.

2.3.5 Fisher's voluntary interview before the proceeding was commenced

[33] Subparagraph 24b of Muhindi's affidavit referred to a summary, contained elsewhere in the affidavit, of a voluntary interview of Fisher conducted by Staff in the Compliance and Registrant Regulation Branch. I ordered that the subparagraph was inadmissible at the merits hearing because it was too broad and was not the most reliable source for knowing what Fisher said in that interview.

[34] Staff may, in accordance with the Tribunal's usual practice, seek at the merits hearing to introduce specific portions of the transcript. The merits hearing panel could then determine the admissibility of those portions in the context of the hearing. I note that in his written submissions Fisher undertook to testify at the hearing, which might obviate the need for any portion of the transcript to be introduced, except to impeach his credibility.⁹

[35] For the same reasons, I ruled inadmissible paragraphs 54 and 55 of Muhindi's affidavit, which purported to summarize and characterize portions of Fisher's interview.

⁹ See, e.g., *Donald (Re)*, 2012 ONSEC 26 at para 34

2.4 Affidavit of Sherry Brown

2.4.1 Introduction

[36] Sherry Brown is a Senior Forensic Accountant in the Commission's Enforcement Branch. Her affidavit described, among other things, steps taken during the investigation that led to this proceeding.

[37] Fisher submitted that portions of Brown's draft affidavit:

- a. were irrelevant;
- b. drew legal conclusions on issues to be determined by the Tribunal;
- c. improperly put forward the contents of an interview of Fisher with Compliance and Registrant Regulation Staff, which Fisher voluntarily attended, or a summary of the testimony he gave at that interview; and/or
- d. were improper hearsay.

[38] I will address each category in turn.

2.4.2 Irrelevant evidence

[39] I ordered that the following portions of Brown's affidavit were inadmissible at the merits hearing, on the ground that they were irrelevant:

- a. the opening words of paragraph 57, which referred to the compliance review report, which is not in issue in this proceeding;
- b. in paragraph 57, the words "The Investigation showed", given that Staff's conclusions as a result of the investigation do not relate to an issue in this proceeding; and
- c. for the same reasons applicable to Walz's affidavit, the first and second sentences of paragraph 94, which referred to Walz's proposed testimony.

2.4.3 Legal conclusions on issues to be determined by the Tribunal

[40] I ordered that the following portions of Brown's affidavit were inadmissible at the merits hearing, on the ground that they were improper opinion evidence. However, with respect to these portions, the opinions were on issues that the Tribunal would be called upon to determine, and they purported to be based on facts contained in the impugned portion. In the order, I therefore provided that while Brown's opinion itself was inadmissible, Staff was entitled to adduce the underlying facts in support of a submission that the Tribunal ought to reach the conclusion referred to in that portion of the affidavit:

- a. paragraph 44, which expressed an opinion about compliance with investment parameters;
- b. in paragraph 57, portions of the first and third sentences, which expressed an opinion about Fisher's culpability for an alleged breach and about the liquidity of a particular security and the financial health of that issuer;
- c. the first sentence of paragraph 70, which expressed an opinion about the significance of various events in the chronology, and about the financial health of the issuer referred to above; and
- d. the last sentence of paragraph 88, which expressed an opinion about the existence and degree of an alleged non-compliance with investment parameters.

2.4.4 Fisher's voluntary interview before the proceeding was commenced

[41] For the same reasons applicable to Muhindi's proposed testimony regarding the voluntary interview of Fisher, I ordered that the last sentence of paragraph 85, and subparagraphs 85a through 85d, of Brown's affidavit were inadmissible.

2.4.5 Hearsay evidence, and alleged breach of Staff's disclosure obligations

[42] Paragraph 108 of Brown's affidavit reported in dispassionate fashion information she said that Staff obtained from the receiver for Stableview regarding the extent of liquidation of the subject funds. Fisher submitted that I should rule that evidence as inadmissible hearsay.

A.4: Reasons and Decisions

[43] I dismissed Fisher's request. Section 15 of the *Statutory Powers Procedure Act*¹⁰ permits the Tribunal to admit hearsay evidence. In my view, the question of whether that evidence should be admitted, and if so how much weight it deserves, are more properly questions for the merits hearing panel.

[44] Fisher also submitted that Staff had breached its disclosure obligations by providing this information at a late date. I could not accept this submission, at least on the basis of the record before me. It is not disputed that the receivership continues. It is only natural that there will be constantly evolving information from the receivership. Any complaint Fisher has about the timeliness of Staff's disclosure should, at this point, be addressed by the merits hearing panel.

3. CONCLUSION

[45] For the above reasons, I issued the order of April 29, 2022, ruling as inadmissible all of Trevor Walz's draft affidavit (except for the reference to the existence of terms and conditions) and those portions of Catherine Muhindi's and Sherry Brown's draft affidavits specified above.

Dated at Toronto this 20th day of June, 2022

"Timothy Moseley"

¹⁰ RSO 1990, c S.22

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B. Ontario Securities Commission

B.1 Notices

B.1 Notices

B.1.1 CSA Staff Notice 21-331 Information Processor for Exchange-Traded Securities other than Options



Canadian Securities
Administrators

Autorités canadiennes
en valeurs mobilières

CSA Staff Notice 21-331

Information Processor for Exchange-Traded Securities other than Options

June 23, 2022

Introduction

Canadian Securities Administrators (**CSA**) staff (**CSA staff** or **we**) are publishing this notice to inform the public that the TMX Information Processor (**TMX IP**) will continue to act as an information processor (**IP**) for exchange-traded securities other than options¹ under National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) until June 30, 2026. This notice discusses the role of the IP and the terms and conditions under which it will continue to operate.

In Ontario, Saskatchewan, Alberta, and British Columbia, TMX IP will be designated as an IP and subject to terms and conditions contained in a designation order. In Quebec, TMX IP will be recognized as an IP and subject to terms and conditions outlined in a recognition order. In all other jurisdictions, TMX IP will operate pursuant to a number of undertakings (which are similar to the terms and conditions to be set out in the Ontario, Saskatchewan, Alberta, British Columbia, and Quebec orders).

This notice is also available on the websites of CSA jurisdictions, including:

www.lautorite.qc.ca

www.albertasecurities.com

www.bcsc.bc.ca

www.fcnb.ca

nssc.novascotia.ca

www.osc.ca

www.fcaa.gov.sk.ca

www.mbsecurities.ca

Transparency Requirements and the Need for an Information Processor

An IP supports the transparency requirements in Part 7 of NI 21-101.² It collects, consolidates, and disseminates marketplace data and thus makes available at least one source of consolidated data to investors and market participants. The transparency

¹ In Québec, options are derivatives under the *Derivatives Act* (Québec) and are excluded from the definition of “exchange-traded securities.”

² Subsection 7.1(1) requires a marketplace that displays orders of exchange-traded securities to a person or company to provide accurate and timely information regarding orders for the exchange-traded securities displayed by the marketplace to an IP or, in its absence, to an information vendor. Subsection 7.1(2) provides an exception for those marketplaces that only display orders to their employees or to persons or companies retained by the marketplaces to assist in the operation of the marketplace, if the orders posted on the marketplaces meet the size threshold set by a regulation services provider. Subsection 7.2(1) of NI 21-101 requires marketplaces to provide information about trades in exchange-traded securities to an IP or, in its absence, to an information vendor.

requirements in Part 7 of NI 21-101 and, in particular, the availability of timely and accurate data, are critical to the regulatory framework and support fair and efficient markets and confidence in those markets.

The provision of consolidated information by an IP facilitates compliance by marketplace participants with relevant regulatory requirements that apply in a multiple marketplace environment by ensuring the availability of consolidated data that meets regulatory standards and which users can use to demonstrate or evaluate compliance with these requirements.

Part 14 of NI 21-101 provides for the operation and regulatory requirements applicable to an IP,³ which includes:

- a requirement to provide prompt and accurate order and trade information and to not unreasonably restrict fair access to such information;
- a requirement to provide timely, accurate, reliable and fair collection, processing, distribution and publication of information for orders for, and trades in, securities;
- an obligation to maintain reasonable books and records; and
- certain system requirements, including an annual independent systems review and vulnerability assessment.

In addition, an IP is required to establish, in a timely manner, an electronic connection to each marketplace that is required to provide information under NI 21-101, and also to enter into an agreement with each such marketplace. The agreement must set out that the marketplace will provide the IP information in accordance with Part 7 of NI 21-101 and that it will comply with any other reasonable requirements set by the IP.

In order to act as the IP, the CSA must determine that it is in the public interest for the entity to act as an IP for equity securities other than options. In addition, in Quebec, an IP needs to be recognized as an IP and subject to terms and conditions outlined in a recognition order. In Ontario, Saskatchewan, Alberta, and British Columbia, a designation order will be issued for an IP that also includes terms and conditions.

TMX IP

TMX IP has been the IP for exchange-traded securities other than options since July 1, 2009.⁴ TMX IP collects data from relevant marketplaces and is authorized to consolidate and disseminate this data in the form of the following products (together, the **Consolidated Products**):

- Consolidated Data Feed, which provides access to order and trade market data from each marketplace that contributes its data to the TMX IP (**contributing marketplace**);
- Consolidated Last Sale, which provides real-time trading data from all contributing marketplaces;
- Canadian Best Bid and Offer, which provides a consolidated best bid and offer for all Canadian exchange-traded securities other than options;
- Canadian Best Bid and Offer for Protected Only Marketplaces, which provides a consolidated view of the order book only for those marketplaces that have protected bids and offers under Part 6 of National Instrument 23-101 *Trading Rules (NI 23-101)*, Order Protection;
- Consolidated Depth of Book, which provides a single consolidated view of the order book from the contributing marketplaces; and
- Consolidated Depth of Book for Protected Only Markets, which provides a single consolidated view of the order book for those marketplaces that have protected bids and offers under Part 6 of NI 23-101.

To recover some of its operational costs, TMX IP uses a “pass-through” fee model, where the contributing marketplaces enter into contractual agreements with data vendors and subscribers directly, allowing each marketplace’s fees to be passed through to the clients of the IP. A monthly fee is charged by TMX IP for each of the Consolidated Products. The fees are published on the TMX IP’s website and reviewed by the CSA.

³ An IP is defined as in every jurisdiction except for British Columbia, any person or company that receives and provides information under NI 21-101 and has filed Form 21-101F5 and, in British Columbia, means a person or company that is designated as an information processor for the purposes of NI 21-101.

⁴ CSA Staff Notice 21-309 *Information Processor for Exchange-Traded Securities other than Options (CSA Staff Notice 21-309)* was published in 2009 to inform the public that TMX IP would act as an IP between July 1, 2009 to June 30, 2014. In Québec, the Autorité des marchés financiers issued decision n° 2009-PDG-0047 on June 4, 2009.

B.1: Notices

TMX IP is subject to a number of undertakings,⁵ pursuant to which it agrees to:

- establish policies and procedures to address conflicts of interest related to the operation of the information processor by TMX Group Limited;
- distribute only the Consolidated Products and obtain approval from CSA staff to distribute additional products using the data provided to it by marketplaces;
- acknowledge that it does not have exclusive rights to consolidate and disseminate order and trade information;
- conduct an annual self-assessment of its compliance with subsections 14.4(2), (4), and (5) of NI 21-101 and with its performance with respect to the undertakings;
- provide a report of the self-assessment to the IP Governance Committee and file the report and the views of the IP Governance Committee with the CSA; and
- ensure that all data contributors are given access to the IP on fair and reasonable terms.

These undertakings mirror the terms and conditions to the Ontario, Saskatchewan, Alberta, British Columbia, and Quebec orders.

Local Matters

Certain jurisdictions are publishing other information required by local securities legislation. In Manitoba, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, the Northwest Territories, and Nunavut, this information is contained in Appendix A to this notice and consists of TMX IP's Undertakings.

Questions

Please refer your questions to any of the following:

Alina Bazavan
Senior Analyst, Market Regulation
Ontario Securities Commission
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Heather Cohen
Senior Legal Counsel, Market Regulation
Ontario Securities Commission
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Lucie Prince
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Mobolanle Depo-Fajumo
Legal Counsel, Securities Division
Financial and Consumer Affairs Authority of Saskatchewan
mobolanle.depofajumo2@gov.sk.ca

⁵ CSA Staff Notice 21-309 includes the initial TMX IP undertakings, which were subsequently updated in CSA Staff Notice 21-313 *Information Processor for Exchange-Traded Securities other than Options*.

APPENDIX A

LOCAL MATTERS

UNDERTAKINGS PROVIDED BY TMX IP

In connection with the extension of its role as information processor for exchange-traded securities other than options,⁶ TSX Inc. (TSX) in its capacity as an IP (TMX IP) undertakes the following:

1. PUBLIC INTEREST RESPONSIBILITIES

- (a) TMX IP must conduct its business and operations in a manner that is consistent with the public interest.
- (b) TMX IP must provide written reports to the CSA Staff, as required by the CSA Staff, describing how it is meeting its regulatory and public interest functions.

2. CHANGES TO FORM F5

- (a) As required by section 14.2 of NI 21-101, TMX IP will file with the CSA Staff amendments to the information provided in Form F5. TMX IP must not implement a significant change to the information in the Form F5 without the prior approval of the CSA Staff.

3. GOVERNANCE AND CONFLICTS OF INTEREST

- (a) TMX IP will notify the CSA Staff of the representatives of the IP Governance Committee and the IP Advisory Sub-Committee, and will provide notice of any changes to those representatives.
- (b) The Boards of Directors of TMX Group Limited and TSX will not be involved in IP Governance Committee decisions relating to the scope of service, operational priorities, bandwidth, capacity planning, performance management, including service levels, and the fee and revenue sharing model related to TMX IP.
- (c) TMX IP will maintain and monitor compliance with policies and procedures to separate TSX's marketplace business operations from TMX IP operations and manage inherent conflicts of interest and provide material changes to these policies and procedures to the CSA Staff for review.
- (d) The technology used by TMX IP will not give the marketplaces affiliated with TMX Group Limited an advantage with respect to their data as compared to other marketplaces.

4. IP PRODUCTS

- (a) Unless TMX IP obtains prior approval from CSA Staff, it may only distribute the following products (together the Consolidated Data Products):
 - a. The Consolidated Data Feed (CDF);
 - b. The Canadian Best Bid and Offer (CBBO);
 - c. The Consolidated Best Bid and Offer for Protected Only Markets (CBBOP);
 - d. The Consolidated Last Sale (CLS);
 - e. The Consolidated Depth of Book (CDB); and
 - f. The Consolidated Depth of Book for Protected Only Markets (CDBP).
- (b) Unless TMX IP obtains prior approval from CSA Staff, it must distribute all Consolidated Data Products.
- (c) TMX IP will review the Consolidated Data Products, and consider any new products or changes to the Consolidated Data Products that may be reasonably required by amendments that may be adopted by the CSA Staff during the term of these undertakings.
- (d) TMX IP may bundle each data product comprising the Consolidated Data Products for sale to Data Purchasers, but must also make each data product available as a separate permissionable feed.

⁶ In Québec, options are derivatives under the *Derivatives Act* (Québec) and are excluded from the definition of "exchange-traded securities".

- (e) If TSX or any of its affiliated entities intend to create and distribute products using the data provided to TMX IP under Part 7 of NI 21-101 through its commercial distribution channels and not through TMX IP:
 - i. The data required to be provided to TMX IP by Data Contributors, other than data from the marketplaces that are affiliates of TSX, must not be used without the permission of the Data Contributors; and
 - ii. Any additional product must be made available for purchase separately from, and not bundled with, the Consolidated Data Products or any other products approved under paragraph 4(a).
- (f) TSX, in its capacity of TMX IP, will not provide any of its affiliated entities with the data provided by the Data Contributors, other than the data from the marketplaces that are affiliates of TSX, without the permission of the Data Contributors.
- (g) TMX IP will consolidate, update and provide in real-time the Consolidated Data Products during the hours of operation of any Canadian marketplace required to provide information to an IP under NI 21-101, provided that TMX IP may perform normal course recycle, batch and maintenance operations. TMX IP will provide customer support between the hours of 7:30 – 17:30 Toronto time and 24/7 technical support.

5. AGREEMENTS WITH DATA CONTRIBUTORS

- (a) TMX IP will ensure that Data Contributors are given access to TMX IP on fair and reasonable terms.
- (b) The standard agreements and contracts to be entered into between TMX IP and Data Contributors in connection with TMX IP services will be provided to the CSA Staff for review and approval prior to their execution.
- (c) Proposed material changes to agreements or contracts between TMX IP and Data Contributors will be provided to the CSA Staff for review and approval.

6. FEES, FEE STRUCTURE AND REVENUE SHARING

- (a) TMX IP will make available, on its website, the fee schedule for TMX IP Consolidated Data Products.
- (b) If any adjustments or modifications are proposed to fees, fee structure, or the fee/revenue sharing model relating to the services of TMX IP, TMX IP will ask the IP Governance Committee to seek input from the IP Advisory Sub-Committee prior to approving such adjustments or modifications.
- (c) TMX IP will report annually, in writing, to the CSA Staff whether it has fully recovered its costs (including cost of capital and cost to meet the requirements under subsections 14.4(2), (4), and (5) of NI 21-101) associated with offering TMX IP services and will review and report on whether the profit margin received from TMX IP services is in line with industry standards.
- (d) If there are excess revenues over costs plus a reasonable profit margin, and that excess is not allocated to operating and/or capacity expansion of TMX IP, TMX IP will examine its options for the use of that excess revenue and analyze and recommend an appropriate use to the IP Governance Committee. TMX IP will ask the IP Governance Committee to review the analysis and recommendations and provide its views in writing to TMX IP. The analysis, recommendations and the views of the IP Governance Committee will be provided to the CSA Staff within 30 days of the IP Governance Committee having received the analysis and recommendations.
- (e) TMX IP will conduct reviews of the “pass-through” fee model, as requested by the CSA Staff (the Review Initiation Date). Such review will examine the fee models used by data consolidators in other jurisdictions and the cost of data in Canada. It will consider reports or studies available at the time of the review. A report outlining the conclusions from the review and the basis for those conclusions, along with any recommendations, will be provided to the IP Governance Committee promptly upon completion. TMX IP will ask the IP Governance Committee to review the report and provide its views, in writing, to TMX IP. The report and the views of the IP Governance Committee will be provided to the CSA Staff within 90 days of the Review Initiation Date.

7. NON-EXCLUSIVITY

TMX IP acknowledges that the designation as an IP does not grant TMX IP any exclusive right to consolidating and disseminating order and trade data. TMX IP will not seek exclusivity through the terms of any contract relating to the Consolidated Data Products, or involving the data underlying the Consolidated Data Products, with a Data Contributor or Data Purchaser.

8. SELF-ASSESSMENT

- (a) TMX IP will conduct the annual independent system review referred to in section 14.5 of NI 21-101 and provide the report of such review to the CSA Staff no later than 90 days after the end of TMX IP's fiscal year.

B.1: Notices

- (b) TMX IP will conduct an annual self-assessment of its compliance with subsections 14.4(2), (4) and (5) of NI 21-101 and with its performance with respect to the terms and conditions of these undertakings. The report of such self-assessment will be provided to the IP Governance Committee promptly upon its completion. TMX IP will ask the IP Governance Committee to review the report and provide its views in writing. The report and the views of the IP Governance Committee will be provided to the CSA Staff no later than 90 days after the end of TMX IP's fiscal year.

9. FINANCIAL VIABILITY

TMX Group Limited will provide TMX IP with sufficient financial and other resources to ensure its financial viability and the proper performance of its functions.

10. NOTICE

TMX IP must provide the CSA Staff with at least one year's notice, should it determine not to continue to act as an IP.

11. TERMINATION

These undertakings will automatically terminate on the earlier of (i) July 1, 2026, or (ii) the date TMX IP ceases to act as an IP.

B.2 Orders

B.2 Orders

B.2.1 TMX Group Limited and TSX Inc. – s. 21.2.3

Headnote

Section 21.2.3 of the Securities Act (Ontario) – application for order designating TSX Inc. as an information processor for exchange-traded securities – applicant's current term as IP expires on June 30, 2022 – requested order granted.

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

AND

**IN THE MATTER OF
TMX GROUP LIMITED
AND
TSX INC.**

**ORDER
(Section 21.2.3 of the Act)**

WHEREAS Part 7 of National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) requires marketplaces to provide accurate and timely information regarding orders and trades in exchange-traded securities, as defined in section 1.1 of NI 21-101 (**Exchange-Traded Securities**), to an information processor (**IP**), as required by the IP;

AND WHEREAS TSX Inc. (**TSX** or the **Applicant**) has filed an application dated December 7, 2021 (the **Application**) with the Ontario Securities Commission (the **Commission**) requesting an order pursuant to section 21.2.3 of the Act designating the Applicant as an IP for Exchange-Traded Securities;

AND WHEREAS the Applicant is currently the IP for Exchange-Traded Securities and the Canadian Securities Administrators (the **CSA**) determined it was not contrary to the public interest for TSX to act as IP for a period ending June 30, 2022;

AND WHEREAS subsection 21.2.3(1) of the Act allows the Commission to designate a person or company as an IP if the Commission considers it to be in the public interest;

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant has the necessary systems in place to collect and disseminate information concerning orders and trades in Exchange-Traded Securities on marketplaces that are subject to the transparency requirements contained in Part 7 of NI 21-101;
2. The Applicant is currently the IP for Exchange-Traded Securities and is in compliance with Ontario securities law;
3. The Applicant currently disseminates information about orders and trades in Exchange-Traded Securities in a manner approved by the CSA;
4. The Applicant has sufficient financial and human resources to comply with the requirements applicable to an IP for Exchange-Traded Securities, including those set out in Annex A to this order;
5. The Applicant makes, and for so long as the Applicant operates an IP will continue to make, available comprehensive information about orders and trades in Exchange-Traded Securities to all market participants; and
6. The Applicant has an appropriate governance structure and conflicts of interest policies and procedures in place.

AND WHEREAS the Applicant has acknowledged to the Commission that the scope of this order and the terms and conditions imposed by the Commission as set out in Annex A to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities or as a result of any changes to the laws of Ontario affecting its operations as an IP);

AND WHEREAS the Applicant has acknowledged to the Commission that the CSA is conducting a review of the regulatory regime applicable to market data in Canada (**MD Review**);

AND WHEREAS the Applicant has acknowledged to the Commission that the Commission may withdraw this order as a result of the MD Review upon Staff of the Commission providing the Applicant with one year's notice of any such withdrawal;

AND WHEREAS, based on the Application, the Commission has determined that it is in the public interest to designate the Applicant as an IP for Exchange-Traded Securities;

IT IS HEREBY ORDERED by the Commission, pursuant to section 21.2.3 of the Act, that the Applicant is designated as an IP for Exchange-Traded Securities,

PROVIDED THAT:

- (i) the Applicant complies with the terms and conditions contained in Annex A to this order; and
- (ii) this order expires on June 30, 2026, unless extended by the Commission.

DATED this 19th day of April, 2022, to take effect July 1, 2022.

"Frances Kordyback"
Commissioner

"Cathy Singer"
Commissioner

ANNEX A

**TERMS AND CONDITIONS APPLICABLE TO THE APPLICANT
AS AN INFORMATION PROCESSOR FOR EXCHANGE-TRADED SECURITIES OTHER THAN OPTIONS**

1. DEFINITIONS AND INTERPRETATION

"Act" means the Securities Act (Ontario), as amended from time to time.

"affiliated entity" has the meaning ascribed to it in section 1.3 of NI 21-101.

"Consolidated Data Products" has the meaning ascribed thereto in section 5 of this Annex A.

"Commission" means the Ontario Securities Commission.

"Data Contributors" means, collectively, the marketplaces and any other party that is required to provide order and trade information to TMX IP under NI 21-101.

"Data Purchasers" means, collectively, the subscribers, vendors, and any other party that purchases any Consolidated Data Products offered by TMX IP.

"Designation Order" means the designation order issued by the Commission under section 21.2.3 of the Act, to which this Annex A is appended.

"Exchange-Traded Security" means an exchange-trading security as defined in section 1.1 of NI 21-101, other than a listed option.

"Form F5" means Form 21-101F5 under NI 21-101.

"IP" means an information processor as defined in section 1.1 of NI 21-101.

"IP Governance Committee" means the governance committee established by TMX IP and approved by the CSA for the purpose of providing TMX IP with oversight and decision-making regarding the scope of service, operational priorities and enhancements (within this scope), bandwidth and capacity planning, and criteria and methods of monitoring performance, in each case, in respect of the Consolidated Data Products.

"IP Advisory Sub-Committee" means an ad-hoc sub-committee of the IP Governance Committee, which includes additional representation from at least one data vendor and one market participant from each of a buy and sell side firm, that provides input into certain TMX IP matters, and is advisory in nature.

"marketplace" has the meaning ascribed to it in subsection 1(1) of the Act.

"NI 21-101" means National Instrument 21-101 *Marketplace Operation*.

"TMX IP" means TSX acting in its capacity as an IP.

"TSX" means TSX Inc.

2. PUBLIC INTEREST RESPONSIBILITIES

- (a) TMX IP must conduct its business and operations in a manner that is consistent with the public interest.
- (b) TMX IP must provide written reports to the Commission, as required by the Commission, describing how it is meeting its regulatory and public interest functions.

3. CHANGES TO FORM F5

- (a) As required by section 14.2 of NI 21-101, TMX IP will file with the Commission amendments to the information provided in Form F5. TMX IP must not implement a significant change to the information in the Form F5 without the prior approval of the Commission.¹

4. GOVERNANCE AND CONFLICTS OF INTEREST

- (a) TMX IP will notify the Commission of the representatives of the IP Governance Committee and the IP Advisory Sub-Committee, and will provide notice of any changes to those representatives.

¹ Examples of significant changes are provided in section 16.3 of the Companion Policy to NI 21-101.

- (b) The Boards of Directors of TMX Group Limited and TSX will not be involved in IP Governance Committee decisions relating to the scope of service, operational priorities, bandwidth, capacity planning, performance management, including service levels, and the fee and revenue sharing model related to TMX IP.
- (c) TMX IP will maintain and monitor compliance with policies and procedures to separate TSX's marketplace business operations from TMX IP operations and manage inherent conflicts of interest and provide material changes to these policies and procedures to the Commission for review.
- (d) The technology used by TMX IP will not give the marketplaces affiliated with TMX Group Limited an advantage with respect to their data as compared to other marketplaces.

5. IP PRODUCTS

- (a) Unless TMX IP obtains prior Commission approval, it may only distribute the following products (together, the **Consolidated Data Products**):
 - a. The Consolidated Data Feed (**CDF**);
 - b. The Canadian Best Bid and Offer (**CBBO**);
 - c. The Consolidated Best Bid and Offer for Protected Only Markets (**CBBOP**);
 - d. The Consolidated Last Sale (**CLS**);
 - e. The Consolidated Depth of Book (**CDB**); and
 - f. The Consolidated Depth of Book for Protected Only Markets (**CDBP**).
- (b) Unless TMX IP obtains prior Commission approval, it must distribute all Consolidated Data Products.
- (c) TMX IP will review the Consolidated Data Products, and consider any new products or changes to the Consolidated Data Products that may be reasonably required by amendments that may be adopted by the Commission during the term of the Designation Order.
- (d) TMX IP may bundle each data product comprising the Consolidated Data Products for sale to Data Purchasers, but must also make each data product available as a separate permissionable feed.
- (e) If TSX or any of its affiliated entities intend to create and distribute products using the data provided to TMX IP under Part 7 of NI 21-101 through its commercial distribution channels and not through TMX IP:
 - i. The data required to be provided to TMX IP by Data Contributors, other than data from the marketplaces that are affiliates of TSX, must not be used without the permission of the Data Contributors; and
 - ii. Any additional product must be made available for purchase separately from, and not bundled with, the Consolidated Data Products or any other products approved under paragraph 5(a).
- (f) TSX, in its capacity as TMX IP, will not provide any of its affiliated entities with the data provided by the Data Contributors, other than the data from the marketplaces that are affiliates of TSX, without the permission of the Data Contributors.
- (g) TMX IP will consolidate, update and provide in real-time the Consolidated Data Products during the hours of operation of any Canadian marketplace required to provide information to an IP under NI 21-101, provided that TMX IP may perform normal course recycle, batch and maintenance operations. TMX IP will provide customer support between the hours of 7:30 — 17:30 Toronto time and 24/7 technical support.

6. AGREEMENTS WITH DATA CONTRIBUTORS

- (a) TMX IP will ensure that Data Contributors are given access to TMX IP on fair and reasonable terms.
- (b) The standard agreements and contracts to be entered into between TMX IP and Data Contributors in connection with TMX IP services will be provided to the Commission for review and approval prior to their execution.
- (c) Proposed material changes to agreements or contracts between TMX IP and Data Contributors will be provided to the Commission for review and approval,

7. FEES, FEE STRUCTURE AND REVENUE SHARING

- (a) TMX IP will make available, on its website, the fee schedule for TMX IP Consolidated Data Products.
- (b) If any adjustments or modifications are proposed to fees, fee structure, or the fee/revenue sharing model relating to the services of TMX IP, TMX IP will ask the IP Governance Committee to seek input from the IP Advisory Sub-Committee prior to approving such adjustments or modifications.
- (c) TMX IP will report annually, in writing, to the Commission whether it has fully recovered its costs (including cost of capital and cost to meet the requirements under subsections 14.4(2), (4), and (5) of NI 21-101) associated with offering TMX IP services and will review and report on whether the profit margin received from TMX IP services is in line with industry standards.
- (d) If there are excess revenues over costs plus a reasonable profit margin, and that excess is not allocated to operating and/or capacity expansion of TMX IP, the TMX IP will examine its options for the use of that excess revenue and analyze and recommend an appropriate use to the IP Governance Committee. TMX IP will ask the IP Governance Committee to review the analysis and recommendations and provide its views in writing to TMX IP. The analysis, recommendations and the views of the IP Governance Committee will be provided to the Commission within 30 days of the IP Governance Committee having received the analysis and recommendations.
- (e) TMX IP will conduct reviews of the "pass-through" fee model, as requested by the Commission (the **Review Initiation Date**). Such review will examine the fee models used by data consolidators in other jurisdictions and the cost of data in Canada. It will consider reports or studies available at the time of the review. A report outlining the conclusions from the review and the basis for those conclusions, along with any recommendations, will be provided to the IP Governance Committee promptly upon completion. TMX IP will ask the IP Governance Committee to review the report and provide its views, in writing, to TMX IP. The report and the views of the IP Governance Committee will be provided to the Commission within 90 days of the Review Initiation Date.

8. NON-EXCLUSIVITY

TMX IP acknowledges that the designation as an IP does not grant TMX IP any exclusive right to consolidating and disseminating order and trade data. TMX IP will not seek exclusivity through the terms of any contract relating to the Consolidated Data Products, or involving the data underlying the Consolidated Data Products, with a Data Contributor or Data Purchaser.

9. SELF-ASSESSMENT

- (a) TMX IP will conduct the annual independent system review referred to in section 14.5 of NI 21-101 and provide the report of such review to the Commission in accordance with the timelines set out in subsection 14.5(d) of NI 21-101.
- (b) TMX IP will conduct an annual self-assessment of its compliance with subsections 14.4(2), (4) and (5) of NI 21-101 and with its performance with respect to the terms and conditions of the Designation Order. The report of such self-assessment will be provided to the IP Governance Committee promptly upon its completion. TMX IP will ask the IP Governance Committee to review the report and provide its views in writing. The report and the views of the IP Governance Committee will be provided to the Commission no later than 90 days after the end of TMX IP's fiscal year..

10. FINANCIAL VIABILITY

TMX Group Limited will provide TMX IP with sufficient financial and other resources to ensure its financial viability and the proper performance of its functions.

11. NOTICE

TMX IP must provide the Commission with at least one year's notice should it determine not to continue to act as an IP.

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B.3 Reasons and Decisions

B.3 Reasons and Decisions

B.3.1 Northwest and Ethical Investments L.P.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted for extension of lapse date of prospectus – Filer inadvertently failed to file a pro forma prospectus not less than thirty days prior to the lapse date as required by the legislation – Lapse date extended by 35 days – No conditions.

Applicable Legislative Provisions

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

June 15, 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
NORTHWEST AND ETHICAL INVESTMENTS L.P.
(the Filer)**

AND

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

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that the time limits for the renewal of the simplified prospectus of the Funds dated June 25, 2021 (the **Current Prospectus**) be extended to the time limits that would apply as if the lapse date was July 30, 2022 (the **Exemption Sought**).

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

- (i) the Ontario Securities Commission is the principal regulator for this application; and
- (ii) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in each of the other provinces and territories of Canada (together with the Province of Ontario, the Jurisdictions).

Interpretation

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

Representations

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

- 1 The Filer is a limited partnership formed under the laws of Ontario which acts through its general partner Northwest & Ethical Investments Inc., a corporation formed under the laws of Canada, with its head office in Ontario.
- 2 The Filer is registered as (i) a commodity trading manager in Ontario; (ii) a portfolio manager in British Columbia and Ontario; (iii) an exempt market dealer in Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Québec and Saskatchewan; and (iv) an investment fund manager in British Columbia, Newfoundland and Labrador, Ontario and Québec.
- 3 The Filer is the investment fund manager of the Funds.
- 4 Each of the Funds is an open-ended mutual fund trust established under the laws of Ontario and is a reporting issuer as defined in the securities legislation of each of the Jurisdictions.
- 5 Neither the Filer nor any of the Funds are in default of securities legislation in any of the Jurisdictions.
- 6 The Funds currently distribute securities in the Jurisdictions under the Current Prospectus.

7 Pursuant to subsection 62(1) of the *Securities Act* (Ontario) (the **Act**), the lapse date of the Current Prospectus is June 25, 2022 (the **Lapse Date**). Accordingly, under subsection 62(2) of the Act, the distribution of securities of each of the Funds would have to cease on the Lapse Date unless: (i) the Fund files a pro forma simplified prospectus at least 30 days prior to the Lapse Date, such date being May 26, 2022 (the **Pro Forma Filing Deadline**); (ii) the final simplified prospectus is filed no later than 10 days after the Lapse Date; and (iii) a receipt for the final simplified prospectus is obtained within 20 days of the Lapse Date.

8 Due to an inadvertent miscalculation of the Pro Forma Filing Deadline, the Filer filed the renewal prospectus for the Funds on May 27, 2022 (the **Renewal Prospectus**), one day after the Pro Forma Filing Deadline, in each of the Jurisdictions. As a result, without the Exemption Sought, the Filer is required to file and obtain a receipt for the final simplified prospectus for the Funds by the Lapse Date in order for securities of the Funds to continue to be distributed after the Lapse Date.

9 CSA Staff Notice 81-334 – *ESG-Related Investment Fund Disclosure* (the **Staff Notice**) was published on January 19, 2022 and provides guidance for investment fund issuers in respect of disclosure practices related to environmental, social and governance (**ESG**) considerations. The first comment letter received from the principal regulator in the Jurisdiction with respect to the Renewal Prospectus included comments with respect to the ESG guidance in the Staff Notice. Given that a significant number of the Funds have an ESG component, the Filer will require additional time to implement the comments in the first comment letter.

10 The Filer desires to extend the Lapse Date of the Current Prospectus to July 30, 2022 to allow sufficient time for the Filer to address certain comments raised on the Renewal Prospectus by the principal regulator in the Jurisdiction, and for the Filer to prepare and file all documents for the Funds.

11 There have been no material changes in the affairs of the Funds since the date of the Current Prospectus. Accordingly, the Current Prospectus and current fund facts documents of the Funds represent current information regarding the Funds.

12 Given the disclosure obligations of the Funds, should a material change in the affairs of the Funds occur, the Current Prospectus and current fund facts documents of the Funds will be amended as required under the Legislation.

13 The Exemption Sought will not affect the accuracy of the information contained in the Current Prospectus or the fund facts documents of the

Funds and will therefore not be prejudicial to the public interest.

Decision

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

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

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

Application File #: 2022/0283

	SCHEDULE A	31	NEI Income Private Portfolio
	LIST OF FUNDS	32	NEI Income & Growth Private Portfolio
1	NEI Money Market Fund	33	NEI Balanced Private Portfolio
2	NEI Canadian Bond Fund	34	NEI Growth Private Portfolio
3	NEI Global Impact Bond Fund	35	NEI Fixed Income Pool
4	NEI Global Total Return Bond Fund	36	NEI Canadian Equity Pool
5	NEI Global High Yield Bond Fund	37	NEI Global Equity Pool
6	NEI Conservative Yield Portfolio	38	NEI Managed Asset Allocation Pool
7	NEI Balanced Yield Portfolio		
8	NEI Global Sustainable Balanced Fund		
9	NEI Growth & Income Fund		
10	NEI Canadian Dividend Fund		
11	NEI Canadian Equity RS Fund		
12	NEI Canadian Equity Fund		
13	NEI ESG Canadian Enhanced Index Fund		
14	NEI U.S. Dividend Fund		
15	NEI U.S. Equity RS Fund		
16	NEI Canadian Small Cap Equity RS Fund		
17	NEI Canadian Small Cap Equity Fund		
18	NEI Global Dividend RS Fund		
19	NEI Global Value Fund		
20	NEI Global Equity RS Fund		
21	NEI Global Growth Fund (formerly NEI Global Equity Fund)		
22	NEI Environmental Leaders Fund		
23	NEI International Equity RS Fund		
24	NEI Emerging Markets Fund		
25	NEI Select Income RS Portfolio		
26	NEI Select Income & Growth RS Portfolio		
27	NEI Select Balanced RS Portfolio		
28	NEI Select Growth & Income RS Portfolio		
29	NEI Select Growth RS Portfolio		
30	NEI Select Maximum Growth RS Portfolio		

B.3.2 IA Clarington Investments Inc. and Investia Financial Services Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the requirement in section 3.2.01 of National Instrument 81-101 Mutual Fund Prospectus Disclosure to deliver a fund facts document to investors who purchase mutual fund securities of series sold under an initial sales charge pursuant to automatic switches from series that were initially sold under deferred sales charge options after a minimum holding period – Upon the automatic switches, investors will have equal or lower combined management and administration fees – Relief granted subject to compliance with disclosure and notification requirements.

Applicable Legislative Provisions

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

[TRANSLATION]

June 14, 2022

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

AND

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

AND

IN THE MATTER OF
IA CLARINGTON INVESTMENTS INC.
(the Filer)

AND

INVESTIA FINANCIAL SERVICES INC.
(the Representative Dealer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application from the Filer on behalf of certain investment funds (the **Funds**), for a decision under the securities legislation of the Jurisdictions (the **Legislation**) for an exemption from the requirement in s. 3.2.01 of *Regulation 81-101 respecting Mutual Funds Prospectus Disclosure*, CQLR, c.V-1.1, r. 38, (**Regulation 81-101**) (the **Pre-sale Fund Facts Delivery Requirement**) for a dealer to deliver or send the most recently filed fund facts documents (**Fund Facts**) in respect of purchases of mutual fund securities made pursuant to Automatic Switches (as defined below) (the **Exemption Sought**).

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

- a) the Autorité des marchés financiers is the principal regulator for this application;
- b) the Filer has provided notice that section 4.7(1) of *Regulation 11-102 respecting Passport System*, CQLR c. V-1.1, r. 1 (**Regulation 11-102**) is intended to be relied upon in the provinces and territories of Canada other than the Jurisdictions; and
- c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions*, CQLR c. V-1.1, r. 3, *Regulation 11-102*, *Regulation 81-101* and *Regulation 81-102 respecting Investment Funds*, CQLR, c. V-1.1, r. 39 (**Regulation 81-102**) have the same meaning if used in this decision, unless otherwise defined.

Representations

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

The Filer

1. The Filer is a corporation amalgamated under the laws of Canada. The Filer's head office is in Québec City, Québec.
2. The Filer is registered as an investment fund manager in Québec, Ontario and Newfoundland and Labrador, as an exempt market dealer in Québec and Ontario, and as a portfolio manager in all of the provinces of Canada.
3. The Filer is the manager of the Funds, each of which is subject to the requirements of Regulation 81-102.
4. The head office of the Representative Dealer is located in Québec City, Québec.
5. The Representative Dealer is registered as an exempt market dealer and a mutual fund dealer in all provinces and territories of Canada.
6. The Representative Dealer is an affiliate of the Filer.
7. Neither the Filer nor the Representative Dealer is in default of securities legislation in any of the provinces or territories of Canada.

The Funds

8. Each Fund is an open-end mutual fund trust or an open-end mutual fund that is a class of shares of a mutual fund corporation.
9. Each Fund is a reporting issuer under the laws of all of the provinces and territories of Canada. The securities of the Funds have been qualified for distribution pursuant to a simplified prospectus, Fund Facts and annual information form that have been prepared and filed in accordance with Regulation 81-101. The units and shares of the Funds are referred to herein collectively as "**Securities**" and individually as a "**Security**".
10. The Funds currently offer up to 45 series of Securities. These include Series A, B, B5 (Series B and B5 together are referred to as **Series B**), E, E4, E5, E6, EF, EF6, EFX, EFX6, EX, EX5, EX6, F, F4, F5, F6, F8, F10, FX, FX5, FX6, I, L, L5, L6, L8, L10, LX, LX5 (Series L, L5, L6, L8, L10, LX and LX5 are collectively referred to as **Series L**), O, P, P6, T4, T5, T6, T8, T10 (Series T4, T5, T6, T8 and T10 are collectively referred to as **Series T**), V, W, X, X5 (Series X and Series X5 together are referred to as **Series X**), Y and ETF Series. The Filer may offer additional series in the future.
11. The Series A, Series T and Series X Securities of the Funds have three different purchase options: a front end option (the "**ISC Option**"), a low load option ("**Low Load Option**") and a deferred sales charge option ("**DSC Option**"). Under the ISC Option, investors may have to pay a negotiated commission to their dealer at the time they purchase securities, while under the Low Load Option and DSC Option, no commission is paid by the investor at the time of purchase, but the investor will be required to pay a redemption fee if he or she redeems within a certain period of time from the date of purchase. A redemption fee will be charged if an investor redeems their investment within 3 years from the date of purchase under the Low Load Option and within 7 years from the date of purchase under the DSC Option.
12. Series B of the Funds (the "**Lower Fee Series**") are only offered under the ISC Option and have, or will have, lower combined management and administration fees than Series A, Series T, and Series X and any future Series A, Series T or Series X Securities.
13. Series L Securities of the Funds are offered under an advisor service charge option (the "**Advisor Service Charge Option**") and collectively with the Low Load Option and DSC Option, the "**Deferred Sales Charge Options**"). Under this option, no commission is paid by the investor at the time of purchase, but the investor's dealer pays a redemption fee on a declining scale if the investor redeems within 3 years of purchase.
14. The Securities of the Funds may be purchased through the Representative Dealer, or other dealers that may or may not be affiliated with the Filer (the **Dealers**).
15. Each of the Dealers will be registered as a dealer in one or more of the provinces and territories of Canada.

16. The Funds are not in default of securities legislation in any of the provinces and territories of Canada.

Automatic Switches

17. The Filer intends to start a program effective on or about June 24, 2022 (the **Implementation Date**), whereby investors holding Series A, Series T or Series X Securities with Deferred Sales Charge Options and that have held the Securities for the minimum amount of time as set out in the Funds' simplified prospectus, will automatically be switched into Series B of the same Fund, where Series B is available without the dealer or investor having to initiate the trade. Where there is no Series B, the investor would be switched to the ISC Option of the same series. Where there is no ISC Option for the series, an investor would be switched into the most similar series with an ISC Option. The Filer intends to also automatically switch investors who hold Series L Securities that have held the Securities for 3 years to: i) the appropriate Series B of the same Fund, where Series B is available; ii) Series A or Series X under the ISC Option of the same Fund if Series B is not available and the original Series L securities do not pay a monthly distribution; or iii) the appropriate Series T or Series X under the ISC Option where the Series L Securities pay a monthly distribution (collectively, the **"Automatic Switches"** and each an **"Automatic Switch"**).
18. Subsequent to each Automatic Switch, an investor's account would continue to hold Securities in the same Funds, with the same underlying pool of assets, the same investment objectives and investment strategies and the same valuation procedures and will continue to have the same rights as securityholders as they did prior to the Automatic Switch.
19. There are no sales charges, switch fees or other fees payable by the investor upon an Automatic Switch. In addition, based on current legislation, implementation of the Automatic Switches between series of the same Fund will have no adverse tax consequences on investors.
20. The only material difference to the investor between Series A, L, T or X Securities and the Lower Fee Series Securities or the series being switched into is that the combined management and administration fees charged may be lower than those charged for Series A, L, T or X Securities.
21. A higher trailing commission will be paid to an investor's representative upon an Automatic Switch, but as stated above the combined management and administration fees will be the same or lower.
22. The Filer exercises no discretion in carrying out the Automatic Switch program and acts only according to the redemption schedule of Series A, L, T or X Securities pursuant to the terms of the program.

Fund Facts Delivery Relief

23. An Automatic Switch will entail a redemption of the Series A, L, T or X Security after the redemption schedule has expired, immediately followed by a purchase of the applicable ISC Option Security. Each purchase of Securities done as part of an Automatic Switch will be a "distribution" under securities legislation, which triggers the Pre-Sale Fund Facts Delivery Requirement.
24. Pursuant to the Pre-Sale Fund Facts Delivery Requirement, a dealer is required to deliver the most recently filed Fund Facts of a series of a fund to an investor before the dealer accepts an instruction from the investor for the purchase of securities of that series of the fund.
25. While the Filer will initiate each trade done as part of an Automatic Switch, the Filer proposes not to deliver the Fund Facts to investors in connection with the purchase of Securities made pursuant to an Automatic Switch for the following reasons:
- a) the investment of such investors 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 Automatic Switches;
 - b) at no time will an investor pay combined management and administration fees at a rate higher than the rate of the combined management and administration fees of the Securities for which it initially subscribed; and
 - c) since Series A, L, T or X securityholders would have received a simplified prospectus or Fund Facts disclosing the higher level of fees, which applied to the series for which they initially subscribed, the investor would derive little benefit from receiving a further Fund Facts document in connection with the purchase of Securities made pursuant to an Automatic Switch.
26. The Filer will deliver, or will arrange for the delivery of, trade confirmations to investors in connection with each trade done further to an Automatic Switch. Furthermore, details of the changes in series of Securities held will be reflected in the account statements sent to investors for the quarter in which the change occurred.

B.3: Reasons and Decisions

27. The Filer will communicate with investors and dealers about the Automatic Switches prior to the Implementation Date.
28. A press release and material change report have been issued and filed on March 14, 2022 to announce the Automatic Switches.
29. The simplified prospectus for Series A, L, T and X Securities will disclose information about the Automatic Switches that includes the following:
 - a) that investors' investment will be switched to a Lower Fee Series or ISC Option Securities with the same or lower combined management and administration fees upon meeting the termination of the applicable redemption schedule in Series A, L, T or X Securities (the **Minimum Period**);
 - b) that other than possibly lower fees, there will be no other material difference between Series A, L, T and X Series and the Lower Fee Series or the ISC Option Securities;
 - c) the trailing commission rates payable by the Filer upon the Automatic Switch to the Lower Fee Series or the ISC Option Securities; and
 - d) that they will not receive the Fund Facts when they purchase Securities further to an Automatic Switch, but that
 - i. 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 email address;
 - ii. the most recently filed Fund Facts will be sent or delivered to them at no cost;
 - iii. the most recently filed Fund Facts may be found either on the SEDAR website or on the Filer's website; and
 - iv. they will not have the right to withdraw from an agreement of purchase and sale in respect of a purchase of series Securities made pursuant to an Automatic Switch, 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 relevant series contains a misrepresentation, whether or not they request the Fund Facts.
30. In the absence of the Exemption Sought, the Automatic Switches are not capable of being implemented without compliance with the Pre-Sale Fund Facts Delivery Requirement.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that:

1. Following an Automatic Switch, the combined management and administration fees of the Lower Fee Series or ISC Option series will be the same or lower than the Deferred Sales Charge Options.
2. There are no sales charges, switch fees or other fees payable by the investor upon an Automatic Switch.
3. The Filer will send a notice to investors prior to the Implementation Date to inform them of the Automatic Switches and of the following information:
 - a) investors will not receive the Fund Facts following an Automatic Switch;
 - b) a higher trailing commission will be paid to an investor's representative upon an Automatic Switch, but the combined management and administration fees will be the same or lower;
 - c) the most recently filed Fund Facts may be found either on the SEDAR website or on the Filer's website;
 - d) the details of the Automatic Switches are explained in the simplified prospectus of the Funds in section "Switching Mutual Fund Series Securities of the Funds"; and
 - e) investors may contact their dealer's representative or the Filer for more information on the Automatic Switch.
4. For investors who switch into a different Fund under the same purchase option and redemption schedule for Series A, Series L, Series T or Series X Securities:

- a) each Fund Facts for Series A, Series L, Series T and Series X Securities, filed on the earlier of the next renewal of or amendment filing, and thereafter, each subsequent renewal of, or amendment filing for, each Fund shall disclose:
 - i. that the Series A, Series L, Series T and Series X Securities, as applicable, will be automatically switched following the expiry of the applicable Minimum Period on the applicable switch date, to the Lower Fee Series or an ISC Option series, as the case may be, of the same Fund;
 - ii. that such Lower Fee Series or ISC Option Securities will have the same or lower combined administration and management fees than the corresponding Series A, Series L, Series T or Series X Securities, and will not be subject to a redemption fee;
 - iii. the rate of the combined management and administration fees for the Lower Fee Series or the applicable ISC Option series, if lower than the rate of the initial series purchased, and where the rate of the combined management and administration fees is the same, a note that the combined management and administration fees are the same after the Automatic Switch; and
 - iv. the trailing commission rates payable by the Filer in respect of the Lower Fee Series or applicable ISC Option Securities upon the Automatic Switch (collectively with items i, ii and iii, the **Series A, Series L, Series T and Series X Disclosure**);
 - b) the Fund Facts for Series A, Series L, Series T and Series X Securities, as applicable, containing the Series A, Series L, Series T and Series X Disclosure is delivered to prospective Series A, Series L, Series T and Series X Securities investors before a dealer accepts an instruction from such investors to switch into Series A, Series L, Series T and Series X Securities in accordance with the Pre-Sale Fund Facts Delivery Requirement; and
 - c) the Filer incorporates the Series A, Series L, Series T and Series X Disclosure, other than item (a)iii, in the simplified prospectus of the Funds.
5. For investors in Series A, Series L, Series T and Series X Securities, the Filer sends to such investors an annual reminder notice advising that they will not receive the Fund Facts upon an Automatic Switch, 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;
 - 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 the Lower Fee Series or applicable ISC Option Securities made pursuant to an Automatic Switch, 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 Lower Fee Series or ISC Option Securities, as applicable, contains a misrepresentation, whether or not they request the Fund Facts.
6. The Filer provides to the principal regulator beginning 60 days after the date upon which the Exemption Sought is first relied upon by a Dealer, and thereafter, annually within 60 days of the calendar year end, either:
- a) a current list of all such Dealers that are relying on the Exemption Sought, or;
 - b) an update to the list of such Dealers or confirmation that there has been no change to such list; and
7. Prior to a Dealer relying on the Exemption Sought, the Filer provides to the Dealer a disclosure statement informing the Dealer of the implications of this decision.

“Frédéric Belleau”
Senior Director, Investment Funds

B.3.3 Fountainhead Pte. Ltd.

Headnote

Relief from the adviser registration requirement in respect of advice to a Cayman Islands investment fund, and to clients located in certain “specified foreign jurisdictions” where the Filer and its representatives are registered or exempted from registration under local securities rules.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, ss. 25(3), 74(1).

June 16, 2022

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

AND

**IN THE MATTER OF
FOUNTAINHEAD PTE. LTD.
(the Filer)**

DECISION

Background

The securities regulatory authority in Ontario (the **Decision Maker**) has received an application from the Filer for a decision pursuant to section 74 of the *Securities Act* (Ontario) (the **Securities Act**) to exempt the Filer and individuals acting on behalf of the Filer who are resident in Ontario (the **Representatives**) from the adviser registration requirement under Section 25(3) of the Act in respect of advice provided by the Filer and the Representatives to certain non-Ontario resident clients specified below (the **Exemption Sought**).

Interpretation

Terms defined in the Securities Act have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer is an exempt private company incorporated in Singapore on December 7, 2016 which operates as an investment management company in Singapore.
2. The Filer’s registered office is located in Singapore.
3. The fund management industry in Singapore is regulated by the Monetary Authority of Singapore (the **MAS**).
4. Singapore law provides that a person cannot act as an investment fund manager unless the person is a holder of capital markets services license for fund management under the Securities and Futures Act (Singapore) (the **SFA**), registered as a registered

fund management company under the SFA or falls within such other categories of persons who are exempt from licensing under the SFA.

5. As such, the Filer is registered as a registered fund management company (**RFMC**) with the MAS and holds a capital markets services license for fund management under the SFA.
6. MAS is responsible for reviewing the application process to qualify as an RFMC and, based on public information, takes into account, among others, the following factors when assessing an application for an RFMC registration: (i) fitness and propriety of the applicant, its shareholders and directors; (ii) track record and fund management expertise; (iii) ability to meet the minimum financial requirements prescribed under the SFA; (iv) strength of internal risk management and compliance systems; and (v) business model / plans and projections and associated risks.
7. RFMCs, including the Filer and the Representatives, are subject to Singapore’s local securities laws and ongoing oversight by the MAS (collectively, **Singapore Rules**).
8. The Filer’s primary business is providing investment management services to the Filer’s flagship fund, Fountainhead Partnerships Fund, an open-ended exempted company incorporated with limited liability under the laws of the Cayman Islands (the **Fund**).
9. The securities of the Fund have not been qualified for sale or distribution in Singapore and are currently offered on an exempt basis pursuant to a private offering memorandum.
10. The directors of the Fund, who are also principals of the Filer, are responsible for the overall management and control of the Fund including the appointment of the investment manager of the Fund. In that capacity, they have appointed the Filer as the investment manager of the Fund with full discretion to manage, invest and reinvest the assets of the Fund in accordance with the investment strategies and restrictions of the Fund.
11. The Filer provides investment management services to the Fund. The Fund, the Filer and the Representatives do not provide investment advice to the investors of the Fund.
12. The Fund is distributed in accordance with Singapore Rules for exempt funds offered under private memorandum through local distributors that are registered or exempted under applicable rules and in accordance with any other applicable local securities laws of Specified Foreign Jurisdictions (as defined below), as applicable (collectively, **Local Rules**). All of the investors of the Fund are located in Specified Foreign Jurisdictions and no Canadian residents are or will be invested in the Fund.

13. The Filer may and also does, from time to time, advise certain individual clients in Singapore who are accredited investors, all in accordance and compliance with the Singapore Rules. Except for the Fund, the Filer's clients are all currently resident in Singapore which is a "specified foreign jurisdiction" as such term is defined under OSC Rule 72-503 – *Distributions Outside Canada (OSC Rule 72-503)*. With respect to its clients, the Filer and the Representatives are and will be appropriately registered or exempted from registration in each applicable jurisdiction and their activities are undertaken in accordance with Local Rules.
14. The Filer is not registered under the Securities Act and the Filer and the Representatives have been and, absent the Exemption Sought, would be engaged in registerable activities in Ontario in contravention of Section 25(3) of the Securities Act. Other than the failure to comply with Section 25(3), the Filer and the Representatives is not in default of any of its obligations under securities legislation of Ontario.
15. The Ontario Securities Commission has recognized certain exemptions from the adviser registration requirement for foreign regulated advisers including pursuant to OSC Rule 32-505 *Conditional Exemption from Registration for United States Broker-Dealer and Advisers Servicing U.S. Clients from Ontario (OSC Rule 32-505)*. OSC Rule 32-505 provides an exemption from the adviser registration requirements to U.S. advisers who act as advisers to U.S. clients but trigger the requirement to register as an adviser in Ontario due to the location of its offices or advisers in Ontario on the basis that the U.S. adviser firms: (i) act as an adviser only to U.S. clients; (ii) are appropriately registered (or exempt from registration) in the United States; and (iii) are subject to oversight of an acceptable securities regulatory in the United States.
16. Members of Canadian Securities Administrators, other than Ontario, issued parallel orders of general application, which grant a similar exemption to U.S. adviser firms as available under OSC Rule 32-505.
17. Similarly, OSC Rule 72-503 provides a prospectus exemption to Ontario issuers subject to the issuer complying with its local regulatory regime but limits the exemption to certain 'specified foreign jurisdictions'. The countries included on the list of 'specified foreign jurisdictions' set out in Appendix A of OSC Rule 72-503 (collectively, **Specified Foreign Jurisdictions**).
18. Although the Fund is not located in a Specified Foreign Jurisdiction, there would be no regulatory purpose to requiring the Filer or the Representatives to be registered as advisers in Ontario in addition to Singapore specifically due to the fact that that Fund, which is the Filer's client, is controlled by the

principals of the Filer, who have the authority, among other things, to appoint the investment manager of the Fund, which is the Filer. There is therefore no independent third-party decision maker for the Fund that might rely on an assumption that the Filer or the Representatives are registered as advisers in Ontario.

Decision

The Decision Maker is satisfied that the decision meets the test set out in the Legislation and the decision of the Decision Maker is that the Exemption Sought is granted provided that the Filer and the Representatives remain in compliance with all of the following conditions:

1. The Filer and the Representatives only advise the Fund and clients resident in Specified Foreign Jurisdictions.
2. The Filer and the Representatives are appropriately registered or exempt from registration under Local Rules, as applicable.
3. The Filer and the Representatives are not in default of the Local Rules or any other applicable laws or regulations in each Specified Foreign Jurisdiction in which it engages in the business of advising with respect to investing in, buying or selling securities.
4. The Filer will notify each of its clients that it is not registered in Ontario as an adviser or in any other category of registration.
5. All of the investors of the Fund are located in Specified Foreign Jurisdictions and not Canada.
6. The Filer will distribute securities of the Fund through agents that are registered or exempted under applicable Local Rules and will ensure that offering documents are provided as may be required under applicable Local Rules.
7. The Filer and the Representatives recognize that each of them is a market participant for purposes of Ontario securities law.
8. The Filer and the Representatives will deal fairly, honestly and in good faith with their clients, consistent with the general duties set out in OSC Rule 31-505 *Conditions of Registration*.

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

OSC File #: 2021/0348

B.3.4 RP Investment Advisors LP and the Funds

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted to mutual funds from short selling issuer concentration restrictions in subsection 2.6.1(1), and cash cover requirements in subsection 2.6.1(2) of NI 81-102 – relief restricted to short sales of “government securities” as defined in NI 81-102 to facilitate interest rate risk hedging strategy in fixed income funds – decision includes revocation of prior relief from short selling issuer concentration restriction granted only to prior existing fund.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.6.1(1)(c)(ii), 2.6.1(2) and 19.1.
Securities Act, R.S.O. 1990, c. S.5, as am., s. 144.

June 6, 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
RP INVESTMENT ADVISORS LP
(the Filer)**

AND

**THE FUNDS
(as defined below)**

DECISION

1. Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer, on behalf of RP Strategic Income Plus Fund (the **Existing Fund**), and any mutual funds subject to National Instrument 81-102 *investment funds (NI 81-102)* (other than “alternative mutual funds” as defined in NI 81-102) that may be established in the future and for which the Filer acts as investment fund manager (the **Future Funds** and, collectively with the Existing Fund, the **Funds** or individually, a **Fund**) for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**):

(1) revoking the Current Decision (as defined below) (the **Revocation**); and

(2) replacing the Current Decision with a decision pursuant to section 19.1 of NI 81-102 exempting the Funds:

- (a) from paragraph 2.6.1(1)(c)(ii) of NI 81-102 to permit the Funds to increase the limit on aggregate short sale exposure to “government securities” (as defined below) of a single issuer to 20% of the NAV (as defined below) of the applicable Fund (the **Short Sale Single Issuer Relief**); and
- (b) from Subsection 2.6.1(2) of NI 81-102 which requires a mutual fund, other than an alternative mutual fund, that sells securities short to hold cash cover in an amount that, together with portfolio assets deposited with borrowing agents as security in connection with short sales of securities by the mutual fund, is at least 150% of the aggregate market value of the securities sold short by the mutual fund on a daily market-to-market basis with respect to short sales of “government securities” (as defined below) by a Fund (the **Cash Cover Relief**);

(the Short Sale Single Issuer Relief and the Cash Cover Relief are collectively referred to as the **Exemption Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions:

- A. the Ontario Securities Commission is the principal regulator for this Application, and
- B. the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 – *Passport System (MI 11-102)* is intended to be relied upon in each of the other provinces and territories of Canada (together with the Jurisdiction, the **Jurisdictions**).

2. Interpretation

Terms defined in MI 11-102, National Instrument 14-101 – *Definitions*, NI 81-102, NI 81-107 and NI 31-103 have the same meaning if used in this decision, unless otherwise defined.

The following terms have the following meanings:

Current Decision means *In the Matter of RP Investment Advisors LP and In the Matter of RP Strategic Income Plus Fund* dated May 18, 2018;

government securities has the meaning set out in NI 81-102; and

NAV means net asset value.

3. Representations

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

The Filer

- (i) The Filer is a limited partnership formed under the laws of the Province of Ontario with its head office located in Toronto, Ontario.
- (ii) The Filer is registered as (i) an investment fund manager in Ontario, Québec and Newfoundland and Labrador; (ii) an adviser in the category of portfolio manager in, British Columbia, Ontario and Québec; (iii) a dealer in the category of exempt market dealer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Nunavut and Yukon; and (iv) a commodity trading manager in Ontario.
- (iii) The Filer is the investment fund manager and portfolio manager of the Existing Fund and the Filer will be the investment fund manager of the Future Funds.
- (iv) the Filer is not in default of the securities legislation of any of the Jurisdictions.

The Funds

- (v) The Existing Fund is an open-end mutual fund trust established under the laws of Ontario and is a reporting issuer in each of the Jurisdictions. The Existing Fund is a mutual fund subject to NI 81-102, but is not an "alternative mutual fund" as defined in NI 81-102. The Future Funds will be mutual funds that are reporting issuers in one or more Jurisdictions and will be subject to NI 81-102, but will not be "alternative mutual funds" under NI 81-102.
- (vi) The investment objective of the Existing Fund is to generate stable, risk-adjusted absolute returns consisting of dividend, interest income and capital gains by investing primarily in investment grade corporate debt and debt-like securities, with a focus on capital preservation.
- (vii) The investment objective of the Future Funds will seek to produce risk-adjusted returns primarily through investments in debt and debt-like securities.
- (viii) The Existing Fund is not in default of the securities legislation of any of the Jurisdictions.

Interest Rate Hedging Strategy

- (ix) Each of the Funds invests, or will invest, in fixed income instruments and seeks, or will seek, to hedge its interest rate exposure by using a short selling hedging strategy. Since the value of fixed income securities is influenced by interest rate changes (i.e. bond prices usually decrease as interest rate increase while bond prices usually increase as interest rate decrease), interest rate volatility can adversely affect a Fund's performance and impede its ability to achieve stable risk-

adjusted returns in a manner that is consistent with its investment objectives.

- (x) In order to hedge against interest rate risk in the investment portfolios of the Funds, the Filer enters into, or will enter into, short selling arrangements relating to liquid fixed income securities that are government securities at the same time that the Funds invest, or will invest, in long positions in corporate fixed income securities.

The Revocation and the Short Sale Single Issuer Relief

- (xi) The Current Decision exempts the Existing Fund from paragraph 2.6.1(1)(c)(ii) of NI 81-102 which restricts a mutual fund, other than an alternative mutual fund, from short selling more than 5% of the NAV of the mutual fund in respect of the securities of any one issuer and permits the Existing Fund to short sell up to 20% of its NAV in government securities of a single issuer, in order to assist the Filer in reducing risk and to more effectively hedge against interest rate risk by enabling it to better correlate the underlying interest rate characteristics of the particular corporate fixed income securities held by the Existing Fund with corresponding government securities.

- (xii) The Filer is of the view that the Existing Fund has benefitted from the Current Decision and that Funds would benefit from the Single Issuer Relief permitting it to short sell government securities for hedging purposes in an amount greater than 5% of a Fund's NAV per issuer for the following reasons:

- (a) The Filer believes that short-selling government securities may reduce interest rate risk across a Fund's portfolio of fixed income securities, as the underlying interest rate characteristics of the corporate fixed income securities held by the Fund trade relative to government securities;

- (b) The most effective interest rate hedge occurs where the government debt securities selected by the Filer for hedging purposes most closely correlate to the underlying interest rate characteristics of the particular corporate fixed income securities held by a Fund and, as a result, the Filer cannot remain within the 5% single issuer restriction by using different government debt securities and still achieve an optimal hedge for the Fund.

- (c) The market for government securities is highly liquid and debt securities issued by the federal governments of Canada and the U.S. and the Canadian provinces and/or territories generally exhibit greater liquidity than high-quality corporate issues; and

- (d) While derivatives can be used to manage interest rate risk, the use of a derivatives hedging strategy is more inefficient, more complex, and riskier than the Filer's strategy of short-selling government securities.
- (xiii) The Funds implement, or will implement, the following controls when conducting a short sale:
- (a) the Fund assumes the obligation to return to the borrowing agent (as defined in NI 81-102) the securities borrowed to effect the short sale;
 - (b) the Fund receives cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;
 - (c) the Filer monitors the short positions of the Fund at least as frequently as daily;
 - (d) the security interest provided by the Fund over any of its assets that is required to enable the Fund to effect a short sale transaction is made in accordance with industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;
 - (e) the Fund maintains appropriate internal controls regarding short sales, including written policies and procedures for the conduct of short sales, risk management controls and proper books and records; and
 - (f) The Filer and the Fund keep proper books and records of short sales and all of its assets deposited with Borrowing Agents as security.
- (xiv) The Filer wishes to extend the Short Sale Single Issuer Relief granted to the Existing Fund under the Current Decision to the Future Funds by revoking the Current Decision and replacing it with the relief granted under this decision document.
- The Cash Cover Relief*
- (xv) Subsection 2.6.1(2) of NI 81-102 requires a mutual fund, other than an alternative investment fund, that sells securities short to hold cash cover in an amount that, together with portfolio assets deposited with borrowing agents (as defined in NI 81-102) as security in connection with short sales of securities by the mutual fund, is at least 150% of the aggregate market value of the securities sold short by the mutual fund on a daily market-to-market basis.
- (xvi) This means that if a Fund utilizes its ability to enter into short sale transactions up to 20% of the Fund's NAV as permitted under paragraph 2.6.1(c)(iii), it
- would be required to hold on behalf of the Fund cash equal to 150% of the aggregate market value of such securities, effectively meaning that up to an additional 30% of the Fund's NAV would need to be held in cash and could not be utilized by the Filer in making investments on behalf of the Fund in furtherance of its investment objectives.
- (xvii) The purpose of the cash cover requirements for mutual funds in subsection 2.6.1(2) of NI 81-102 is to mitigate the risk of a mutual fund having to rapidly liquidate large portions of its investment portfolio (at potentially lower prices) in the event that the trading price of the security sold short increases, thereby requiring the mutual fund to repurchase the securities at a higher price in order to satisfy its obligations under the short sale transaction to deliver the securities to the borrowing agent.
- (xviii) The markets for government securities are highly liquid and the trading price of government securities on such markets is not subject to significant price volatility as may be the case with equity securities from time to time.
- (xix) Unlike the short selling of equity securities, the total possible loss when short selling government securities is quantifiable at time of trade. The total exposure to loss on the short sale of a government security is the sum of all future coupon payments on the security, plus the difference between the trade price and par value of the security. As a result, the Funds are not (or will not be) exposed to the risk of significant losses by engaging in the short selling of government securities.
- (xx) Exempting the Funds from the cash cover requirements in subsection 2.6.1(2) of NI 81-102 in relation to government securities would significantly enhance the ability of the Funds to deploy their assets to: (i) further mitigate risk to the portfolio as a result of greater flexibility to make strategic investments, increase diversification and engage in portfolio rebalancing; and (ii) maximize returns to security holders.
- (xxi) The Funds will be required to provide collateral to the borrowing agent in respect of all short sale transactions in accordance with industry practice.
- (xxii) The Filer believes that the investment objective and short selling hedging strategies of the Funds represent important investment diversification tools for Canadian investors and that the Cash Cover Relief would enable the Filer to maximize the amount of assets of the Funds that can be deployed in furtherance of their investment objectives without materially increasing the risk to the Funds relating to the ability to settle such short sale transactions.
- (xxiii) The Filer has experience managing the strategies proposed in the Funds as well as in existing publicly offered NI 81-102 alternative mutual funds and

privately offered investment funds under its management.

4. 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:

- A. The Revocation is granted; and
- B. The Exemption Sought is granted provided that:
 - (a) Each short sale will be made consistent with each Fund's investment objectives and investment strategies;
 - (b) the Short Sale Single Issuer Relief will only apply to short sales of government securities;
 - (c) the Cash Cover Relief will only apply to short sales of government securities as part of a Fund's short selling hedging strategies;
 - (d) the security interest provided by a Fund over any of its assets that is required to effect a short sale transaction is made in accordance with industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;
 - (e) Each short sale made by a Fund will otherwise comply with the mutual fund short sale requirements in section 2.6.1 of NI 81-102;
 - (f) the Filer monitors the short positions of the Funds at least as frequently as daily;
 - (g) the Funds maintain appropriate internal controls regarding short sales, including written policies and procedures for the conduct of short sales, risk management controls and proper books and records;
 - (h) the Filer and the Funds keep proper books and records of short sales and all assets of the Funds deposited with borrowing agents as security; and
 - (i) The prospectus of the Funds will disclose the material terms and conditions of the Exemption Sought including its restricted application to short sales of government securities.

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

Application File #: 2022/0083
SEDAR File #: 3338213

B.3.5 Imperial Oil Limited

Headnote

MI 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 62-104 Take-Over Bids and Issuer Bids – relief from the restrictions on acquisitions after bid in NI 62-104 – issuer proposing to conduct a normal course issuer bid and concurrent repurchase of securities from its significant shareholder immediately following the expiry of its substantial issuer bid – relief granted, subject to certain conditions.

Applicable Legislative Provisions

National Instrument 62-104 Take-Over Bids and Issuer Bids, ss. 2.5 and 6.1.

Citation: *Re Imperial Oil Limited*, 2022 ABASC 71

June 17, 2022

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

AND

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

AND

**IN THE MATTER OF
IMPERIAL OIL LIMITED
(the Filer)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) granting an exemption from the prohibition in section 2.5 of National Instrument 62-104 *Take-over Bids and Issuer Bids* (**NI 62-104**) from acquiring or offering to acquire common shares of the Filer (the **Shares**) during the twenty (20) business days following the expiry of a take-over bid or an issuer bid (the **Post Bid Period**), in connection with a proposed purchase of Shares pursuant to a normal course issuer bid and concurrent acquisition of Shares from the Filer's principal shareholder Exxon Mobil Corporation (**ExxonMobil**) (the **Exemption Sought**).

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

- (a) the Alberta Securities Commission is the principal regulator for this application;
- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Newfoundland and Labrador, Prince Edward Island, the Northwest Territories, Yukon and Nunavut;
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and NI 62-104 have the same meaning if used in this decision, unless otherwise defined herein.

Representations

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

1. The Filer is a corporation governed by the *Canada Business Corporations Act*.
2. The head office and registered office of the Filer are located in Calgary, Alberta.
3. The Filer is a reporting issuer in each of the provinces and territories of Canada and the Filer's Shares are listed for trading on the Toronto Stock Exchange (the **TSX**) and have unlisted trading privileges and trade on the NYSE American LLC (**NYSE American**).
4. The Filer is not in default of any requirement of the securities legislation in the jurisdictions in which it is a reporting issuer.
5. The authorized share capital of the Filer consists of 1,100,000,000 Shares. As of May 2, 2022, there were 669,143,714 Shares issued and outstanding.
6. On April 28, 2022, the last full trading day prior to the date of announcement of the Filer's intention to make the SIB (as defined below), the closing price of the Shares on the TSX was \$64.12 per Share and US\$50.08 per Share on NYSE American. Based on such closing price, the Shares had an aggregate market value of approximately \$42,905,494,942 on such date (or US\$33,510,717,197 based on the closing price on the NYSE American).
7. As at May 6, 2022, ExxonMobil beneficially owned 465,723,543 Shares, which in the aggregate represented approximately 69.6% of the issued and outstanding Shares.

B.3: Reasons and Decisions

8. The Filer commenced a substantial issuer bid on May 6, 2022 (the **SIB**), offering to purchase for cash up to \$2,500,000,000 in value of Shares at a purchase price of not less than \$62 and not more than \$78 (the **Price Range**) by way of a “modified Dutch Auction” process.
9. Holders of Shares (the **Shareholders**) wishing to tender to the SIB are able to do so in one of the following ways:
 - (a) by making an auction tender pursuant to which it agrees to sell to the Filer, at a specified price per Share within the Price Range, a specified number of Shares;
 - (b) by making a purchase price tender pursuant to which it does not specify a price per Share but rather agrees to have a specified number of Shares purchased at the purchase price to be determined by the auction tenders; or
 - (c) by making a proportionate tender pursuant to which it agrees to sell to the Filer, at the purchase price to be determined by the auction tenders, a number of Shares owned by it that will result in it maintaining its proportionate equity ownership in the Filer following the completion of the SIB.
10. ExxonMobil has advised the Filer that it made a proportionate tender in connection with the SIB in order to maintain its proportionate Share ownership at approximately 69.6% (the **Proportionate Share Ownership**) following completion of the SIB.
11. The SIB expired on June 10, 2022 (the **Expiry Date**).
12. The Filer has, for a number of years, implemented a share repurchase program pursuant to a NCIB through the facilities of the TSX. In order for ExxonMobil to maintain its Proportionate Share Ownership in the Filer, ExxonMobil participates outside of, but concurrent with, the NCIB in the sale of Shares to the Filer.
13. ExxonMobil participates outside of the NCIB because such repurchases, if effected in the open market, would be treated as a “distribution” for U.S. securities law purposes and prohibit the Filer from bidding for or purchasing the Shares until after the NCIB was completed (the **US Securities Restrictions**). The US Securities Restrictions do not prevent the concurrent purchase by the Filer by private agreement with ExxonMobil, including if effected through a private off-floor transaction on the TSX.
14. Repurchases from ExxonMobil concurrent with the NCIB are effected by the Filer in accordance with the following parameters (the **ExxonMobil Repurchase Conditions**):
 - (a) The Filer cannot make purchases from ExxonMobil on any day unless it has purchased Shares from other Shareholders that day pursuant to the NCIB, provided that if the trading rules of the TSX do not permit purchases from ExxonMobil to occur on any day, the purchase shall occur on the next business day on which the trading rules of the TSX permit the purchase to be made. The number of Shares which the Filer may repurchase from ExxonMobil on any given day cannot exceed the number of Shares that would reduce ExxonMobil’s percentage shareholdings to the Proportionate Share Ownership;
 - (b) The Filer must offer to purchase from ExxonMobil the number of Shares that would reduce ExxonMobil’s shareholding to its Proportionate Share Ownership;
 - (c) The consideration per Share received by ExxonMobil on any day will be the price set by the market on close facility of the TSX;
 - (d) All trades between ExxonMobil and the Filer will be made by way of put-through on the TSX or alternative trading systems in Canada during the special trading session of the TSX;
 - (e) If for any reason ExxonMobil decides, on any given day, not to sell its pro rata portion of the Shares so as to reduce ExxonMobil’s percentage shareholder to the Proportionate Share Ownership, the Filer shall issue a press release to that effect and shall state whether it intends to continue the NCIB and will not be permitted to purchase ExxonMobil’s shares thereafter; and
 - (f) The Filer agrees to report directly to the Shareholders in its quarterly and annual reports as to the status of the NCIB and the purchased by the Filer of Shares held by ExxonMobil.
15. The parameters above outlining ExxonMobil’s participation outside of, but concurrent with the NCIB, are intended to ensure the equal treatment of ExxonMobil and the public Shareholders of the Filer within the constraints imposed by the US Securities Restrictions.
16. The Filer intends to make application to the TSX shortly after the Expiry Date for approval to commence another NCIB as soon as practicable following the Expiry Date (the **Proposed NCIB**).
17. Under Section 2.6 of NI 62-104 (the **NCIB Exception**), purchases are exempt from the Post

Bid Period restrictions if they are made by the issuer in the normal course on a published market and:

- (a) no broker acting for the issuer performs services beyond the customary broker's functions in regard to the purchases;
 - (b) no broker acting for the issuer receives more than the usual fees or commissions in regard to the purchases than are charged for comparable services performed by the broker in the normal course;
 - (c) the issuer or any person acting for the issuer does not solicit or arrange for the solicitation of offers to sell securities of the class subject to the bid, except for the solicitation by the offeror or members of the soliciting dealer group under the bid; and
 - (d) the seller or any person acting for the seller does not, to the knowledge of the issuer, solicit or arrange for the solicitation of offers to buy securities of the class subject to the bid.
18. The Filer would be permitted to commence the Proposed NCIB immediately following the Expiry Date under the NCIB Exception.
19. However, absent the Exemption Sought, ExxonMobil would not be permitted to participate in the Proposed NCIB during the Post Bid Period. Therefore, to enable ExxonMobil's participation, the Filer would need to defer the Proposed NCIB until following the expiry of the Post Bid Period and its second quarter earnings blackout period. This would delay returning capital to its shareholders in the most timely and efficient manner.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that the ExxonMobil Repurchase Conditions are complied with in connection with repurchases of Shares from ExxonMobil concurrently with, but outside of, the Proposed NCIB.

"Timothy Robson"
Manager, Legal
Corporate Finance
Alberta Securities Commission

B.3.6 BlackRock Asset Management Canada Limited

Headnote

Pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the prohibition on the use of corporate officer titles by certain registered individuals in respect of institutional clients, including certain accounts of affiliated non-individual non "permitted clients" as defined in NI 31-103 or non-individual non "institutional clients" as defined in IIROC Rule 1201 – Relief does not extend to interactions by registered individuals with retail clients.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7(1).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 1.1, 13.18(2)(b) and 15.1(2).

June 17, 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
BLACKROCK ASSET MANAGEMENT CANADA
LIMITED
(the Filer)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that pursuant to section 15.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103)*, the Filer and its Registered Individuals (as defined below) are exempt from the prohibition in paragraph 13.18(2)(b) of NI 31-103 that a registered individual may not use a corporate officer title when interacting with clients, unless the individual has been appointed to that corporate office by their sponsoring firm pursuant to applicable corporate law, in respect of Institutional Clients (as defined below) and clients holding Overflow Accounts (as defined below) (the **Exemption Sought**).

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

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon by the Filer and its Registered Individuals (as defined below) in each of the other provinces and territories of Canada (together with the Jurisdiction, the **Jurisdictions**) in respect of the Exemption Sought.

Interpretation

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

Representations

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

- 1. The Filer is a corporation amalgamated under the laws of Ontario, with its head office located in in Toronto, Ontario.
- 2. The Filer is registered as: (i) an investment fund manager in each of the Jurisdictions; (ii) a commodity trading manager in Ontario; (iii) an adviser in Manitoba; (iv) a portfolio manager in each of the Jurisdictions; and (v) an exempt market dealer in each of the Jurisdictions.
- 3. Other than with respect to the subject of this decision, the Filer is not in default of securities legislation in any of the Jurisdictions.
- 4. The Filer is the Canadian affiliate of BlackRock, Inc. (**BlackRock**).
- 5. The Filer's client base comprises exclusively sophisticated institutional clients, the vast majority of which are permitted clients as defined in NI 31-103 and the Filer's institutional clients also include non-individual "institutional clients" as defined in Rule 1201 of the Investment Industry Regulatory Organization of Canada (**IIROC**) (together, the **Institutional Clients**). The Filer has no clients that are individuals.
- 6. The Filer also has a small amount of accounts that it has opened at the request of certain Institutional Clients for related entities that are not individuals and which have the characteristics of an institutional investor except that they do not qualify as "permitted clients" under NI 31-103 or "institutional clients" under IIROC Rule 1201 only because they fall short of the applicable financial tests (each, an **Overflow Account**) and it anticipates that it may open additional Overflow Accounts for such entities in the future.

- 7. The individuals who make decisions on behalf of an Institutional Client also form the majority of the individuals who make decisions on behalf of each Overflow Account that is a related entity of the Institutional Client.
- 8. Overflow Accounts in aggregate do not exceed 5% of the Filer's total assets under management as at the date of this decision.
- 9. The Filer is the sponsoring firm for registered individuals that interact with clients and use a corporate officer title without being appointed to the corporate office of the Filer pursuant to applicable corporate law (the **Registered Individuals**). The number of Registered Individuals may increase or decrease from time to time as the business of the Filer changes. As of the date of this decision, the Filer has approximately 20 Registered Individuals.
- 10. The current titles used by the Registered Individuals include the words "Vice President", and "Director", and the Registered Individuals may use additional corporate officer titles in the future (collectively, the **Titles**). The Titles used by the Registered Individuals are consistent with the titles used by BlackRock's global affiliates.
- 11. The Filer has a process in place for awarding the Titles, which sets out the criteria for each of the Titles. The Titles are based on criteria including seniority and experience, and a Registered Individual's sales activity or revenue generation is not a primary factor in the decision by the Filer to award one of the Titles.
- 12. The Registered Individuals will interact primarily with Institutional Clients and Overflow Accounts.
- 13. To the extent a Registered Individual interacts with clients that are not Institutional Clients or Overflow Accounts, the Filer has policies, procedures and controls in place to ensure that such Registered Individual will only use a Title when interacting with Institutional Clients or Overflow Accounts, and will not use a Title in any interaction with clients that are not Institutional Clients or Overflow Accounts, including in any communications, such as written and verbal communications, that are directed at, or may be received by, clients that are not Institutional Clients or Overflow Accounts.
- 14. The Filer will not grant any registered individual that does not interact primarily with Institutional Clients, nor will such registered individual be permitted by the Filer to use, a corporate officer title other than in compliance with paragraph 13.18(2)(b) of NI 31-103.
- 15. Section 13.18 of NI 31-103 prohibits registered individuals in their client-facing relationships from, among other things, using titles or designations that could reasonably be expected to deceive or mislead existing and prospective clients.

Paragraph 13.18(2)(b) of NI 31-103 specifically prohibits the use of corporate officer titles by registered individuals who interact with clients unless the individuals have been appointed to those corporate offices by their sponsoring firms pursuant to applicable corporate law.

16. There would be significant operational and human resources challenges for the Filer to comply with the prohibition in paragraph 13.18(2)(b). In addition, the Titles are widely used and recognized throughout the institutional segment of the financial services industry within Canada and globally, and being unable to use the Titles has the potential to put the Filer and its Registered Individuals at a competitive disadvantage as compared to non-Canadian firms that are not subject to the prohibition and who compete for the same institutional clients.
17. Given their nature and sophistication, the use of the Titles by the Registered Individuals would not be expected to deceive or mislead existing and prospective Institutional Clients or clients holding Overflow Accounts.
18. For the reasons provided above, it would not be prejudicial to the public interest to grant the Exemption Sought.

Decision

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

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, provided that

- (a) when using the Titles, the Filer and its Registered Individuals interact only with existing and prospective clients that are exclusively Institutional Clients and clients holding Overflow Accounts; and
- (b) the Overflow Accounts in aggregate do not exceed 5% of the Filer's total assets under management at the end of each fiscal year of the Filer.

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

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

Application File #: 2021/0435

B.3.7 Desjardins Global Asset Management Inc. and Desjardins Alt Long/Short Equity Market Neutral ETF

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted to mutual funds for an extension of the lapse date for their prospectus.

Policy Statement 11-203 Process for Exemptive Relief Applications in Multiple Jurisdiction – Regulation 11-102 respecting Passport System – Relief granted under subsection 17.2(7) of Regulation 41-101 respecting General Prospectus Requirements to exchange-traded fund for extension of the lapse date of its prospectus to consolidate the prospectus with other funds.

Applicable Legislative Provisions

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

[TRANSLATION]

December 23, 2021

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

AND

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

AND

**IN THE MATTER OF
DESJARDINS GLOBAL ASSET MANAGEMENT INC.
(the Filer)**

AND

**IN THE MATTER OF
DESJARDINS ALT LONG/SHORT EQUITY MARKET
NEUTRAL ETF
(the Desjardins ETF)**

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each, a **Decision Maker**) has received an application from the Filer on behalf of the Desjardins ETF for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the time limits for the renewal of the long form prospectus of the Desjardins ETF dated January 11, 2021 (the **Prospectus**) be extended to those time limits

that would apply if the lapse date of the Prospectus was March 15, 2022 (the **Exemption Sought**).

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

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

Interpretation

Terms defined in *Regulation 14-101 respecting Definitions* (c. V-1.1, r. 3), *Regulation 41-101 respecting General Prospectus Requirements* (c. V-1.1, r. 14) (**Regulation 41-101**) and Regulation 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

The Filer

1. The Filer is a corporation established under the laws of the Province of Québec, with its head office located in Montréal, Québec.
2. The Filer is registered as a portfolio manager in each of the Jurisdictions of Canada, as a commodity trading manager in Ontario, derivatives portfolio manager in Québec, exempt-market dealer in each of the Jurisdictions of Canada, as an investment fund manager in Québec, Ontario, Alberta, Manitoba, Nova Scotia, and Newfoundland and Labrador and as an advisor in Manitoba.
3. The Filer is the investment fund manager of the Desjardins ETF and of seven other exchange-traded funds (**ETFs**) identified in Appendix A (the **Other Funds**, and together with the Desjardins ETF, the **Funds**) that currently distribute their securities to the public under a long form prospectus that has a lapse date of March 15, 2022 (the **Other Funds Prospectus**).
4. The Filer is not in default of securities legislation in any of the Jurisdictions of Canada.

The Funds

5. The Funds are ETFs established under the laws of Québec, and are reporting issuers or the equivalent as defined in the securities legislation of any Jurisdictions of Canada.
6. The Funds are not in default of securities legislation in any of the Jurisdictions of Canada.
7. The Desjardins ETF currently distributes securities in the Jurisdictions of Canada under the Prospectus and its securities are traded on the Toronto Stock Exchange.
8. Pursuant to subsection 17.2(2) of Regulation 41-101 and subsection 62(1) of the Securities Act (*Ontario*) (R.S.O. 1990, c.S.5), the lapse date of the Prospectus is January 11, 2022 (the **Current Lapse Date**). In accordance with applicable securities legislation, the distribution of securities of the Fund would have to cease on the Lapse Date unless: (i) a pro forma prospectus is filed at least 30 days prior to the Current Lapse Date; (ii) the final prospectus is filed no later than 10 days after the Current Lapse Date; and (iii) a receipt for the final prospectus is obtained within 20 days of the Current Lapse Date.

The reasons for the Exemption Sought

9. The Filer wishes to combine the Prospectus with the Other Funds Prospectus in order to reduce renewal and related costs of the Funds. Offering the Funds under one prospectus would facilitate the distribution of the Funds in the Jurisdictions of Canada under the same prospectus and enable the Filer to streamline disclosure across the Filer's fund platform. As the Desjardins ETF and the Other Funds are all managed by the Filer, offering them under the same prospectus will allow investors to more easily compare their features.
10. It would be preferable to incur the costs and expenses associated with preparing only one renewal prospectus rather than two separate renewal prospectuses given how close in proximity the lapse dates are to one another.
11. Given the current Lapse Date, an extension of the Lapse Date to March 15, 2022 is minimal and is not disadvantageous to the Desjardins ETF's investors.
12. There have been no material changes in the affairs of the Desjardins ETF since the date of the Prospectus. Accordingly, the Prospectus and ETF Facts of the Desjardins ETF continue to provide accurate information.
13. Given the disclosure obligations of the Filer and the Desjardins ETF, should any changes occur, the Prospectus and ETF facts document of the Desjardins ETF will be amended accordingly.

14. New investors in the Desjardins ETF will receive the most recently filed ETF facts document. The Prospectus will still be available upon request.
15. The Filer submits that the Exemption Sought will not affect the reliability and accuracy of the information contained in the Prospectus and will therefore not be prejudicial to the public interest.

Decision

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

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

“Frédéric Belleau”
Senior Director, Investment Funds

Appendix A

- Desjardins Canadian Universe Bond Index ETF
- Desjardins Canadian Short Term Bond Index ETF
- Desjardins 1-5 year Laddered Canadian Corporate Bond Index ETF
- Desjardins 1-5 year Laddered Canadian Government Bond Index ETF
- Desjardins Canadian Preferred Share Index ETF
- Desjardins RI Emerging Markets – Low CO2 Index ETF
- Desjardins RI Developed ex-USA ex-Canada - Low CO2 Index ETF

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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
VPN Technologies Inc.	November 3, 2021	June 15, 2022

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

Company Name	Date of Order	Date of Lapse
Bhang Inc.	May 3, 2022	June 8, 2022
CANSORTIUM INC.	May 6, 2022	June 17, 2022

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	
Gatos Silver, Inc.	April 12, 2022	
Bhang Inc.	May 3, 2022	June 8, 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	
CANSORTIUM INC.	May 6, 2022	June 17, 2022
CoinAnalyst Corp.	May 6, 2022	

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B.7 Insider Reporting

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

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

B.9

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

[THERE IS NOTHING TO REPORT THIS WEEK.]

NON-INVESTMENT FUNDS

Issuer Name:

ALDD VENTURES CORP.
Principal Regulator - British Columbia

Type and Date:

Preliminary CPC Prospectus dated June 15, 2022
NP 11-202 Preliminary Receipt dated June 16, 2022

Offering Price and Description:

\$400,000.00 - 4,000,000 Common Shares Price: \$0.10 per
Common Share

Underwriter(s) or Distributor(s):

HAYWOOD SECURITIES INC.

Promoter(s):

Chun Sing Cheung

Project #3399726

Issuer Name:

Cielo Waste Solutions Corp.
Principal Regulator - Alberta

Type and Date:

Preliminary Short Form Prospectus dated June 15, 2022
NP 11-202 Preliminary Receipt dated June 15, 2022

Offering Price and Description:

\$8,500,000 121,428,571 Units Price: \$0.07 per Unit

Underwriter(s) or Distributor(s):

ECHELON WEALTH PARTNERS INC.

Promoter(s):

-

Project #3399615

Issuer Name:

Fire & Flower Holdings Corp. (formerly Cinaport Acquisition
Corp. II)

Principal Regulator - Ontario

Type and Date:

Amendment dated June 20, 2022 to Preliminary Shelf
Prospectus dated March 22, 2022
NP 11-202 Preliminary Receipt dated June 20, 2022

Offering Price and Description:

\$100,000,000.00 - COMMON SHARES WARRANTS UNITS
SUBSCRIPTION RECEIPTS DEBT SECURITIES

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3353465

Issuer Name:

First Capital Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:

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

Offering Price and Description:

0.00 - Trust Units, Warrants to Purchase Trust Units,
Subscription Receipts, Debt Securities, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3400461

Issuer Name:

Gold Royalty Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated June 13, 2022
NP 11-202 Preliminary Receipt dated June 14, 2022

Offering Price and Description:

US\$250,000,000.00 - Common Shares, Preferred Shares,
Warrants, Subscription Receipts, Debt Securities, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3398938

Issuer Name:

Ivanhoe Electric Inc.
Principal Regulator - British Columbia

Type and Date:

Amendment dated June 16, 2022 to Preliminary Long Form
Prospectus dated May 24, 2022
NP 11-202 Preliminary Receipt dated June 17, 2022

Offering Price and Description:

US\$ • 14,388,000 Shares of Common Stock
Price: US\$ • per Common Share

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3388471

Issuer Name:

Looking Glass Labs Ltd.
Principal Regulator - British Columbia

Type and Date:

Amendment dated June 16, 2022 to Preliminary Shelf Prospectus dated March 17, 2022

NP 11-202 Preliminary Receipt dated June 17, 2022

Offering Price and Description:

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

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3352157

Issuer Name:

Nova Cannabis Inc.
Principal Regulator - Alberta

Type and Date:

Preliminary Shelf Prospectus dated June 16, 2022

NP 11-202 Preliminary Receipt dated June 16, 2022

Offering Price and Description:

\$35,000,000.00 - Common Shares, First Preferred Shares, Subscription Receipts, Warrants, Debt Securities, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3399995

Issuer Name:

Open Daily Technologies Inc.
Principal Regulator - British Columbia

Type and Date:

Preliminary Long Form Prospectus dated June 16, 2022

NP 11-202 Preliminary Receipt dated June 17, 2022

Offering Price and Description:

0.00

Underwriter(s) or Distributor(s):

-

Promoter(s):

Matthew Schmidt

Project #3400103

Issuer Name:

Platinum Group Metals Ltd.
Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated June 15, 2022

NP 11-202 Preliminary Receipt dated June 15, 2022

Offering Price and Description:

US\$250,000,000 Common Shares Debt Securities Warrants Subscription Receipts Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3399567

Issuer Name:

Relevant Gold Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary Long Form Prospectus dated June 15, 2022

NP 11-202 Preliminary Receipt dated June 15, 2022

Offering Price and Description:

0.00

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3399498

Issuer Name:

Taurus Gold Corp.
Principal Regulator - Alberta

Type and Date:

Amendment dated June 14, 2022 to Preliminary Long Form Prospectus dated March 14, 2022

NP 11-202 Preliminary Receipt dated June 14, 2022

Offering Price and Description:

\$1,500,000.00 (A minimum of 5,000,000 Common Share Units and a maximum of 7,500,000 Common Share Units and up to a maximum of 2,000,000 Flow-Through Units)

\$0.20 per Common Share Unit \$0.25 per Flow-Through Unit

Underwriter(s) or Distributor(s):

Canaccord Genuity Corp.

Promoter(s):

Robert Sim

Project #3350890

Issuer Name:

The Lion Electric Company
Principal Regulator - Quebec

Type and Date:

Preliminary Shelf Prospectus dated June 15, 2022
NP 11-202 Preliminary Receipt dated June 15, 2022

Offering Price and Description:

US\$350,000,000 Common Shares Preferred Shares Debt
Securities Warrants Subscription Receipts Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3399495

Issuer Name:

Cross Border Capital I Inc.
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated June 16, 2022
NP 11-202 Receipt dated June 16, 2022

Offering Price and Description:

0.00

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3343545

Issuer Name:

First Capital Real Estate Investment Trust
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated June 20, 2022
NP 11-202 Receipt dated June 20, 2022

Offering Price and Description:

0.00 - Trust Units, Warrants to Purchase Trust Units,
Subscription Receipts, Debt Securities, Units

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3400461

Issuer Name:

Florence One Capital Inc.
Principal Regulator - Alberta

Type and Date:

Final CPC Prospectus dated June 14, 2022
NP 11-202 Receipt dated June 16, 2022

Offering Price and Description:

Minimum Offering: \$250,000 (2,500,000 Common Shares)
Maximum Offering: \$750,000 (7,500,000 Common Shares)
Price: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

-

Promoter(s):

-

Project #3368427

Issuer Name:

Fortified Trust
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated June 14, 2022
NP 11-202 Receipt dated June 15, 2022

Offering Price and Description:

Up to \$5,000,000,000.00 - Real Estate Secured Line of
Credit Backed Notes

Underwriter(s) or Distributor(s):

BMO NESBITT BURNS INC.

Promoter(s):

BANK OF MONTREAL

Project #3383368

Issuer Name:

Frontenac Mortgage Investment Corporation
Principal Regulator - Ontario

Type and Date:

Final Long Form Prospectus dated June 16, 2022
NP 11-202 Receipt dated June 17, 2022

Offering Price and Description:

Unlimited Number of Common Shares
Price: \$30.00 per Common Share

Underwriter(s) or Distributor(s):

-

Promoter(s):

W.A. ROBINSON ASSET MANAGEMENT LTD.

Project #3380479

Issuer Name:

Kalma Capital Corp.
Principal Regulator - British Columbia

Type and Date:

Amendment dated June 13, 2022 to Final CPC Prospectus dated March 16, 2022

NP 11-202 Receipt dated June 16, 2022

Offering Price and Description:

Minimum Offering: \$200,000.00 or 2,000,000 Common Shares

Maximum Offering: \$300,000.00 or 3,000,000 Common Shares

PRICE: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

HAYWOOD SECURITIES INC.

Promoter(s):

Luc Pelchat

Project #3318952

Issuer Name:

Li-FT Power Ltd.
Principal Regulator - British Columbia

Type and Date:

Final Long Form Prospectus dated June 14, 2022

NP 11-202 Receipt dated June 14, 2022

Offering Price and Description:

This Prospectus does not constitute an offer to sell or a solicitation of an offer to buy any securities.

Underwriter(s) or Distributor(s):

-

Promoter(s):

Julie Hajduk

Project #3346925

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B.10 Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
Change in Registration Category	LES INVESTISSEMENTS RIVEMONT INC. / RIVEMONT INVESTMENTS INC.	From: Portfolio Manager To: Portfolio Manager, Investment Fund Manager, Exempt Market Dealer	June 16, 2022
Voluntary Surrender	SCOR Investment Partners UK Ltd	Portfolio Manager and Exempt Market Dealer	June 16, 2022
Voluntary Surrender	Gestion HNB-Anchor Placement Inc. / HNB-Anchor Investment Management Inc.	Portfolio Manager	June 17, 2022

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B.12 Other Information

B.12 Other Information

B.12.1 Approvals

B.12.1.1 TD Global Carbon Credit Index ETF

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief from requirement in subsection 2.3(1.1) of NI 41-101 that an investment fund file a final long form prospectus within 90 days of the date of the receipt for the preliminary prospectus relating to the same offering. Filer granted an additional 84 days to file final prospectus in order to obtain additional internal approvals prior to launch relating to issues raised during the prospectus review. Fund will not be pre-marketed prior to launch. Relief to be evidenced by final prospectus receipt.

Applicable Legislative Provisions

National Instrument 41-101 General Prospectus Requirements, ss. 2.3(1.1) and 19.1.

VIA SEDAR

June 9, 2022

Fasken Martineau DuMoulin LLP

Attention: Garth J. Foster

Re: TD Global Carbon Credit Index ETF (the Fund)

Preliminary long form prospectus and ETF Facts dated March 10, 2022

Exemptive Relief Application under Part 19 of National Instrument 41-101 *General Prospectus Requirements* (NI 41-101)

Application No. 2022/0272; SEDAR Project No. 3349388

By letter dated May 26, 2022 (the **Application**), TD Asset Management Inc., the investment fund manager of the Fund, applied to the Director of the Ontario Securities Commission (the **Director**) under section 19.2 of NI 41-101 for relief from the operation of subsection 2.3(1.1) of NI 41-101, which prohibits an issuer from filing a final prospectus more than 90 days after the date of the receipt for the preliminary prospectus.

This letter confirms that, based on the information and representations made in the Application, and for the purposes described in the Application, the Director intends to grant the requested exemption to be evidenced by the issuance of a receipt for the Pool's prospectus, subject to the condition that the prospectus be filed no later than **August 31, 2022**.

Yours very truly,

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

Application File #: 2022/0272
SEDAR Project #: 3349388

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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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