

The Ontario Securities Commission

OSC Bulletin

September 29, 2022

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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)

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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.capitalmarkettribunal.ca/en/resources.

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A. Capital Markets Tribunal

A.2 Other Notices

A.2.1 Jiubin Feng and CIM International Group Inc.

FOR IMMEDIATE RELEASE
September 22, 2022

JIUBIN FENG AND
CIM INTERNATIONAL GROUP INC.,
File No. 2021-27

TORONTO – Take notice that the hearing in the above named matter scheduled to be heard on September 22, 2022 will not proceed as scheduled.

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Ontario Securities Commission

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A.2.2 Bridging Finance Inc. et al.

FOR IMMEDIATE RELEASE
September 22, 2022

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

TORONTO – Take notice that a motion hearing in the above named matter is scheduled to be heard on December 15, 2022 at 10:00 a.m.

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A.2: Other Notices

A.2.3 Jiubin Feng and CIM International Group Inc.

FOR IMMEDIATE RELEASE
September 22, 2022

**JIUBIN FENG AND
CIM INTERNATIONAL GROUP INC.,
File No. 2021-27**

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

A copy of the Order dated September 22, 2022 is available at capitalmarkettribunal.ca.

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A.2.4 Xiao Hua (Edward) Gong

FOR IMMEDIATE RELEASE
September 22, 2022

**XIAO HUA (EDWARD) GONG,
File No. 2022-14**

TORONTO – Take notice that a motion hearing in the above named matter is scheduled to be heard on September 29, 2022 at 9:00 a.m.

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Ontario Securities Commission

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A.2.5 Mark Odorico

FOR IMMEDIATE RELEASE
September 23, 2022

**MARK ODORICO,
File No. 2022-18**

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

A copy of the Order dated September 23, 2022 is available at capitalmarkettribunal.ca.

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A.2.6 Go-To Developments Holdings Inc. et al.

FOR IMMEDIATE RELEASE
September 26, 2022

**GO-TO DEVELOPMENTS HOLDINGS INC.,
GO-TO SPADINA ADELAIDE SQUARE INC.,
FURTADO HOLDINGS INC., AND
OSCAR FURTADO,
File No. 2022-8**

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

A copy of the Order dated September 26, 2022 is available at capitalmarkettribunal.ca.

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Ontario Securities Commission

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A.2.7 Bridging Finance Inc. et al.

FOR IMMEDIATE RELEASE
September 26, 2022

**BRIDGING FINANCE INC.,
DAVID SHARPE,
BRIDGING INCOME FUND LP,
BRIDGING MID-MARKET DEBT FUND LP,
BRIDGING INCOME RSP FUND,
BRIDGING MID-MARKET DEBT RSP FUND,
BRIDGING PRIVATE DEBT INSTITUTIONAL LP,
BRIDGING REAL ESTATE LENDING FUND LP,
BRIDGING SMA 1 LP,
BRIDGING INFRASTRUCTURE FUND LP, AND
BRIDGING INDIGENOUS IMPACT FUND,
File No. 2021-15**

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

A copy of the Order dated September 26, 2022 is available at capitalmarkettribunal.ca.

Registrar, Governance & Tribunal Secretariat
Ontario Securities Commission

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A.3 Orders

A.3.1 Jiubin Feng and CIM International Group Inc.

IN THE MATTER OF
JIUBIN FENG AND
CIM INTERNATIONAL GROUP INC.

File No. 2021-27

Adjudicators: Cathy Singer (chair of the panel)
Sandra Blake
Russell Juriansz

September 22, 2022

ORDER

WHEREAS on September 21, 2022, the Capital Markets Tribunal concluded the evidentiary portion of the merits hearing in this proceeding;

ON HEARING the submissions of the representatives for Staff of the Ontario Securities Commission (**Staff**) and for Jiubin Feng and CIM International Group Inc. (the **Respondents**);

IT IS ORDERED THAT:

1. by 4:30 p.m. on October 12, 2022, Staff shall serve and file its written closing submissions;
2. by 4:30 p.m. on October 28, 2022, the Respondents shall serve and file their responding written closing submissions; and
3. by 4:30 p.m. on November 4, 2022, Staff shall serve and file its written reply closing submissions, if any.

“Cathy Singer”

“Sandra Blake”

“Russell Juriansz”

A.3.2 Mark Odorico – ss. 8, 21.7 of the Act and Rule 22(4) of the Capital Markets Tribunal Rules of Procedure and Forms

IN THE MATTER OF
MARK ODORICO

File No. 2022-18

Adjudicators: Andrea Burke (chair of the panel)
Sandra Blake

September 23, 2022

ORDER

(Sections 8 and 21.7 of the *Securities Act*,
RSO 1990, c S.5 and
Rule 22(4) of the *Capital Markets Tribunal
Rules of Procedure and Forms*)

WHEREAS on September 23, 2022, the Capital Markets Tribunal held a hearing by videoconference, in relation to the Application brought by Mark Odorico to review a decision or decisions of the Investment Industry Regulatory Organization of Canada (the **Respondent**);

AND WHEREAS Mr. Odorico made a request to have three medical records attached to the Application dated January 11, January 22, and July 15, 2022 (**Medical Records**) marked as confidential, which was considered at a confidential hearing held on September 23, 2022;

ON READING the Application and hearing the submissions of Mr. Odorico and the representatives of the Respondent and Staff of the Ontario Securities Commission;

IT IS ORDERED THAT:

1. pursuant to Rule 22(4) of the *Capital Markets Tribunal Rules of Procedure and Forms*, the Medical Records are marked as confidential and shall not be made available to the public; and
2. a further attendance in this proceeding is scheduled for October 6, 2022 at 9:30 a.m., by videoconference, or on such other date and time as may be agreed to by the parties and set by the Governance & Tribunal Secretariat.

“Andrea Burke”

“Sandra Blkae”

A.3.3 Go-To Developments Holdings Inc. et al.

IN THE MATTER OF
GO-TO DEVELOPMENTS HOLDINGS INC.,
GO-TO SPADINA ADELAIDE SQUARE INC.,
FURTADO HOLDINGS INC., AND
OSCAR FURTADO

File No. 2022-8

Adjudicators: M. Cecilia Williams (chair of the panel)
Geoffrey Creighton
Dale Ponder

September 26, 2022

ORDER

WHEREAS the Capital Markets Tribunal held a hearing in writing to consider a request for an order extending certain deadlines set in the Order issued August 31, 2022;

ON READING the emails from the parties and considering the consents of Staff of the Ontario Securities Commission (**Staff**) and counsel for Oscar Furtado, with no position provided by the other respondents;

IT IS ORDERED THAT:

1. by September 29, 2022, the respondents shall serve and file a motion, if any, regarding Staff's disclosure or seeking disclosure of additional documents; and
2. by October 6, 2022, the parties shall either provide the registrar with an agreed schedule for any such motion or advise the registrar of mutually agreeable dates for an attendance to set a schedule for the motion.

"M. Cecilia Williams"

"Geoffrey Creighton"

"Dale Ponder"

A.3.4 Bridging Finance Inc. et al. – ss. 127(8), 127(1)

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

File No. 2021-15

Adjudicator: Sandra Blake

September 26, 2022

ORDER

(Subsections 127(8), 127(2) and 127(1) of the *Securities Act*, RSO 1990, c S.5)

WHEREAS the Capital Markets Tribunal held a hearing in writing to consider a motion by Staff of the Ontario Securities Commission to extend a temporary order issued on April 30, 2021, and extended on May 12, 2021, August 10, 2021, December 22, 2021, March 21, 2022 and June 29, 2022;

ON READING the materials filed by the parties and on considering that the respondents Bridging Income Fund LP, Bridging Mid-Market Debt Fund LP, Bridging Income RSP Fund, Bridging Mid-Market Debt RSP Fund, Bridging Private Debt Institutional LP, Bridging Real Estate Lending Fund LP, Bridging SMA 1 LP, Bridging Infrastructure Fund LP, and Bridging Indigenous Impact Fund (collectively, the **BFI Funds**) consent to the relief sought;

IT IS ORDERED THAT:

1. pursuant to Rule 23(3) of the *Capital Markets Tribunal Rules of Procedure and Forms*, this motion shall be heard in writing; and
2. pursuant to subsections 127(8), 127(2) and paragraph 2 of subsection 127(1) of the *Securities Act*, until March 31, 2023, all trading in securities of the BFI Funds shall cease, except that PricewaterhouseCoopers Inc. in its capacity as receiver and manager, without security, of all the assets, undertakings and properties of Bridging Finance Inc. and the BFI Funds may trade in or facilitate the issuance or redemption of units of a BFI Fund with prior approval of the Ontario Superior Court of Justice.

"Sandra Blake"

B. Ontario Securities Commission

B.2 Orders

B.2.1 VPN Technologies Inc.

Headnote

National Policy 11-207 Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions – Application by an issuer for a full revocation of a cease trade order issued by the British Columbia Securities Commission, as principal regulator, and the Ontario Securities Commission – cease trade order issued because the issuer had failed to file certain continuous disclosure materials required by securities legislation – defaults subsequently remedied by bringing continuous disclosure filings up-to-date – Ontario opt-in to revocation order issued by British Columbia Securities Commission, as principal regulator.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 144.

Citation: 2022 BCSECCOM 224

REVOCATION ORDER
VPN TECHNOLOGIES INC.
UNDER THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA AND
ONTARIO
(Legislation)

Background

- ¶ 1 VPN Technologies Inc. (the Issuer) is subject to a failure-to-file cease trade order (the FFCTO) issued by the regulator in each of British Columbia (the Principal Regulator) and Ontario (each a Decision Maker) respectively on November 3, 2021.
- ¶ 2 The Issuer has applied to each of the Decision Makers under National Policy 11-207 *Failure-to-File Cease Trade Orders and Revocations in Multiple Jurisdictions* (NP 11-207) for an order revoking the FFCTOs.
- ¶ 3 This order is the order of the Principal Regulator and evidences the decision of the Decision Maker in Ontario.

Interpretation

- ¶ 4 Terms defined in National Instrument 14-101 *Definitions* and NP 11-207 have the same meaning if used in this order, unless otherwise defined.

Order

- ¶ 5 Each of the Decision Makers is satisfied that the order to revoke the FFCTO meets the test set out in the Legislation to make this decision.
- ¶ 6 The decision of the Decision Makers under the Legislation is that the FFCTO is revoked.

June 15, 2022

“Allan Lim”, CPA, CA
Manager, Corporate Disclosure
Corporate Finance

OSC File #: 2022/0159

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B.3

Reasons and Decisions

B.3.1 Citigroup Global Markets Canada Inc.

Headnote

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

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7(1).

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.18(2)(b) and 15.1(2).

September 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
CITIGROUP GLOBAL MARKETS CANADA INC.
(the Filer)

DECISION

Background

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

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

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon by the Filer and its Registered Individuals (as defined below) in 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 or 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:

B.3: Reasons and Decisions

1. The Filer is a corporation existing under the laws of Ontario. The head office of the Filer is located in Toronto, Ontario.
2. The Filer is registered as an investment dealer under the securities legislation of all the jurisdictions of Canada, and is registered as a dealer under the derivatives legislation of Québec.
3. The Filer is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**) and the TSX Venture Exchange, and is a participating organization of the Toronto Stock Exchange.
4. Other than with respect to the subject of this decision, the Filer is not in default of securities legislation in any of the Jurisdictions.
5. The Filer is a wholly-owned, indirect subsidiary of Citigroup Inc., a corporation organized and existing under the laws of the State of Delaware.
6. The institutional group of the Filer offers a range of capital markets products and services to corporate, government and institutional clients. Products offered include providing investment banking, equity trading and clearing of equity futures for customer transactions booked by affiliates of the Filer.
7. 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 ten Registered Individuals.
8. The current titles used by the Registered Individuals include the words “Managing Director”, “Director”, “Senior Vice President”, “Vice President” and “Assistant Vice President”, and the Registered Individuals may use additional corporate officer titles in the future (collectively, the **Titles**).
9. 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.
10. The Registered Individuals interact only with institutional clients that are, each, a non-individual “institutional client” as defined in IIROC Rule 1201 (the **Clients**).
11. 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.
12. 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.
13. Given their nature and sophistication, the use of the Titles by the Registered Individuals would not be expected to deceive or mislead existing and prospective Clients.
14. For the reasons provided above, it would not be prejudicial to the public interest to grant the Exemption Sought.

Decision

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

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

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

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

OSC File #: 2021/0649

B.3.2 Stone Asset Management Limited

Headnote

Pursuant to National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from the know-your-client, trusted contact person and suitability requirements, and the requirements to deliver account statements and investment performance reports, granted to a portfolio manager in respect of investors in a model portfolio service offered through an unaffiliated mutual fund dealer.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7(1).

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 13.2, 13.2.01, 13.3, 14.14, 14.14.1, 14.18 and 15.1(2).

September 22, 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

STONE ASSET MANAGEMENT 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**”) exempting the Filer from the following requirements with respect to clients invested in the Model Portfolios (as defined below):

- (a) the requirement (the “**Know Your Client Requirement**”) in the Legislation that the Filer take reasonable steps to:
 - (i) establish the identity of a client and, if the Filer has cause for concern, make reasonable inquiries as to the reputation of the client;
 - (ii) establish whether the client is an insider of a reporting issuer or any other issuer whose securities are publicly traded;
 - (iii) ensure that the Filer has sufficient information regarding the client's investment needs, objectives, financial circumstances and risk tolerance, among other information, to enable the Filer to meet its obligations under the Legislation to make a determination with respect to the Suitability Requirement (as defined below);

(collectively, the “**Know Your Client Exemption**”); and

- (b) the requirement (the “**Trusted Contact Person Requirement**”) in the Legislation that the Filer take reasonable steps to:
 - (i) obtain from the client the name and contact information of a trusted contact person, and the written consent of the client for the Filer to contact the trusted contact person to confirm or make inquiries about any of the following:
 - a. the Filer’s concerns about possible financial exploitation of the client;

- b. the Filer's concerns about the client's mental capacity as it relates to the ability of the client to make decisions involving financial matters;
- c. the name and contact information of a legal representative of the client, if any;
- d. the client's contact information;

(collectively, the "**Trusted Contact Person Exemption**"); and

- (a) the requirement (the "**Suitability Requirement**") in the Legislation that the Filer take reasonable steps to ensure that, before it makes a recommendation to or accepts an instruction from a client to buy or sell a security, or makes a purchase or sale of a security for a client's account, or upon the occurrence of any other required suitability assessment event, such action is suitable for the client (the "**Suitability Exemption**"); and
- (b) the requirement (the "**Statement Delivery Requirement**") in the Legislation that the Filer deliver account statements and investment performance reports to clients who have invested in the Model Portfolios (the "**Statement Delivery Exemption**").

The Know Your Client Exemption, Trusted Contact Person Exemption, Suitability Exemption and the Statement Delivery Exemption are collectively referred to as 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 section 4.7(1) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon by the Filer in Alberta, British Columbia, Manitoba, Newfoundland & Labrador, Nova Scotia, Québec and Saskatchewan, (each, a '**Jurisdiction**' and, together with Ontario, the '**Canadian 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.

NI 31-103 means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

Representations

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

The Filer

1. The Filer is a corporation incorporated under the laws of Ontario, with its head office located in Toronto, Ontario.
2. The Filer is registered under the Legislation as a portfolio manager and restricted dealer and is also registered as a portfolio manager under the securities legislation in each of the Other Jurisdictions. The Filer is also registered as an investment fund manager in Ontario, Quebec and Newfoundland & Labrador.
3. The Filer is not in default of securities legislation in any of the Canadian Jurisdictions.

The Model Portfolio Service

4. The Filer proposes to use its valuation and selection methodologies to construct and maintain model investment portfolios for various stated investment objectives (each a "**Model Portfolio**" and collectively the "**Model Portfolios**").
5. Each Model Portfolio will have investment guidelines governing the acceptable minimum and maximum allocation to various asset classes within the Model Portfolio (the "**Permitted Ranges**", and each, a "**Permitted Range**").
6. Each Model Portfolio will be comprised exclusively of open-ended mutual funds, including exchange-traded mutual funds (**ETFs**), (collectively the "**Funds**" and individually a "**Fund**") established under the laws of a Canadian Jurisdiction and cash and cash equivalents.
7. Each of the Funds is, or will be, a reporting issuer in one or more of the Canadian Jurisdictions, and subject to the requirements of National Instrument 81-102 *Investment Funds*.

B.3: Reasons and Decisions

8. The securities of each of the Funds are, or will be, qualified for distribution in one or more of the Canadian Jurisdictions pursuant to a: (a) simplified prospectus, annual information form and Fund Facts prepared and filed in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, or (b) long form prospectus and ETF Facts prepared and filed in accordance with National Instrument 41-101 *General Prospectus Requirements*.
9. The securities of each Fund that is an ETF are, or will be, listed and traded on a recognized exchange.
10. Each of the Funds is, or will be, managed by a third-party investment fund manager that is unaffiliated with the Filer. In the future, one or more of the Funds may be managed by the Filer or an affiliate of the Filer.
11. The Model Portfolios will be offered as a service (the “**Service**”) to investors through Monarch Wealth Corporation Inc. (the “**Dealer**”). The Dealer is registered under the *Securities Act* (Ontario) (the “**Act**”) as an exempt market dealer and mutual fund dealer and is also registered as a mutual fund dealer in each of Alberta, British Columbia (also registered as an exempt market dealer), Manitoba, Newfoundland & Labrador, Nova Scotia, Québec, and Saskatchewan.
12. The Dealer will collect all of the required know your client (“**KYC**”), trusted contact person (“**TCP**”), and suitability information for each client considering the Service. Based on an assessment of the client’s KYC and suitability information, the Dealer’s dealing representative will recommend a Model Portfolio for the client.
13. The client will discuss the recommended Model Portfolio and the Funds within the Model Portfolio with their Dealer’s dealing representative, and the client ultimately chooses the Model Portfolio. Model Portfolios are not changed or tailored for individual clients.
14. If the client decides to invest in a Model Portfolio, a tripartite agreement (the “**Agreement**”) is entered into between the client, the Dealer and the Filer in respect of the Service as described below.
15. Securities of the Funds that comprise each Model Portfolio will be distributed through the Dealer to clients and will be held either directly by each client in his/her own account(s) established with the Dealer, or in the case of nominee accounts, in the Dealer’s name, in trust for the client.
16. Clients will have no direct contact with the Filer in connection with the Filer’s management of the Model Portfolios and will interact solely with their Dealer and approved persons of their Dealer in connection with the Filer’s management of the Model Portfolios and the Dealer’s administration of its accounts.
17. The Dealer has the option of imposing a minimum investment amount for clients to participate in the Service.
18. The Dealer will be responsible for gathering and periodically updating KYC and TCP information concerning the client and confirming, on at least an annual basis, the suitability of the Model Portfolio for the client.
19. Where the Dealer determines that a Model Portfolio is no longer appropriate for the client or that a different Model Portfolio would be more appropriate for the client, this will be communicated to the Filer and the client by the Dealer, and the Dealer will take appropriate action. A change to a different Model Portfolio will not be made without the client entering into a new Agreement in respect of the new Model Portfolio.
20. A client may terminate the Service at any time by instructing the Dealer to redeem or switch the client’s investment out of the Funds. The Dealer and the Filer can terminate the Service under the conditions set out in the Agreement.

Monitoring, Service Trades and Additional Investment Trades

21. The Filer will oversee and monitor each Model Portfolio to ensure it remains in compliance with its stated investment objective and investment guidelines at all times and to determine whether any changes to the composition of the Model Portfolio or Permitted Ranges would be appropriate.
22. As part of the Service, provided that the Model Portfolio remains consistent with its stated investment objective at all times, the Filer may, from time to time, use its discretion to make decisions regarding certain changes to the holdings of a Model Portfolio within the Permitted Ranges (the **Optimization Changes**).
23. As part of the Service, provided that the client is given at least 60 days’ advance written notice (the **Written Notice**) and the Model Portfolio remains consistent with its stated investment objective at all times, the Filer may also, from time to time, use its discretion to make decisions regarding certain changes to the Permitted Ranges (the **Weighting Changes**).
24. The Written Notice will describe the proposed Weighting Change and specify that if the client does not provide his or her objection to the proposed Weighting Change by a specified date, this non-objection will be deemed to be consent for the change on the effective date.

B.3: Reasons and Decisions

25. The Optimization Changes and Weighting Changes to Model Portfolios that are determined from time to time by the Filer will be communicated by the Filer to the Dealer in writing and will be effected in a client's account by the Dealer through the following types of trades:
 - a. purchase of securities to increase holdings of an existing Fund in a Model Portfolio (the "**Increase Trades**");
 - b. sale of securities to decrease holdings of an existing Fund in a Model Portfolio (the "**Decrease Trades**");
 - c. purchase of securities to add a new Fund to a Model Portfolio (the "**New Fund Trades**"); and
 - d. sale of securities to remove an existing Fund from a Model Portfolio (the "**Fund Removal Trades**", and together with the Increase Trades, Decrease Trades and New Fund Trades, the "**Service Trades**").
26. In each case, the Dealer will confirm receipt of the Filer's instructions and will provide written confirmation to the Filer that the Service Trades have been effected in accordance with the Filer's instructions in the applicable client accounts.
27. A client may, from time to time, contribute additional funds to the client's account with the Dealer for investment in the selected Model Portfolio through the Service. Such additional funds will be applied towards the purchase of additional securities of the Funds in accordance with the Permitted Ranges (the "**Additional Investment Trades**"). All Additional Investment Trades will be effected by the relevant Dealer.
28. The Dealer will not have discretionary authority to participate in the management of the Model Portfolios or to recommend Optimization Changes or Weighting Changes.

Fees and Expenses

29. Each client pays the Dealer a negotiated fee for the Service that is calculated as a percentage of the market value of the client's investment in the Service. Independent of the Service, each client also negotiates a separate fee for the services of their Dealer's dealing representative.
30. The Filer's fee for managing the Model Portfolios is calculated based on the aggregate amount of assets held in Model Portfolios by all the Dealer's clients. This fee is paid by the Dealer and included in the service fee that the client pays to the Dealer.
31. The Model Portfolios will be comprised of institutional series units of Funds that are not ETFs, and regular units of Funds that are ETFs. The management fees for institutional series units of Funds that are not ETFs will be charged outside the Funds and are negotiable with the applicable Fund manager. The Dealer is responsible for negotiating the management fees for these Funds and these management fees will be included in the negotiated service fee that each client pays the Dealer. Certain institutional series of Funds that are not ETFs have operating expenses that will be charged within the Funds. The management fees and operating expenses for ETFs will be charged within the ETFs.
32. There will be no duplication of any fees or charges as a result of a client's decision to use the Service.
33. For Model Portfolios comprised of Funds that are not ETFs, there will be no separate fees, such as sales charges, redemption fees, switch fees or early trading fees, charged in connection with the Service Trades.
34. For Model Portfolios comprised of Funds that are ETFs, there will be no separate fees, such as sales charges, redemption fees, switch fees or early trading fees, charged in connection with the Service Trades except for brokerage fees (also known as trading or transaction fees) charged by the Dealer for each Service Trade, if any, which will be charged to each client on a proportional basis.

Agreement among the Filer, the Dealer and the Client and Client Reporting

35. The Agreement entered into among the Filer, the Dealer and each client in respect of the Service will set out, among other matters, the following:
 - a. the name, investment objective and Permitted Ranges of the selected Model Portfolio, and the names of the underlying Funds that form part of the selected Model Portfolio at the time the Agreement is entered into;
 - b. the role, duties and responsibilities of the Filer, including:
 - i. that the client authorizes the Filer to manage the client's investments on a discretionary basis in accordance with the terms of the Model Portfolio selected by the client and without reference to the client's circumstances;

B.3: Reasons and Decisions

- ii. that the Filer has the discretion to make Optimization Changes, provided the Model Portfolio remains consistent with its stated investment objective and the Permitted Ranges;
 - iii. that the Filer has the discretion to recommend Weighting Changes, provided the Client is given at least 60 days' advance written notice and does not object and the Model Portfolio remains consistent with its stated investment objective;
- c. the role, duties and responsibilities of the Dealer, including:
- i. that the Dealer will be solely responsible for gathering and periodically updating KYC and TCP information concerning the client, and confirming, on at least an annual basis, the suitability of the selected Model Portfolio for the client;
 - ii. that the Dealer will not have discretionary authority to participate in the management of the Model Portfolio or to recommend Optimization Changes or Weighting Changes;
 - iii. that the Dealer is responsible for effecting all trades for the client associated with the Service, including the Service Trades;
 - iv. that the Dealer is responsible for providing the client with all required reporting under the Legislation in connection with the Service, including trade confirmations, account statements and investment performance reports;
- d. a description of all fees and expenses payable by a client in respect of an investment in a Model Portfolio, including those charged directly to a client in respect of the Service and those charged in respect of an investment in the Funds through the Service, as well as confirmation that there will be no duplication of any fees or charges as a result of the client's decision to use the Service, as described in paragraphs 29 to 34 above;
- e. a statement that the Filer's fee, which is paid by the Dealer and included in the service fee that the client pays to the Dealer, is calculated based on the aggregate amount of assets held in Model Portfolios by all of the Dealer's clients;
- f. how the Service may be terminated.
36. The Dealer will provide a copy of the Agreement to the client and be responsible for ensuring that the client understands the Service and the topics covered in the Agreement.
37. The Dealer will reflect the Service Trades and Additional Investment Trades in each client's account(s) on the next business day following such trades, subject to technological limitations.
38. Clients will be able to access their accounts via Dealer online access on a daily basis.
39. Fund Facts and ETF Facts will be delivered to each client by the Dealer as required by the Legislation, subject to any applicable exemption.
40. Trade confirmations for every transaction in a client's account, including Service Trades, will be provided to the client by the Dealer in accordance with the requirements under the Legislation.
41. The Dealer will send account statements and investment performance reports to each client in the Service in accordance with the requirements under the Legislation.
42. The Dealer will provide each client in the Service with an annual tax reporting package.

Exemption Sought

43. In the absence of the Exemption Sought, the Filer would be required:
- a. to gather and update the information contemplated by the Know Your Client Requirement in section 13.2 of NI 31-103 for each client in the Service;
 - b. to gather and update the information contemplated by the Trusted Contact Person Requirement in section 13.2.01 of NI 31-103 for each client in the Service;
 - c. to ensure that each Service Trade is suitable for each client in the Service in accordance with the Suitability Requirement in section 13.3 of NI 31-103, rather than invested in accordance with the terms of the client's Model Portfolio; and

B.3: Reasons and Decisions

- d. to deliver account statements and investment performance reports to clients who have invested in the Model Portfolios in accordance with the Statement Delivery Requirement in sections 14.14, 14.14.1, and 14.18 of NI 31-103.
- 44. The Dealer does not require an exemption from the adviser registration requirement under the Legislation as a result of its involvement with the Service as it will not be engaged in providing discretionary management advice to clients in connection with the management of the Model Portfolios and will be effecting the Service Trades in accordance with the Filer's instructions, without exercising any discretion.

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) the Filer is, at the time of each Service Trade, registered under the Legislation as an adviser in the category of portfolio manager;
- (b) each Service Trade is made in accordance with the terms of the selected Model Portfolio;
- (c) each client in the Service is informed in writing in the Agreement or otherwise:
 - (i) of the roles, duties and responsibilities of the Filer and the Dealer, including that:
 - a. the Filer will manage the Model Portfolios without reference to the client's circumstances and only in accordance with the terms of the Model Portfolio selected by the client;
 - b. the Dealer will be solely responsible for gathering and periodically updating KYC and TCP information concerning the client and confirming, on at least an annual basis, the suitability of the selected Model Portfolio for the client;
 - (ii) that the client will receive account statements and performance reports from Dealer, and will not receive account statements and performance reports from the Filer;
- (d) the Filer will adopt, maintain and apply policies and procedures designed to provide reasonable assurance that the Dealer complies with its KYC, TCP and suitability obligations with respect to each client in the Service, including requiring that:
 - (i) the Dealer not market and sell the Model Portfolios through an order-execution-only, suitability-exempt channel;
 - (ii) the Dealer notify the Filer of each instance where a Model Portfolio is sold to a client on the basis of a client-directed trade as contemplated in section 13.3 of NI 31-103 and similar provisions under IIROC or MFDA rules;
 - (iii) the Dealer shall be responsible for gathering and periodically updating KYC and TCP information concerning the client and confirming, on at least an annual basis, the suitability of the selected Model Portfolio for each client, and
 - (iv) the Dealer on an annual basis, no later than 30 days after the end of the calendar year, provide a certificate to the Filer that the Dealer has complied with its KYC, TCP and suitability obligations with respect to each client in the Service.
- (e) the Filer will adopt, maintain and apply policies and procedures designed to provide reasonable assurance that the Dealer complies with the client reporting obligations under the rules of the MFDA in respect of clients in the Service, including requiring that the Dealer, on an annual basis, no later than 30 days after the end of the calendar year, provide a certificate to the Filer that:
 - (i) the Dealer has complied with its client reporting obligations under the rules of the MFDA and
 - (ii) the Dealer has performed and documented sample testing and reconciliations to provide reasonable assurance that account statements and investment performance reports delivered to clients are complete, accurate and delivered on a timely basis in a format that is compliant with the rules of the MFDA.

B.3: Reasons and Decisions

- (f) the Filer will adopt, maintain and apply policies and procedures designed to provide reasonable assurance that the Dealer complies with its obligations in respect of all trading for clients in connection with the Service, including requiring that the Dealer, on an annual basis, no later than 30 days after the end of the calendar year, provide a certificate to the Filer that:
- (i) the Dealer has effected all trades for clients in connection with the Service, including all Additional Investment Trades, in accordance with the selected Model Portfolios, and
 - (ii) the Dealer has effected all Service Trades in accordance with the Filer's written instructions in the applicable client accounts.
 - (iii) the Filer has a written agreement in place with the Dealer concerning their respective roles, duties and responsibilities to clients in respect of the Service.

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

Application File #: 2022/0253

B.3.3 ATB Capital Markets Inc.

Headnote

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

Applicable Legislative Provisions

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

Citation: *Re ATB Capital Markets Inc.*, 2022 ABASC •

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
ATB CAPITAL MARKETS INC.
(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**) 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) (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 by the Filer and its Registered Individuals (as defined below) in each of the other provinces and territories 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 MI 11-102 and National Instrument 14-101 *Definitions* have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. The Filer is a corporation existing under the federal laws of Canada with its head office located in Calgary, Alberta.
2. The Filer is registered as an investment dealer in all provinces and territories of Canada.
3. The Filer is a member of the Investment Industry Regulatory Organization of Canada (**IROC**).
4. The Filer is not currently in default of securities legislation in any of the provinces and territories of Canada. For the period from December 31, 2021 to May 3, 2022 the Filer and certain of its registered individuals, were in default of paragraph 13.18(2)(b) of NI 31-103. The Filer understands that the Exemption Sought is only in effect from the date of this decision.
5. The Filer is a wholly owned subsidiary of ATB Financial.
6. The Filer's institutional division offers a range of capital markets products and services to corporate and institutional clients including investment banking, equity sales and trading, and equity research.
7. The Filer is the sponsoring firm for registered individuals that interact with clients and propose to 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

B.3: Reasons and Decisions

- business of the Filer changes. As of the date of this decision, the Filer has approximately seven Registered Individuals.
8. The current titles used by the Registered Individuals include the words "Managing Director" and "Vice-President", and the Registered Individuals may use additional corporate officer titles in the future (collectively, the **Titles**).
9. 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.
10. The Registered Individuals interact primarily with institutional clients that are, each, a non-individual "institutional client" as defined in IIROC Rule 1201 (the **Institutional Clients**).
11. To the extent a Registered Individual interacts with clients that are not Institutional Clients (the **Retail Clients**), 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, and will not use a Title in any interaction with Retail Clients, including in any communications, such as written and verbal communications, that are directed at, or may be received by, Retail Clients.
12. The Filer will not grant any registered individual that interacts primarily with Retail 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.
13. 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.
14. 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.

15. 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.
16. For the reasons provided above, it would not be prejudicial to the public interest to grant the Exemption Sought.

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, when using the Titles, the Filer and its Registered Individuals interact only with existing and prospective clients that are exclusively non-individual "institutional clients" as defined in IIROC Rule 1201.

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

"Lynn Tsutsumi"
Director, Market Regulation
Alberta Securities Commission

OSC File #: 2022/0201

B.3.4 E-L Financial Corporation Limited

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from the extension take up requirements in subsection 2.32(4) of National Instrument 62-104 Take-Over Bids and Issuer Bids – an issuer conducting an issuer bid requires relief from the requirement not to extend its issuer bid if all terms and conditions are met unless the issuer first takes up all securities validly deposited and not withdrawn under the issuer bid – requested relief granted, subject to conditions.

Applicable Legislative Provisions

National Instrument 62-104 Take-Over Bids and Issuer Bids, ss. 2.32(4) and 6.1.

September 22, 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
E-L FINANCIAL CORPORATION 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 of the principal regulator (the "Legislation") that, in connection with the proposed purchase by the Filer of a portion of its issued and outstanding common shares (the "Shares") pursuant to an issuer bid commenced on August 22, 2022 (the "Offer"), the Filer be exempt from the requirement set out in subsection 2.32(4) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("NI 62-104") that the Offer not be extended if all of the terms and conditions of the Offer have been complied with or waived, unless the Filer first takes up all of the Shares deposited under the Offer and not withdrawn (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 in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, Nova Scotia, New Brunswick, Newfoundland and Labrador and Prince Edward Island.

Interpretation

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

Representations

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

1. The Filer is a corporation validly existing under the *Business Corporations Act* (Ontario) and is in good standing.
2. The registered office of the Filer is located at 165 University Avenue, 10th Floor, Toronto, Ontario, M5H 3B8.
3. The Filer is a reporting issuer in each of the provinces of Canada and the Shares are listed for trading on the Toronto Stock Exchange (the "TSX") under the symbol "ELF". The Filer is not in default of any requirement of the securities legislation in any of the jurisdictions in which it is a reporting issuer.
4. The authorized share capital of the Filer consists of (a) an unlimited number of Shares, (b) 402,733 Preference Shares, issuable in series, and (c) an unlimited number of First Preference Shares, issuable in series. As at August 16, 2022, there were (i) 3,660,716 Shares; (ii) 258 Series A Preference Shares; (iii) 4,000,000 First Preference Shares, Series 1; (iv) 4,000,000 First Preference Shares, Series 2; and (v) 4,000,000 First Preference Shares, Series 3, issued and outstanding.
5. On August 16, 2022, the last full trading day prior to the date of the announcement of the Offer, the closing price of the Shares on the TSX was \$837.99. Based on such closing price, the Shares had an aggregate market value of approximately \$3,067,643,400.84 on such date.
6. The board of the Filer (the "Board") believes that the purchase of Shares pursuant to the Offer constitutes an efficient means of providing value to the holders of Shares (collectively, the "Shareholders") and is in the best interests of the Filer and its Shareholders. The Board further believes that the recent trading price of the Shares is not fully reflective of the underlying value of the Filer or its long term growth prospects. The Offer allows the Filer an opportunity to return up to

B.3: Reasons and Decisions

- \$100,000,000 of capital to Shareholders who elect to tender their Shares pursuant to the Offer while at the same time increasing the equity ownership of Shareholders who do not elect to tender. The Board believes that the Offer is an advisable use of the Filer's financial resources given its cash requirements and borrowing costs and that, after giving effect to the Offer, the Filer will continue to have sufficient financial resources and working capital to conduct its ongoing business and operations and that the Offer will not preclude the Filer from pursuing its foreseeable business opportunities or the future growth of the Filer's business.
7. The Filer commenced the Offer on August 22, 2022. The issuer bid circular dated August 16, 2022 sent and filed by the Filer in connection with the Offer (the "**Circular**") specifies that the Filer proposes to purchase, by way of a modified "Dutch auction" procedure in the manner described therein and below, up to \$100,000,000 of the issued and outstanding Shares at a purchase price of not less than \$825.00 and not more than \$975.00 per Share (the "Price Range of Shares").
8. The Offer is made only for Shares and not made for any convertible securities. Pursuant to subsection 2.8(b) of NI 62-104, the Filer also made the Offer to each holder of convertible securities that, before the expiry of the deposit period of the Offer, are convertible into Shares. Such convertible securities may, at the option of the holder, be converted for Shares in accordance with the terms of such convertible securities prior to the expiry of the deposit period of the Offer. Shares issued upon the conversion of the convertible securities may be tendered to the Offer in accordance with the terms of the Offer.
9. The Filer will fund the purchase of Shares pursuant to the Offer, together with all related fees and expenses of the Offer, from a combination of available cash on hand and cash available to be drawn under the Filer's existing margin loan facility provided by RBC Dominion Securities Inc.
10. Shareholders wishing to tender to the Offer will be able to do so:
- by making auction tenders in which the tendering Shareholders specify the number of Shares being tendered at a specified price per Share (the "**Auction Price**") within the Price Range of Shares in increments of \$5 per Share (each, an "**Auction Tender**"); and/or
 - by making purchase price tenders in which the tendering Shareholders do not specify a price per Share, but rather agree to have a specified number of Shares purchased at the Purchase Price per Share (as defined below) to be determined by the Auction Tenders (each, a "**Purchase Price Tender**").
11. Shareholders may make both Auction Tenders and Purchase Price Tenders, but not in respect of the same Shares. Shareholders may also make multiple Auction Tenders at different Auction Prices, but not in respect of the same Shares (i.e. Shareholders may tender different Shares at different prices, but cannot tender the same Shares at different prices). If a Shareholder wishes to deposit Shares in separate lots at a different price for each lot, that Shareholder must complete a separate letter of transmittal (and, if applicable, a notice of guaranteed delivery) for each price at which the Shareholder is depositing Shares. Shareholders making Auction Tenders or Purchase Price Tenders may tender less than all of their Shares to the Offer.
12. Shareholders who tender Shares without making a valid Auction Tender or Purchase Price Tender will be deemed to have made a Purchase Price Tender.
13. Any Shareholder that beneficially owns fewer than 100 Shares (an "**Odd-Lot Holder**") and tenders all of their Shares pursuant to an Auction Tender at a price at or below the Purchase Price or pursuant to a Purchase Price Tender, will be considered to have made an "**Odd-Lot Tender**".
14. The Filer will determine a single purchase price payable per Share (the "**Purchase Price**") promptly after the expiry of the Offer by taking into account the number of Shares deposited pursuant to Auction Tenders and Purchase Price Tenders and the Auction Prices specified by Shareholders depositing Shares pursuant to Auction Tenders. For the purpose of determining the Purchase Price, Shares deposited pursuant to a Purchase Price Tender will be deemed to have been deposited at a price of \$825 per Share (which is the minimum price per Share under the Offer). The Purchase Price will be the lowest price per Share that enables the Filer to purchase the maximum number of Shares validly deposited and not withdrawn pursuant to the Offer having an aggregate Purchase Price not to exceed \$100,000,000.
15. Until expiry of the Offer, all information about the number of Shares tendered and the prices at which such Shares are tendered will be required to be kept confidential by the depositary and the Filer until the Purchase Price has been determined.
16. If the aggregate Purchase Price for Shares validly deposited and not withdrawn pursuant to Auction Tenders at Auction Prices at or below the Purchase Price and Purchase Price Tenders would result in an aggregate Purchase Price in excess of \$100,000,000, then such deposited Shares will be purchased as follows:
- first, the Filer will purchase all Shares tendered at or below the Purchase Price

B.3: Reasons and Decisions

- by Odd-Lot Holders at the Purchase Price; and
- (b) second, the Filer will purchase Shares at the Purchase Price on a *pro rata* basis according to the number of Shares deposited or deemed to be deposited at a price equal to or less than the Purchase Price by the depositing Shareholders, less the number of Shares purchased from Odd Lot Holders.
- All Auction Tenders and Purchase Price Tenders will be subject to adjustment to avoid the purchase of fractional Shares.
17. All Shares purchased by the Filer pursuant to the Offer (including Shares tendered at Auction Prices below the Purchase Price) will be purchased at the Purchase Price and payable in cash. All payments to Shareholders will be subject to deduction of applicable withholding taxes.
18. Shares validly deposited by a Shareholder pursuant to an Auction Tender will not be purchased by the Filer pursuant to the Offer if the Auction Price per Share specified by the Shareholder is greater than the Purchase Price.
19. Certificates for all Shares not purchased under the Offer (including Shares deposited pursuant to an Auction Tender at prices greater than the Purchase Price, Shares not purchased because of pro-ration, improper tenders, or Shares not taken up due to the termination of the Offer), or properly withdrawn before the Expiration Time (as defined below), will be returned (in the case of certificates representing Shares all of which are not purchased) or replaced with new certificates or DRS advices representing the balance of Shares not purchased (in the case of certificates representing Shares of which less than all are purchased), promptly after the Expiration Time (or termination of the Offer) or the date of withdrawal of the Shares. In the case of Shares tendered through book-entry transfer into Computershare Trust Company of Canada's account at The Depository Trust Company ("DTC") or CDS Clearing and Depository Services Inc. ("CDS"), the Shares will be credited to the appropriate account maintained by the tendering Shareholder at DTC or CDS, as applicable, without expense to the Shareholder.
20. Assuming the Offer is fully subscribed:
- (a) if the Purchase Price is determined to be \$825.00, being the minimum Purchase Price under the Offer, the number of Shares that will be purchased by the Filer is 121,212, representing approximately 3.3% of the Filer's issued and outstanding Shares as at August 16, 2022; and
- (b) if the Purchase Price is determined to be \$975.00, being the maximum Purchase Price under the Offer, the number of Shares that will be purchased by the Filer is 102,564, representing approximately 2.8% of the Filer's issued and outstanding Shares as at August 16, 2022.
21. Shareholders who do not accept the Offer will continue to hold the same number of Shares held before the Offer and their proportionate Share ownership will increase following completion of the Offer, subject to the number of Shares purchased under the Offer.
22. Dominion and Anglo Investment Corporation Limited ("**Dominion**") exercises control or direction over 1,459,193 Shares (approximately 39.86% of the total number of Shares outstanding as of August 16, 2022). To the knowledge of the Filer, and to the knowledge of its directors and officers, after reasonable inquiry, Dominion will not be tendering any of its Shares to the Offer. If the Purchase Price is determined to be \$825 (being the minimum Purchase Price under the Offer) and the maximum number of Shares are repurchased, Dominion will exercise control or direction over 1,459,193 Shares, representing approximately 41.23% of the outstanding Shares. If the Purchase Price is determined to be \$975 (being the maximum Purchase Price under the Offer) and the maximum number of Shares are repurchased, Dominion will exercise control or direction over 1,459,193 Shares, representing approximately 41.01% of the outstanding Shares.
23. Canadian & Foreign Securities Co. Limited ("**CFSC**") exercises control or direction over 535,614 Shares (approximately 14.63% of the total number of Shares outstanding as of August 16, 2022). To the knowledge of the Filer, and to the knowledge of its directors and officers, after reasonable inquiry, CFSC will not be tendering any of its Shares to the Offer. If the Purchase Price is determined to be \$825 (being the minimum Purchase Price under the Offer) and the maximum number of Shares are repurchased, CFSC will exercise control or direction over 535,614 Shares, representing approximately 15.13% of the outstanding Shares. If the Purchase Price is determined to be \$975 (being the maximum Purchase Price under the Offer) and the maximum number of Shares are repurchased, CFSC will exercise control or direction over 535,614 Shares, representing approximately 15.05% of the outstanding Shares.
24. Economic Investment Trust Limited ("**Economic**") exercises control or direction over 386,206 Shares (approximately 10.55% of the total number of Shares outstanding as of August 16, 2022). To the knowledge of the Filer, and to the knowledge of its directors and officers, after reasonable inquiry, Economic will not be tendering any of its Shares to

- the Offer. If the Purchase Price is determined to be \$825 (being the minimum Purchase Price under the Offer) and the maximum number of Shares are repurchased, Economic will exercise control or direction over 386,206 Shares, representing approximately 10.91% of the outstanding Shares. If the Purchase Price is determined to be \$975 (being the maximum Purchase Price under the Offer) and the maximum number of Shares are repurchased, Economic will exercise control or direction over 386,206 Shares, representing approximately 10.85% of the outstanding Shares.
25. To the knowledge of the Filer, after reasonable inquiry, other than Dominion, CFSC and Economic, no person or company beneficially owns, or exercises control or direction over, more than 10% of the voting rights attached to all of the Filer's outstanding voting securities.
26. As of August 16, 2022, to the knowledge of the Filer and its directors and officers after reasonable inquiry, no director or officer of the Filer, no insider of the Filer, no associate or affiliate of the Filer or of an insider of the Filer, and no person or company acting jointly or in concert with the Filer, has indicated any present intention to deposit any of such person's or company's Shares pursuant to the Offer.
27. The Offer is subject to the provisions of the United States regulation entitled Regulation 14E adopted under the *Securities Exchange Act of 1934*, as amended ("Regulation 14E").
28. The Offer is scheduled to expire at 5:00 p.m. (Toronto time) on September 26, 2022 (the "Expiration Time").
29. The Filer may wish to extend the Offer if all the terms and conditions of the Offer have been complied with or waived by the Filer by the Expiration Time but the aggregate Purchase Price for Shares validly tendered pursuant to Auction Tenders and Purchase Price Tenders is less than \$100,000,000. The Filer will not extend the Offer if all the terms and conditions of the Offer have been complied with or waived by the Filer by the Expiration Time and the aggregate Purchase Price of the Shares validly tendered and not withdrawn pursuant to Auction Tenders and Purchase Price Tenders is equal to or greater than \$100,000,000.
30. Pursuant to subsection 2.32(4) of NI 62-104, an issuer may not extend an issuer bid if all the terms and conditions of the issuer bid have been complied with or waived unless the issuer first takes up all the securities deposited under the issuer bid and not withdrawn.
31. Under Regulation 14E, the Filer must promptly pay for all Shares deposited pursuant to the Offer at the time of expiry of the Offer. Regulation 14E does not provide for extensions of the Offer in the manner required by subsection 2.32(4) of NI 62-104.
32. As the determination of the Purchase Price requires that all Auction Prices and the number of Shares deposited pursuant to both Auction Tenders and Purchase Price Tenders be known and taken into account, the Filer will be unable to take up the Shares deposited and not withdrawn under the Offer as of the Expiration Time prior to extending the Offer because the Purchase Price will not and cannot be known as additional Auction Tenders and Purchase Price Tenders may be made during the extension period that will impact the calculation of the Purchase Price. Accordingly, the Exemption Sought is required in connection with an extension of the Offer to enable the Filer to make a final determination regarding the Purchase Price, taking into account all Shares tendered prior to the Expiration Time and those tendered during any extension period.
33. Shares deposited pursuant to the Offer, including those deposited prior to the Expiration Time, may be withdrawn by the Shareholder at any time prior to the expiration of any extension period in respect of the Offer.
34. The Filer is relying on the exemption from the formal valuation requirements set out in subsection 3.4(b) of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* ("MI 61-101" and such exemption, the "Liquid Market Exemption").
35. There was a "liquid market" for the Shares, as such term is defined in MI 61-101, as of the date the Offer was publicly announced because:
- there is a published market for the Shares (i.e. the TSX); and
 - Cormark Securities Inc. ("Cormark"), a person qualified and independent of all interested parties to the Offer, provided an opinion to the Filer in accordance with section 1.2 of MI 61-101 that there is a liquid market for the Shares as of August 16, 2022 (the "Liquidity Opinion").
36. Cormark also indicated in the Liquidity Opinion that it is reasonable to conclude that, following the completion of the Offer, there will be a market for holders of the Shares who do not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer. A copy of the Liquidity Opinion was included in the Circular.
37. Based on the maximum number of Shares that may be purchased under the Offer and the Liquidity Opinion, the Board determined that it is reasonable to conclude that, following the completion of the Offer, there will be a market for holders of the Shares who do not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer.

38. The Circular:

- (a) discloses the mechanics for the take-up of, and payment for, deposited Shares as described herein;
- (b) explains that, by tendering Shares at the lowest price in the Price Range of Shares under an Auction Tender or by making a Purchase Price Tender, a Shareholder can reasonably expect that the Shares so tendered will be purchased at the Purchase Price, subject to proration and other terms of the Offer as specified herein;
- (c) discloses that the Filer has applied for the Exemption Sought;
- (d) discloses the manner in which an extension of the Offer will be communicated to Shareholders and the public;
- (e) discloses that Shares deposited pursuant to the Offer may be withdrawn at any time prior to the expiration of any extension period in respect of the Offer;
- (f) discloses the facts supporting the Filer's reliance on the Liquid Market Exemption, including the Liquidity Opinion; and
- (g) includes the disclosure prescribed by the Legislation for issuer bids.

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) Shares validly deposited pursuant to the Offer and not withdrawn are taken up and paid for, or dealt with in the manner described above and as set out in the Circular;
- (b) the Filer is eligible to rely on the Liquid Market Exemption;
- (c) The Filer will issue and file a press release announcing receipt of the Exemption Sought promptly, and in any case, no later than one (1) business day following receipt of the Exemption Sought; and
- (d) the Filer complies with the requirements of Regulation 14E in respect of the Offer.

"David Mendicino"
Manager, Office of Mergers & Acquisitions
Ontario Securities Commission

B.3.5 Economic Investment Trust Limited

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from the extension take up requirements in subsection 2.32(4) of National Instrument 62-104 Take-Over Bids and Issuer Bids – an issuer conducting an issuer bid requires relief from the requirement not to extend its issuer bid if all terms and conditions are met unless the issuer first takes up all securities validly deposited and not withdrawn under the issuer bid – requested relief granted, subject to conditions.

Applicable Legislative Provisions

National Instrument 62-104 Take-Over Bids and Issuer Bids, ss. 2.32(4) and 6.1.

September 22, 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
ECONOMIC INVESTMENT TRUST 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 of the principal regulator (the "Legislation") that, in connection with the proposed purchase by the Filer of a portion of its issued and outstanding common shares (the "Shares") pursuant to an issuer bid commenced on August 22, 2022 (the "Offer"), the Filer be exempt from the requirement set out in subsection 2.32(4) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("NI 62-104") that the Offer not be extended if all of the terms and conditions of the Offer have been complied with or waived, unless the Filer first takes up all of the Shares deposited under the Offer and not withdrawn (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 in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

Interpretation

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

Representations

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

1. The Filer is a corporation validly existing under the *Business Corporations Act* (Ontario) and is in good standing.
2. The registered office of the Filer is located at 165 University Avenue, 10th Floor, Toronto, Ontario, M5H 3B8.
3. The Filer is a reporting issuer in the province of Ontario and the Shares are listed for trading on the Toronto Stock Exchange (the "TSX") under the symbol "EVT". The Filer is not in default of any requirement of the securities legislation of the Jurisdiction.
4. The authorized share capital of the Filer consists of (i) an unlimited number of Shares, and (ii) 100,000 Preferred Shares, issuable in series. As at August 16, 2022, the Filer had 5,567,635 Shares and no Preferred Shares issued and outstanding.
5. On August 16, 2022, the last full trading day prior to the date of the announcement of the Offer, the closing price of the Shares on the TSX was \$122.49. Based on such closing price, the Shares had an aggregate market value of approximately \$681,979,611.15 on such date.
6. The board of the Filer (the "Board") believes that the purchase of Shares pursuant to the Offer constitutes an efficient means of providing value to the holders of Shares (collectively, the "Shareholders") and is in the best interests of the Filer and its Shareholders. The Board further believes that the recent trading price of the Shares is not fully reflective of the underlying value of the Filer or its long term growth prospects. The Offer allows the Filer an opportunity to return up to \$20,000,000 of capital to Shareholders who elect to tender their Shares pursuant to the Offer while at the same time increasing the equity ownership of Shareholders who do not elect to tender. The Board believes that the Offer is an advisable use of the Filer's financial resources given its cash requirements and borrowing costs and that, after giving effect to the Offer, the Filer will continue to have sufficient financial resources and working capital to conduct its ongoing business and operations and that the Offer will not preclude the Filer from pursuing its foreseeable business opportunities or the future growth of the Filer's business.
7. The Filer commenced the Offer on August 22, 2022. The issuer bid circular dated August 16, 2022 sent and filed by the Filer in connection with the Offer (the "Circular") specifies that the Filer proposes to purchase, by way of a modified "Dutch auction" procedure in the manner described therein and below, up to \$20,000,000 of the issued and outstanding Shares at a purchase price of not less than \$120.00 and not more than \$140.00 per Share (the "Price Range of Shares").
8. The Filer will fund the purchase of Shares pursuant to the Offer, together with all related fees and expenses of the Offer, from a combination of available cash on hand and cash available to be drawn under the Filer's existing credit facility provided by the Bank of Nova Scotia.
9. Shareholders wishing to tender to the Offer will be able to do so:
 - (a) by making auction tenders in which the tendering Shareholders specify the number of Shares being tendered at a specified price per Share (the "Auction Price") within the Price Range of Shares in increments of \$1.00 per Share (each, an "Auction Tender"); and/or
 - (b) by making purchase price tenders in which the tendering Shareholders do not specify a price per Share, but rather agree to have a specified number of Shares purchased at the Purchase Price per Share (as defined below) to be determined by the Auction Tenders (each, a "Purchase Price Tender").
10. Shareholders may make both Auction Tenders and Purchase Price Tenders, but not in respect of the same Shares. Shareholders may also make multiple Auction Tenders at different Auction Prices, but not in respect of the same Shares (i.e. Shareholders may tender different Shares at different prices, but cannot tender the same Shares at different prices). If a Shareholder wishes to deposit Shares in separate lots at a different price for each lot, that Shareholder must complete a separate letter of transmittal (and, if applicable, a notice of guaranteed delivery) for each price at which the Shareholder is depositing Shares. Shareholders making Auction Tenders or Purchase Price Tenders may tender less than all of their Shares to the Offer.

B.3: Reasons and Decisions

11. Shareholders who tender Shares without making a valid Auction Tender or Purchase Price Tender will be deemed to have made a Purchase Price Tender.
12. Any Shareholder that beneficially owns fewer than 100 Shares (an "**Odd-Lot Holder**") and tenders all of their Shares pursuant to an Auction Tender at a price at or below the Purchase Price or pursuant to a Purchase Price Tender, will be considered to have made an "**Odd-Lot Tender**".
13. The Filer will determine a single purchase price payable per Share (the "**Purchase Price**") promptly after the expiry of the Offer by taking into account the number of Shares deposited pursuant to Auction Tenders and Purchase Price Tenders and the Auction Prices specified by Shareholders depositing Shares pursuant to Auction Tenders. For the purpose of determining the Purchase Price, Shares deposited pursuant to a Purchase Price Tender will be deemed to have been deposited at a price of \$120.00 per Share (which is the minimum price per Share under the Offer). The Purchase Price will be the lowest price per Share that enables the Filer to purchase the maximum number of Shares validly deposited and not withdrawn pursuant to the Offer having an aggregate Purchase Price not to exceed \$20,000,000.
14. Until expiry of the Offer, all information about the number of Shares tendered and the prices at which such Shares are tendered will be required to be kept confidential by the depositary and the Filer until the Purchase Price has been determined.
15. If the aggregate Purchase Price for Shares validly deposited and not withdrawn pursuant to Auction Tenders at Auction Prices at or below the Purchase Price and Purchase Price Tenders would result in an aggregate Purchase Price in excess of \$20,000,000 then such deposited Shares will be purchased as follows:
 - (a) first, the Filer will purchase all Shares tendered at or below the Purchase Price by Odd-Lot Holders at the Purchase Price; and
 - (b) second, the Filer will purchase Shares at the Purchase Price on a *pro rata* basis according to the number of Shares deposited or deemed to be deposited at a price equal to or less than the Purchase Price by the depositing Shareholders, less the number of Shares purchased from Odd-Lot Holders. All Auction Tenders and Purchase Price Tenders will be subject to adjustment to avoid the purchase of fractional Shares.
16. All Shares purchased by the Filer pursuant to the Offer (including Shares tendered at Auction Prices below the Purchase Price) will be purchased at the Purchase Price and payable in cash. All payments to Shareholders will be subject to deduction of applicable withholding taxes.
17. Shares validly deposited by a Shareholder pursuant to an Auction Tender will not be purchased by the Filer pursuant to the Offer if the Auction Price per Share specified by the Shareholder is greater than the Purchase Price.
18. Certificates for all Shares not purchased under the Offer (including Shares deposited pursuant to an Auction Tender at prices greater than the Purchase Price, Shares not purchased because of pro-ration, improper tenders, or Shares not taken up due to the termination of the Offer), or properly withdrawn before the Expiration Time (as defined below), will be returned (in the case of certificates representing Shares all of which are not purchased) or replaced with new certificates or DRS advices representing the balance of Shares not purchased (in the case of certificates representing Shares of which less than all are purchased), promptly after the Expiration Time (or termination of the Offer) or the date of withdrawal of the Shares. In the case of Shares tendered through book-entry transfer into Computershare Trust Company of Canada's account at The Depository Trust Company ("DTC") or CDS Clearing and Depository Services Inc. ("CDS"), the Shares will be credited to the appropriate account maintained by the tendering Shareholder at DTC or CDS, as applicable, without expense to the Shareholder.
19. Assuming the Offer is fully subscribed:
 - (a) if the Purchase Price is determined to be \$120.00, being the minimum Purchase Price under the Offer, the number of Shares that will be purchased by the Filer is 166,666, representing approximately 3.0% of the Filer's issued and outstanding Shares as at August 16, 2022; and
 - (b) if the Purchase Price is determined to be \$140.00, being the maximum Purchase Price under the Offer, the number of Shares that will be purchased by the Filer is 142,857, representing approximately 2.6% of the Filer's issued and outstanding Shares as at August 16, 2022.
20. Shareholders who do not accept the Offer will continue to hold the same number of Shares held before the Offer and their proportionate Share ownership will increase following completion of the Offer, subject to the number of Shares purchased under the Offer.
21. Dominion and Anglo Investment Corporation Limited ("**Dominion**") exercises control or direction over 1,502,898 Shares (approximately 26.99% of the total number of Shares outstanding as of August 16, 2022). To the knowledge of the Filer, and to the knowledge of its directors and officers,

- after reasonable inquiry, Dominion will not be tendering any of its Shares to the Offer. If the Purchase Price is determined to be \$120 (being the minimum Purchase Price under the Offer) and the maximum number of Shares are repurchased, Dominion will exercise control or direction over 1,502,898 Shares, representing approximately 27.83% of the outstanding Shares. If the Purchase Price is determined to be \$140 (being the maximum Purchase Price under the Offer) and the maximum number of Shares are repurchased, Dominion will exercise control or direction over 1,502,898 Shares, representing approximately 27.70% of the outstanding Shares.
22. Dondale Investments Limited (“**Dondale**”) exercises control or direction over 692,000 Shares (approximately 12.43% of the total number of Shares outstanding as of August 16, 2022). To the knowledge of the Filer, and to the knowledge of its directors and officers, after reasonable inquiry, Dondale will not be tendering any of its Shares to the Offer. If the Purchase Price is determined to be \$120 (being the minimum Purchase Price under the Offer) and the maximum number of Shares are repurchased, Dondale will exercise control or direction over 692,000 Shares, representing approximately 12.81% of the outstanding Shares. If the Purchase Price is determined to be \$140 (being the maximum Purchase Price under the Offer) and the maximum number of Shares are repurchased, Dondale will exercise control or direction over 692,000 Shares, representing approximately 12.76% of the outstanding Shares.
23. Canadian & Foreign Securities Co. Limited (“**CFSC**”) exercises control or direction over 717,713 Shares (approximately 12.89% of the total number of Shares outstanding as of August 16, 2022). To the knowledge of the Filer, and to the knowledge of its directors and officers, after reasonable inquiry, CFSC will not be tendering any of its Shares to the Offer. If the Purchase Price is determined to be \$120 (being the minimum Purchase Price under the Offer) and the maximum number of Shares are repurchased, CFSC will exercise control or direction over 717,713 Shares, representing approximately 13.29% of the outstanding Shares. If the Purchase Price is determined to be \$140 (being the maximum Purchase Price under the Offer) and the maximum number of Shares are repurchased, CFSC will exercise control or direction over 717,713 Shares, representing approximately 13.23% of the outstanding Shares.
24. E-L Financial Corporation Limited (“**ELF**”) exercises control or direction over 1,348,163 Shares (approximately 24.21% of the total number of Shares outstanding as of August 16, 2022). To the knowledge of the Filer, and to the knowledge of its directors and officers, after reasonable inquiry, ELF will not be tendering any of its Shares to the Offer. If the Purchase Price is determined to be \$120 (being the minimum Purchase Price under the Offer) and the maximum number of Shares are repurchased, ELF will exercise control or direction over 1,348,163 Shares, representing approximately 24.96% of the outstanding Shares. If the Purchase Price is determined to be \$140 (being the maximum Purchase Price under the Offer) and the maximum number of Shares are repurchased, ELF will exercise control or direction over 1,348,163 Shares, representing approximately 24.85% of the outstanding Shares.
25. To the knowledge of the Filer, after reasonable inquiry, other than Dominion, Dondale, CFSC and ELF, no person or company beneficially owns, or exercises control or direction over, more than 10% of the voting rights attached to all of the Filer’s outstanding voting securities.
26. As of August 16, 2022, to the knowledge of the Filer and its directors and officers after reasonable inquiry, no director or officer of the Filer, no insider of the Filer, no associate or affiliate of the Filer or of an insider of the Filer, and no person or company acting jointly or in concert with the Filer, has indicated any present intention to deposit any of such person’s or company’s Shares pursuant to the Offer.
27. The Offer is subject to the provisions of the United States regulation entitled Regulation 14E adopted under the *Securities Exchange Act of 1934*, as amended (“**Regulation 14E**”).
28. The Offer is scheduled to expire at 5:00 p.m. (Toronto time) on September 26, 2022 (the “**Expiration Time**”).
29. The Filer may wish to extend the Offer if all the terms and conditions of the Offer have been complied with or waived by the Filer by the Expiration Time but the aggregate Purchase Price for Shares validly tendered pursuant to Auction Tenders and Purchase Price Tenders is less than \$20,000,000. The Filer will not extend the Offer if all the terms and conditions of the Offer have been complied with or waived by the Filer by the Expiration Time and the aggregate Purchase Price of the Shares validly tendered and not withdrawn pursuant to Auction Tenders and Purchase Price Tenders is equal to or greater than \$20,000,000.
30. Pursuant to subsection 2.32(4) of NI 62-104, an issuer may not extend an issuer bid if all the terms and conditions of the issuer bid have been complied with or waived unless the issuer first takes up all the securities deposited under the issuer bid and not withdrawn.
31. Under Regulation 14E, the Filer must promptly pay for all Shares deposited pursuant to the Offer at the time of expiry of the Offer. Regulation 14E does not provide for extensions of the Offer in the manner required by subsection 2.32(4) of NI 62-104.

B.3: Reasons and Decisions

32. As the determination of the Purchase Price requires that all Auction Prices and the number of Shares deposited pursuant to both Auction Tenders and Purchase Price Tenders be known and taken into account, the Filer will be unable to take up the Shares deposited and not withdrawn under the Offer as of the Expiration Time prior to extending the Offer because the Purchase Price will not and cannot be known as additional Auction Tenders and Purchase Price Tenders may be made during the extension period that will impact the calculation of the Purchase Price. Accordingly, the Exemption Sought is required in connection with an extension of the Offer to enable the Filer to make a final determination regarding the Purchase Price, taking into account all Shares tendered prior to the Expiration Time and those tendered during any extension period.
33. Shares deposited pursuant to the Offer, including those deposited prior to the Expiration Time, may be withdrawn by the Shareholder at any time prior to the expiration of any extension period in respect of the Offer.
34. The Filer is relying on the exemption from the formal valuation requirements set out in subsection 3.4(b) of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* (“**MI 61-101**” and such exemption, the “**Liquid Market Exemption**”).
35. There was a “liquid market” for the Shares, as such term is defined in MI 61-101, as of the date the Offer was publicly announced because:
- (a) there is a published market for the Shares (i.e. the TSX); and
 - (b) Cormark Securities Inc. (“**Cormark**”), a person qualified and independent of all interested parties to the Offer, provided an opinion to the Filer in accordance with section 1.2 of MI 61-101 that there is a liquid market for the Shares as of August 16, 2022 (the “**Liquidity Opinion**”).
36. Cormark also indicated in the Liquidity Opinion that it is reasonable to conclude that, following the completion of the Offer, there will be a market for holders of the Shares who do not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer. A copy of the Liquidity Opinion was included in the Circular.
37. Based on the maximum number of Shares that may be purchased under the Offer and the Liquidity Opinion, the Board determined that it is reasonable to conclude that, following the completion of the Offer, there will be a market for holders of the Shares who do not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer.
38. The Circular:
- (a) discloses the mechanics for the take-up of, and payment for, deposited Shares as described herein;
 - (b) explains that, by tendering Shares at the lowest price in the Price Range of Shares under an Auction Tender or by making a Purchase Price Tender, a Shareholder can reasonably expect that the Shares so tendered will be purchased at the Purchase Price, subject to proration and other terms of the Offer as specified herein;
 - (c) discloses that the Filer has applied for the Exemption Sought;
 - (d) discloses the manner in which an extension of the Offer will be communicated to Shareholders and the public;
 - (e) discloses that Shares deposited pursuant to the Offer may be withdrawn at any time prior to the expiration of any extension period in respect of the Offer;
 - (f) discloses the facts supporting the Filer’s reliance on the Liquid Market Exemption, including the Liquidity Opinion; and
 - (g) includes the disclosure prescribed by the Legislation for issuer bids.

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) Shares validly deposited pursuant to the Offer and not withdrawn are taken up and paid for, or dealt with in the manner described above and as set out in the Circular;
- (b) the Filer is eligible to rely on the Liquid Market Exemption
- (c) The Filer will issue and file a press release announcing receipt of the Exemption Sought promptly, and in any case, no later than one (1) business day following receipt of the Exemption Sought; and
- (d) the Filer complies with the requirements of Regulation 14E in respect of the Offer.

“David Mendicino”
Manager, Office of Mergers & Acquisitions
Ontario Securities Commission

B.3.6 United Corporations Limited

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from the extension take up requirements in subsection 2.32(4) of National Instrument 62-104 Take-Over Bids and Issuer Bids – an issuer conducting an issuer bid requires relief from the requirement not to extend its issuer bid if all terms and conditions are met unless the issuer first takes up all securities validly deposited and not withdrawn under the issuer bid – requested relief granted, subject to conditions.

Applicable Legislative Provisions

National Instrument 62-104 Take-Over Bids and Issuer Bids, ss. 2.32(4) and 6.1.

September 22, 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
UNITED CORPORATIONS 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 of the principal regulator (the "Legislation") that, in connection with the proposed purchase by the Filer of a portion of its issued and outstanding common shares (the "Shares") pursuant to an issuer bid commenced on August 22, 2022 (the "Offer"), the Filer be exempt from the requirement set out in subsection 2.32(4) of National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("NI 62-104") that the Offer not be extended if all of the terms and conditions of the Offer have been complied with or waived, unless the Filer first takes up all of the Shares deposited under the Offer and not withdrawn (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 in British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador.

Interpretation

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

Representations

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

1. The Filer is a corporation validly existing under the *Business Corporations Act* (Ontario) and is in good standing.
2. The registered office of the Filer is located at 165 University Avenue, 10th Floor, Toronto, Ontario, M5H 3B8.
3. The Filer is a reporting issuer in the provinces of Ontario and Quebec and the Shares are listed for trading on the Toronto Stock Exchange (the "TSX") under the symbol "UNC". The Filer is not in default of any requirement of the securities legislation in any of the jurisdictions in which it is a reporting issuer.
4. The authorized share capital of the Filer consists of:
 - (a) 52,237 First Preferred Shares without nominal or par value that are redeemable at \$30.00 each;
 - (b) 200,000 Second Preferred Shares without nominal or par value, issuable in series of which: (i) 80,290 are designated \$1.50 Cumulative Redeemable Second Preferred Shares, 1959 Series ("1959 Series Second Preferred Shares") and are redeemable at \$30.00 each; and, (ii) 119,710 are designated \$1.50 Cumulative Redeemable Second Preferred Shares, 1963 Series ("1963 Series Second Preferred Shares") and are redeemable at \$31.50 each;
 - (c) Third Preferred Shares without nominal or par value, issuable in series. The maximum number of Third Preferred Shares that may be outstanding at any time shall be the number for which the stated value does not exceed \$15,000,000; and
 - (d) an unlimited number of Shares.

B.3: Reasons and Decisions

- As at August 16, 2022 there were 52,237 First Preferred Shares, 80,290 1959 Series Second Preferred Shares, 119,710 1963 Series Second Preferred Shares, no Third Preferred Shares, and 12,056,593 Shares issued and outstanding.
5. On August 16, 2022, the last full trading day prior to the date of the announcement of the Offer, the closing price of the Shares on the TSX was \$93.00. Based on such closing price, the Shares had an aggregate market value of approximately \$1,121,263,149.00 on such date.
6. The board of the Filer (the “**Board**”) believes that the purchase of Shares pursuant to the Offer constitutes an efficient means of providing value to the holders of Shares (collectively, the “**Shareholders**”) and is in the best interests of the Filer and its Shareholders. The Board further believes that the recent trading price of the Shares is not fully reflective of the underlying value of the Filer or its long term growth prospects. The Offer allows the Filer an opportunity to return up to \$50,000,000 of capital to Shareholders who elect to tender their Shares pursuant to the Offer while at the same time increasing the equity ownership of Shareholders who do not elect to tender. The Board believes that the Offer is an advisable use of the Filer’s financial resources given its cash requirements and borrowing costs and that, after giving effect to the Offer, the Filer will continue to have sufficient financial resources and working capital to conduct its ongoing business and operations and that the Offer will not preclude the Filer from pursuing its foreseeable business opportunities or the future growth of the Filer’s business.
7. The Filer commenced the Offer on August 22, 2022. The issuer bid circular dated August 16, 2022 sent and filed by the Filer in connection with the Offer (the “**Circular**”) specifies that the Filer proposes to purchase, by way of a modified “Dutch auction” procedure in the manner described therein and below, up to \$50,000,000 of the issued and outstanding Shares at a purchase price of not less than \$90.00 and not more than \$110.00 per Share (the “**Price Range of Shares**”).
8. The Filer will fund the purchase of Shares pursuant to the Offer, together with all related fees and expenses of the Offer, from a combination of available cash on hand and cash available to be drawn under the Filer’s existing operating credit facility provided by the Bank of Nova Scotia.
9. Shareholders wishing to tender to the Offer will be able to do so:
- (a) by making auction tenders in which the tendering Shareholders specify the number of Shares being tendered at a specified price per Share (the “**Auction Price**”) within the Price Range of Shares
- in increments of \$1.00 per Share (each, an “**Auction Tender**”); and/or
- (b) by making purchase price tenders in which the tendering Shareholders do not specify a price per Share, but rather agree to have a specified number of Shares purchased at the Purchase Price per Share (as defined below) to be determined by the Auction Tenders (each, a “**Purchase Price Tender**”).
10. Shareholders may make both Auction Tenders and Purchase Price Tenders, but not in respect of the same Shares. Shareholders may also make multiple Auction Tenders at different Auction Prices, but not in respect of the same Shares (i.e. Shareholders may tender different Shares at different prices, but cannot tender the same Shares at different prices). If a Shareholder wishes to deposit Shares in separate lots at a different price for each lot, that Shareholder must complete a separate letter of transmittal (and, if applicable, a notice of guaranteed delivery) for each price at which the Shareholder is depositing Shares. Shareholders making Auction Tenders or Purchase Price Tenders may tender less than all of their Shares to the Offer.
11. Shareholders who tender Shares without making a valid Auction Tender or Purchase Price Tender will be deemed to have made a Purchase Price Tender.
12. Any Shareholder that beneficially owns fewer than 100 Shares (an “**Odd-Lot Holder**”) and tenders all of their Shares pursuant to an Auction Tender at a price at or below the Purchase Price or pursuant to a Purchase Price Tender, will be considered to have made an “**Odd-Lot Tender**”.
13. The Filer will determine a single purchase price payable per Share (the “**Purchase Price**”) promptly after the expiry of the Offer by taking into account the number of Shares deposited pursuant to Auction Tenders and Purchase Price Tenders and the Auction Prices specified by Shareholders depositing Shares pursuant to Auction Tenders. For the purpose of determining the Purchase Price, Shares deposited pursuant to a Purchase Price Tender will be deemed to have been deposited at a price of \$90.00 per Share (which is the minimum price per Share under the Offer). The Purchase Price will be the lowest price per Share that enables the Filer to purchase the maximum number of Shares validly deposited and not withdrawn pursuant to the Offer having an aggregate Purchase Price not to exceed \$50,000,000.
14. Until expiry of the Offer, all information about the number of Shares tendered and the prices at which such Shares are tendered will be required to be kept confidential by the depositary and the Filer until the Purchase Price has been determined.

15. If the aggregate Purchase Price for Shares validly deposited and not withdrawn pursuant to Auction Tenders at Auction Prices at or below the Purchase Price and Purchase Price Tenders would result in an aggregate Purchase Price in excess of \$50,000,000, then such deposited Shares will be purchased as follows:
- (a) first, the Filer will purchase all Shares tendered at or below the Purchase Price by Odd-Lot Holders at the Purchase Price; and
- (b) second, the Filer will purchase Shares at the Purchase Price on a *pro rata* basis according to the number of Shares deposited or deemed to be deposited at a price equal to or less than the Purchase Price by the depositing Shareholders, less the number of Shares purchased from Odd-Lot Holders. All Auction Tenders and Purchase Price Tenders will be subject to adjustment to avoid the purchase of fractional Shares.
16. All Shares purchased by the Filer pursuant to the Offer (including Shares tendered at Auction Prices below the Purchase Price) will be purchased at the Purchase Price and payable in cash. All payments to Shareholders will be subject to deduction of applicable withholding taxes.
17. Shares validly deposited by a Shareholder pursuant to an Auction Tender will not be purchased by the Filer pursuant to the Offer if the Auction Price per Share specified by the Shareholder is greater than the Purchase Price.
18. Certificates for all Shares not purchased under the Offer (including Shares deposited pursuant to an Auction Tender at prices greater than the Purchase Price, Shares not purchased because of pro-ration, improper tenders, or Shares not taken up due to the termination of the Offer), or properly withdrawn before the Expiration Time (as defined below), will be returned (in the case of certificates representing Shares all of which are not purchased) or replaced with new certificates or DRS advices representing the balance of Shares not purchased (in the case of certificates representing Shares of which less than all are purchased), promptly after the Expiration Time (or termination of the Offer) or the date of withdrawal of the Shares. In the case of Shares tendered through book-entry transfer into Computershare Trust Company of Canada's account at The Depository Trust Company ("DTC") or CDS Clearing and Depository Services Inc. ("CDS"), the Shares will be credited to the appropriate account maintained by the tendering Shareholder at DTC or CDS, as applicable, without expense to the Shareholder.
19. Assuming the Offer is fully subscribed:
- (a) if the Purchase Price is determined to be \$90.00, being the minimum Purchase Price under the Offer, the number of Shares that will be purchased by the Filer is 555,555, representing approximately 4.6% of the Filer's issued and outstanding Shares as at August 16, 2022; and
- (b) if the Purchase Price is determined to be \$110.00, being the maximum Purchase Price under the Offer, the number of Shares that will be purchased by the Filer is 454,545, representing approximately 3.8% of the Filer's issued and outstanding Shares as at August 16, 2022.
20. Shareholders who do not accept the Offer will continue to hold the same number of Shares held before the Offer and their proportionate Share ownership will increase following completion of the Offer, subject to the number of Shares purchased under the Offer.
21. E-L Financial Corporation Limited ("ELF") exercises control or direction over 6,371,359 Shares (approximately 52.85% of the total number of Shares outstanding as of August 16, 2022). To the knowledge of the Filer, and to the knowledge of its directors and officers, after reasonable inquiry, ELF will not be tendering any of its Shares to the Offer. If the Purchase Price is determined to be \$90 (being the minimum Purchase Price under the Offer) and the maximum number of Shares are repurchased, ELF will exercise control or direction over 6,371,359 Shares, representing approximately 55.40% of the outstanding Shares. If the Purchase Price is determined to be \$110 (being the maximum Purchase Price under the Offer) and the maximum number of Shares are repurchased, ELF will exercise control or direction over 6,371,359 Shares, representing approximately 54.92% of the outstanding Shares.
22. United Connected Holdings Corp. ("United Connected") exercises control or direction over 2,743,642 Shares (approximately 22.76% of the total number of Shares outstanding as of August 16, 2022). To the knowledge of the Filer, and to the knowledge of its directors and officers, after reasonable inquiry, United Connected will not be tendering any of its Shares to the Offer. If the Purchase Price is determined to be \$90 (being the minimum Purchase Price under the Offer) and the maximum number of Shares are repurchased, United Connected will exercise control or direction over 2,743,642 Shares, representing approximately 23.86% of the outstanding Shares. If the Purchase Price is determined to be \$110 (being the maximum Purchase Price under the Offer) and the maximum number of Shares are repurchased, United Connected will exercise control or direction over 2,743,642 Shares, representing approximately 23.65% of the outstanding Shares.

B.3: Reasons and Decisions

23. To the knowledge of the Filer, after reasonable inquiry, other than ELF and United Connected, no person or company beneficially owns, or exercises control or direction over, more than 10% of the voting rights attached to all of the Filer's outstanding voting securities.
24. As of August 16, 2022, to the knowledge of the Filer and its directors and officers after reasonable inquiry, no director or officer of the Filer, no insider of the Filer, no associate or affiliate of the Filer or of an insider of the Filer, and no person or company acting jointly or in concert with the Filer, has indicated any present intention to deposit any of such person's or company's Shares pursuant to the Offer.
25. The Offer is subject to the provisions of the United States regulation entitled Regulation 14E adopted under the *Securities Exchange Act of 1934*, as amended ("**Regulation 14E**").
26. The Offer is scheduled to expire at 5:00 p.m. (Toronto time) on September 26, 2022 (the "**Expiration Time**").
27. The Filer may wish to extend the Offer if all the terms and conditions of the Offer have been complied with or waived by the Filer by the Expiration Time but the aggregate Purchase Price for Shares validly tendered pursuant to Auction Tenders and Purchase Price Tenders is less than \$50,000,000. The Filer will not extend the Offer if all the terms and conditions of the Offer have been complied with or waived by the Filer by the Expiration Time and the aggregate Purchase Price of the Shares validly tendered and not withdrawn pursuant to Auction Tenders and Purchase Price Tenders is equal to or greater than \$50,000,000.
28. Pursuant to subsection 2.32(4) of NI 62-104, an issuer may not extend an issuer bid if all the terms and conditions of the issuer bid have been complied with or waived unless the issuer first takes up all the securities deposited under the issuer bid and not withdrawn.
29. Under Regulation 14E, the Filer must promptly pay for all Shares deposited pursuant to the Offer at the time of expiry of the Offer. Regulation 14E does not provide for extensions of the Offer in the manner required by subsection 2.32(4) of NI 62-104.
30. As the determination of the Purchase Price requires that all Auction Prices and the number of Shares deposited pursuant to both Auction Tenders and Purchase Price Tenders be known and taken into account, the Filer will be unable to take up the Shares deposited and not withdrawn under the Offer as of the Expiration Time prior to extending the Offer because the Purchase Price will not and cannot be known as additional Auction Tenders and Purchase Price Tenders may be made during the extension period that will impact the calculation of the Purchase Price. Accordingly, the Exemption sought is required in connection with an extension of the Offer to enable the Filer to make a final determination regarding the Purchase Price, taking into account all Shares tendered prior to the Expiration Time and those tendered during any extension period.
31. Shares deposited pursuant to the Offer, including those deposited prior to the Expiration Time, may be withdrawn by the Shareholder at any time prior to the expiration of any extension period in respect of the Offer.
32. The Filer is relying on the exemption from the formal valuation requirements set out in subsection 3.4(b) of Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* ("MI 61-101", and such exemption, the "**Liquid Market Exemption**").
33. There was a "liquid market" for the Shares, as such term is defined in MI 61-101, as of the date the Offer was publicly announced because:
- there is a published market for the Shares (i.e. the TSX); and
 - Cormark Securities Inc. ("**Cormark**"), a person qualified and independent of all interested parties to the Offer, provided an opinion to the Filer in accordance with section 1.2 of MI 61-101 that there is a liquid market for the Shares as of August 16, 2022 (the "**Liquidity Opinion**").
34. Cormark also indicated in the Liquidity Opinion that it is reasonable to conclude that, following the completion of the Offer, there will be a market for holders of the Shares who do not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer. A copy of the Liquidity Opinion was included in the Circular.
35. Based on the maximum number of Shares that may be purchased under the Offer and the Liquidity Opinion, the Board determined that it is reasonable to conclude that, following the completion of the Offer, there will be a market for holders of the Shares who do not tender to the Offer that is not materially less liquid than the market that existed at the time of the making of the Offer.
36. The Circular:
- discloses the mechanics for the take-up of, and payment for, deposited Shares as described herein;
 - explains that, by tendering Shares at the lowest price in the Price Range of Shares under an Auction Tender or by making a Purchase Price Tender, a Shareholder can reasonably expect that the Shares so tendered will be purchased at the

- Purchase Price, subject to proration and other terms of the Offer as specified herein;
- (c) discloses that the Filer has applied for the Exemption Sought;
 - (d) discloses the manner in which an extension of the Offer will be communicated to Shareholders and the public;
 - (e) discloses that Shares deposited pursuant to the Offer may be withdrawn at any time prior to the expiration of any extension period in respect of the Offer;
 - (f) discloses the facts supporting the Filer's reliance on the Liquid Market Exemption, including the Liquidity Opinion; and
 - (g) includes the disclosure prescribed by the Legislation for issuer bids.

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) Shares validly deposited pursuant to the Offer and not withdrawn are taken up and paid for, or dealt with in the manner described above and as set out in the Circular;
- (b) the Filer is eligible to rely on the Liquid Market Exemption
- (c) The Filer will issue and file a press release announcing receipt of the Exemption Sought promptly, and in any case, no later than one (1) business day following receipt of the Exemption Sought; and
- (d) the Filer complies with the requirements of Regulation 14E in respect of the Offer.

"David Mendicino"
Manager, Office of Mergers & Acquisitions
Ontario Securities Commission

B.3.7 1832 Asset Management L.P.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from subsection 5.1(4) of NI 81-101 to permit simplified prospectus of alternative mutual funds to be consolidated with simplified prospectus of mutual funds that are not alternative mutual funds.

Applicable Legislative Provisions

National Instrument 81-101 Mutual Funds Prospectus Requirements, ss. 5.1(4) and 6.1.

September 23, 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
1832 ASSET MANAGEMENT L.P.
(the Filer)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of Dynamic Alpha Performance II Fund, Dynamic Credit Absolute Return II Fund, Dynamic Liquid Alternatives Private Pool, Dynamic Premium Yield PLUS Fund and Dynamic Real Estate & Infrastructure Income II Fund (together, the **Existing Alternative Funds**), and any alternative mutual fund established or restructured in the future and managed by the Filer or an affiliate of the Filer (collectively with the Existing Alternative Funds, the **Alternative Funds**), for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that grants relief to the Alternative Funds from the requirement in subsection 5.1(4) of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (**NI 81-101**) which states that a simplified prospectus for an alternative mutual fund must not be consolidated with a simplified prospectus of another mutual fund if the other mutual fund is not an alternative mutual fund (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 in each of the other provinces and territories of Canada (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and National Instrument 81-102 *Investment Funds* (**NI 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:

1. The Filer is a limited partnership, the general partner of which is 1832 Asset Management G.P. Inc., an Ontario corporation that is wholly owned by The Bank of Nova Scotia. The Filer's head office is located in Toronto, Ontario.
2. The Filer is registered as (i) a portfolio manager in all of the provinces of Canada and in the Northwest Territories and the Yukon; (ii) an exempt market dealer in all of the provinces of Canada (except Prince Edward Island and Saskatchewan); (iii) an investment fund manager in Ontario, Québec, Newfoundland and Labrador and the Northwest Territories; and (iv) a commodity trading manager in Ontario
3. The Filer, or an affiliate of the Filer, is, or will be, the investment fund manager of each of the Alternative Funds.
4. The Filer is not in default of the securities legislation in any of the Jurisdictions.
5. Each Alternative Fund is, or will be, established as a trust under the laws of Ontario as an alternative mutual fund and is, or will be, a reporting issuer in one or more of the Jurisdictions.
6. None of the Existing Alternative Funds are in default of the securities legislation in any of the Jurisdictions.
7. The securities of each Alternative Fund are, or will be, qualified for distribution in one or more of the Jurisdictions using a simplified prospectus and fund facts document prepared and filed in accordance with the securities legislation of such Jurisdictions. Each Alternative Fund is, or will be, subject to the requirements of NI 81-101 and NI 81-102.
8. On October 18, 2022, the Filer is scheduled to hold a meeting of unitholders of the Dynamic Retirement Income+ Fund (the **Retirement Fund**), at which unitholders will vote on a proposal to change the investment objective of the Retirement Fund (the

Investment Objective Change). If approved by the unitholders, the Investment Objective Change will result in the Retirement Fund no longer being an alternative mutual fund and instead being a Conventional Fund (as defined below).

9. Currently, the Filer combines the simplified prospectus for the Retirement Fund and the Existing Alternative Funds. Following the Investment Objective Change, absent the Exemption Sought, the Filer would not be able to consolidate the simplified prospectus of the Retirement Fund and the Existing Alternative Funds.
10. The Filer wishes to combine the simplified prospectus of the Alternative Funds with the simplified prospectus of mutual funds existing today or created in the future (i) that are reporting issuers to which NI 81-101 and NI 81-102 apply, (ii) that are not alternative mutual funds, and (iii) for which the Filer, or an affiliate of the Filer, acts as the investment fund manager (the **Conventional Funds**, and together with the Alternative Funds, the **Funds**), including to continue to combine the simplified prospectus of the Existing Alternative Funds and the Retirement Fund after the Investment Objective Change.
11. Offering the Alternative Funds using the same simplified prospectus as the Conventional Funds would reduce renewal, printing and related costs, facilitate the distribution of the Alternative Funds in the Jurisdictions under the same prospectus disclosure, and enable the Filer to streamline disclosure across the Filer's fund platform.
12. The Conventional Funds and the Alternative Funds share, or will share, many common operational and administrative features. Combining them in the same simplified prospectus, or continuing to combine them in the case of the Retirement Fund and the Existing Alternative Funds, will allow investors to more easily compare the features of the Conventional Funds and the Alternative Funds.
13. The ability to file the same simplified prospectus for the Conventional Funds and the Alternative Funds, including for the Retirement Fund and the Existing Alternative Funds, will ensure that the Filer can make corresponding changes to the operational and administrative features of the Funds in a consistent manner, if required.
14. Investors will continue to receive the fund facts document(s) when purchasing securities of the Funds as required by applicable securities legislation. The form and content of the fund facts document(s) of the Funds will not change as a result of the Exemption Sought.
15. The simplified prospectus of the Funds will continue to be provided to investors, upon request, as required by applicable securities legislation.

B.3: Reasons and Decisions

16. National Instrument 41-101 General Prospectus Requirements (**NI 41-101**) does not contain a provision equivalent to subsection 5.1(4) of NI 81-101. Accordingly, an investment fund manager that manages exchange-traded funds (**ETFs**) is permitted to consolidate a prospectus under NI 41-101 for its ETFs that are alternative mutual funds with a prospectus for its ETFs that are conventional mutual funds. There is no reason why mutual funds filing a prospectus under NI 81-101 should be treated differently from ETFs filing a prospectus under NI 41-101.

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 #: 2022/0386

B.3.8 Emera Incorporated and Nova Scotia Power Incorporated

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards (NI 52-107), s. 5.1 – the Filers request relief from the requirements under section 3.2 of NI 52-107 that financial statements be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises to permit the Filers to prepare their financial statements in accordance with U.S. GAAP.

Applicable Legislative Provisions

National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards, s. 5.1.

September 13, 2022

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

AND

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

AND

IN THE MATTER OF
EMERA INCORPORATED AND
NOVA SCOTIA POWER INCORPORATED
(the Filers)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filers under the securities legislation (the **Legislation**) of the Jurisdictions seeking exemption (the **Exemption Sought**) from the requirements of section 3.2 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards* (**NI 52-107**) that financial statements (a) be prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises and (b) disclose an unreserved statement of compliance with IFRS in the case of annual financial statements and an unreserved statement of compliance with IAS 34 in the case of an interim financial report.

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

- (a) the Nova Scotia Securities Commission is the principal regulator for this application;
- (b) the Filers have provided notice that section 4.7(1) of Multilateral Instrument 11-102 - *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, New Brunswick, Prince Edward Island and Newfoundland and Labrador (the **Passport 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

In this decision:

- (a) unless otherwise defined herein, terms defined in National Instrument 14-101 *Definitions*, MI 11-102 or NI 52-107 have the same meaning; and
- (b) “rate-regulated activities” has the meaning ascribed in the Chartered Professional Accountants Canada Handbook (the **CPA Handbook**) as at the date hereof.

Representations

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

1. Emera Incorporated (**Emera**) and Nova Scotia Power Incorporated (**NSPI**) are incorporated under the *Companies Act* (Nova Scotia). The head office of Emera is located at 5151 Terminal Road, Halifax, Nova Scotia B3J 1A1 and the head office of NSPI is located at 1223 Lower Water Street, Halifax, Nova Scotia, B3J 3S8.
2. Each Filer is a reporting issuer or equivalent in the Jurisdictions and each Passport Jurisdiction and is not in default of securities legislation in any such jurisdiction.
3. NSPI is a subsidiary of Emera and its financial statements are consolidated into the financial statements of Emera.
4. Each of the Filers currently prepares and files its financial statements for annual and interim periods in accordance with U.S. GAAP, in reliance on an exemption granted by the Decision Maker in each of the Jurisdictions to the Filers on January 26, 2018 in *Emera Incorporated and Nova Scotia Power Incorporated* (the **Existing Relief**). The Existing Relief is substantially similar to the Exemption Sought.
5. Each Filer has rate-regulated activities.
6. Neither of the Filers is an SEC issuer.
7. Were either of the Filers SEC issuers, they would be permitted by section 3.7 of NI 52-107 to file their financial statements prepared in accordance with U.S. GAAP.
8. The Existing Relief provided that it would cease to apply to a Filer on the earliest of:
 - (a) January 1, 2024;
 - (b) if the Filer ceased to have activities subject to rate regulation, the first day of the Filer's financial year that commenced after the Filer ceased to have activities subject to rate regulation; and
 - (c) the effective date prescribed by the International Accounting Standards Board (**IASB**) for the mandatory application of a standard within IFRS specific to entities with activities subject to rate regulation.

Accordingly, in the absence of further relief provided by Canadian securities regulators, the Filers would become subject to Canadian GAAP no later than January 1, 2024. Canadian GAAP includes IFRS as incorporated into the CPA Handbook.

9. In January 2021, the **IASB** published the Exposure Draft - Regulatory Assets and Regulatory Liabilities, which introduces a proposed standard of accounting for regulatory assets and liabilities, applicable to entities with rate-regulated activities. The issuance by the IASB of a standard within IFRS for entities with rate-regulated activities (a **Mandatory Rate-regulated Standard**) would have resulted in the expiry of the Existing Relief, giving rise to the obligation of the Filers to commence financial statement preparation and reporting in accordance with IFRS pursuant to NI 52-107. It is not yet known when the IASB will finalize and implement such a standard and the Filers will require sufficient time to: (a) interpret and implement such standard and transition from financial statement preparation and reporting in accordance with U.S. GAAP to IFRS; and (b) interpret and reconcile the implications on the customer rate setting process resulting from the implementation.

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:

- (a) the Exemption Sought is granted to each Filer in respect of the Filer's financial statements required to be filed on or after the date of this order, provided that the Filer prepares such financial statements in accordance with U.S. GAAP; and
- (b) the Exemption Sought will terminate in respect of a Filer on the earliest of the following:
 - (i) January 1, 2027;
 - (ii) if the Filer ceases to have rate-regulated activities, the first day of the Filer's financial year that commences after the Filer ceases to have rate-regulated activities; and

B.3: Reasons and Decisions

- (iii) the first day of the Filer's financial year that commences on or following the later of:
 - A. the effective date prescribed by the IASB for a Mandatory Rate-regulated Standard; and
 - B. two years after the IASB publishes the final version of a Mandatory Rate-regulated Standard.

"Abel Lazarus"
Director, Corporate Finance
Nova Scotia Securities Commission

OSC File #: 2022/0354

B.3.9 Guardian Capital LP et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Investment fund designed for retiree investors having objective of making a payout (the Tontine Payout) tied to the life of unitholders in the last year of its operation – Fund investment is redeemable voluntarily at any time or automatically upon the unitholder's death – Relief granted from the redemption price provision in subsection 10.3(1) of NI 81-102 requiring that the redemption price of a mutual fund security to which a redemption order pertains be the NAV of the security next determined after the receipt by the mutual fund of the order – Fund will pay a discounted redemption price that is initially set at 95% of NAV and will gradually decrease over the course of 10 years to 50% of NAV and remain at 50% of NAV for each subsequent year until the fund's termination in 2042 – Calculation of the redemption price is an essential feature of the fund that is fundamental to the generation of the Tontine Payout – Redemption price schedule disclosed prominently on face page of prospectus, fund facts and ETF Facts – Relief granted from subsection 2.1(1) and paragraphs 4.1(3)(a) and 4.1(3)(d) of NI 81-101 and from paragraphs 3B.2(2)(a) and (d) and section 3B.3 of NI 41-101 to permit funds to include charts in the fund facts and ETF Facts that are not otherwise specifically required or permitted to be in Form 81-101F3 and Form 41-101F4 that show indicative returns, reinvested distributions and cumulative cash payouts upon redemption of units, and a description of the related assumptions underlying the charts – Disclosure of charts in the fund facts and ETF facts is essential information for investors to understand the risks associated with an investment in the funds and determining suitability of the investment – National Instrument 81-102 Investment Funds, National Instrument 81-101 Mutual Fund Prospectus Disclosure and National Instrument 41-101 General Prospectus Requirements.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 10.3(1) and 19.1.

National Instrument 81-101 Mutual Fund Prospectus Disclosure, ss. 2.1(1), 4.1(3)(a) and 4.1(3)(d), and 6.1.

National Instrument 41-101 General Prospectus Disclosure, ss. 3B.2(2)(a) and (d), 3B.3, and 19.1.

August 30, 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
GUARDIAN CAPITAL LP
(the Filer)

AND

IN THE MATTER OF
GUARDPATH™ MODERN TONTINE 2042 TRUST
GUARDPATH™ MANAGED DECUMULATION 2042 FUND
(the Funds)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction (the **Legislation**) granting the Funds relief from:

- (a) in respect of the GuardPath™ Modern Tontine 2042 Trust (the **Tontine Trust**) only, subsection 10.3(1) of National Instrument 81-102 – *Investment Funds* (**NI 81-102**), to permit the redemption price of a security of a series of the Tontine Trust to which a redemption order pertains to be less than the net asset value (**NAV**) per security of that series next determined after the receipt by the Tontine Trust of the order (the **Redemption Price Relief**);

- (b) in respect of both Funds, subsection 2.1(1) and paragraphs 4.1(3)(a) and 4.1(3)(d) of National Instrument 81-101 – *Mutual Fund Prospectus Disclosure*, to permit the Funds to prepare and file a fund facts document (the **Fund Facts**) for each of its series of securities that includes Fund-Specific Disclosure (as defined below) which is not specifically required or permitted to be in Form 81-101F3 *Contents of Fund Facts Document* (the **Fund Facts Disclosure Relief**); and
- (c) in respect of the GuardPath™ Managed Decumulation 2042 Fund (the **Decumulation Fund**) only, paragraphs 3B.2(2)(a) and (d) and section 3B.3 of National Instrument 41-101 – *General Prospectus Requirements*, to permit the Decumulation Fund to prepare an ETF facts document (the **ETF Facts**) for a series of exchange-traded securities that includes Fund-Specific Disclosure which is not specifically required or permitted to be in Form 41-101F4 *Information Required in an ETF Facts Document* (the **ETF Facts Disclosure Relief**),

(collectively, the **Requested Relief**).

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

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

Interpretation

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

Representations

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

1. The Filer is an Ontario limited partnership, which is wholly-owned by Guardian Capital Group Limited. The general partner of the Filer is Guardian Capital Inc., an Ontario corporation wholly-owned by Guardian Capital Group Limited, with its head office in Toronto, Ontario.
2. The Filer is registered as (i) a portfolio manager in all of the provinces of Canada; (ii) an exempt market dealer in all of the provinces of Canada; (iii) an investment fund manager in Ontario, Québec and Newfoundland and Labrador; (iv) commodity trading counsel in Ontario; and (v) a commodity trading manager in Ontario.
3. The Filer is, or will be, the trustee, investment fund manager and portfolio manager of the Funds.
4. The Filer is not in default of securities legislation in any of the Jurisdictions.
5. The Funds, to be established as trusts, will be mutual funds created under the laws of the Province of Ontario and will be governed by the provisions of NI 81-102, subject to any relief therefrom granted by the securities regulatory authorities.
6. The Funds intend to commence distributing units of the Funds (the **Units**) pursuant to a long form prospectus (the **Prospectus**), and accordingly, will file a preliminary Prospectus and ETF Facts and Fund Facts, as applicable, in all of the Jurisdictions where the Requested Relief is relied upon and, accordingly, upon the issuance of a receipt for the final Prospectus, each Fund will become a reporting issuer in each of the Jurisdictions where the Requested Relief is relied upon. Each of the Funds will have a life of twenty (20) years, with a scheduled termination date of December 31, 2042 (the **Termination Date**).
7. The Tontine Trust will initially be divided into two series of Units and the Decumulation Fund will initially be divided into five series of Units (each a **Series**). The ETF, Series A and Series F Units of the Decumulation Fund will be open for purchase by all individuals. Each of the Hybrid Tontine Series A and Hybrid Tontine Series F Units of the Decumulation Fund and the Series A and Series F Units of the Tontine Trust will be open for purchase by individuals born before a prescribed year.
8. The Prospectus will include targeted returns based on certain assumptions, including the mortality experience anticipated for holders of Units of the Tontine Trust based on mortality calculations prepared by the Filer and targeted payment amounts for holders of Units of the Decumulation Fund.
9. The investment objective for the Tontine Trust will be to provide long term capital appreciation by investing the Tontine Trust's assets in equities and fixed income securities. The Tontine Trust will, for the final four quarters of its operation, commencing with the quarter ended March 31, 2042 and ending with the quarter ended December 31, 2042, redeem

B.3: Reasons and Decisions

one-quarter (25%) of each unitholder's Units outstanding as of the applicable quarter end (the **Tontine Payout**). The Tontine Trust will seek to achieve its investment objective by following a "glidepath" approach to asset allocation, investing in a portfolio of securities, either directly or indirectly, that provides diversified exposure to different asset classes, geographies and strategies, providing different sources of returns, while mitigating risk measured by overall volatility of portfolio returns. As the Termination Date approaches, the Tontine Trust will seek to reduce volatility of returns by gradually shifting its asset mix to increase the percentage of its assets allocated to fixed income securities and/or money market investments, and add derivative strategies designed to preserve asset value.

10. The investment objective for the Decumulation Fund will be to make consistent, high monthly distributions over a twenty (20) year period, by investing the Decumulation Fund's assets in a well-diversified portfolio of assets selected to achieve income generation and preservation of capital while minimizing overall volatility of returns. The Decumulation Fund will seek to achieve its investment objective by investing in a portfolio of securities, either directly or indirectly, that provides diversified exposure to different asset classes, geographies and strategies, providing different sources of returns, while mitigating risk measured by overall volatility of portfolio returns.
11. Units of each Series of the Funds may be purchased on a daily basis at a price equal to the NAV per Unit of that Series.
12. Units of the Tontine Trust may be redeemed on a daily basis either at the election of a unitholder or by the Filer upon the Tontine Trust being notified of a unitholder's death.
13. In respect of the Tontine Trust, the amount that unitholders will receive upon death or voluntary redemption will be an amount equal to the percentage of the then current NAV per Unit for their Units as specified below (the **Redemption Price**), less any costs associated with the redemption, including commissions, wire transfer fees and such other costs charged to the Tontine Trust by third parties (collectively, "**Costs**"):

2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
95%	95%	95%	95%	90%	85%	80%	75%	70%	60%	50%

For each subsequent year until December 31, 2042, a redeeming or redeemed unitholder of the Tontine Trust will receive a Redemption Price equal to 50% of the then current NAV per Unit for their Units of the Tontine Trust, less any Costs.

14. Units of the Decumulation Fund may be redeemed on a daily basis at the NAV per Unit of the Series of Units so redeemed as of such redemption date, less any costs associated with the redemption, including commissions, wire transfer fees and such other costs charged to the Decumulation Fund by third parties.
15. Subsection 10.3(1) of NI 81-102 provides that the redemption price of a security of a mutual fund to which a redemption order pertains shall be the NAV of a security of that class, or series of a class, next determined after the receipt by the mutual fund of the order.
16. The calculation of the Redemption Price is an essential feature of the Tontine Trust and fundamental to the understanding of how returns on the Units are, in part, generated. Absent the Redemption Price Relief, the Tontine Trust would not be able to achieve its objective of providing the Tontine Payout to unitholders. To ensure that the departure from conventional redemption pricing is appropriately disclosed, the description of the method by which the Redemption Price will be determined will appear in bold face, text box disclosure on the face page of the Prospectus and Fund Facts. The Filer will additionally include disclosure in the text box in the Fund Facts and ETF Facts, as applicable, of each Series of the Funds describing certain distinctive features of the Funds, including the type of investors for which Units may be suitable, distribution and redemption features, and clarifying that the Units are not insurance contracts or annuity contracts and the Funds are not insurance companies.
17. The Fund Facts and ETF Facts, as applicable, of each Series of the Funds will also include under the heading "How Has the Fund Performed?" charts showing indicative returns, reinvested distributions and cumulative cash received (before fees) upon redemption of Units, and a description of the related assumptions underlying the charts (the **Fund-Specific Disclosure**).
18. In addition to its inclusion in the Fund Facts and ETF Facts, the Filer proposes to include the Fund-Specific Disclosure in the Prospectus as part of the discussion of risks associated with an investment in the Funds.
19. Absent the Fund Facts Disclosure Relief and the ETF Facts Disclosure Relief, it would not be permissible for the Funds to include the Fund-Specific Disclosure in their Fund Facts or ETF Facts, as applicable.
20. The Filer submits that the Fund-Specific Disclosure is essential information for investors because it will assist investors in understanding the risks associated with an investment in the Funds and determining if Units are a suitable investment based on their investment objectives.

B.3: Reasons and Decisions

21. The Filer submits that investors will not be misled if the Fund-Specific Disclosure is included in the Fund Facts or ETF Facts, as applicable.

Decision

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

The decision of the principal regulator under the Legislation is that the Requested Relief is granted provided that, in the case of the Redemption Price Relief, the Tontine Trust pays the Redemption Price as described in paragraph 13 of the decision and includes on the cover page of the Prospectus, Fund Facts and ETF Facts, as applicable, bold text box disclosure stating:

- (i) the method by which the Redemption Price will be determined,
- (ii) that the amount that a unitholder of the Tontine Trust will receive upon death or voluntary redemption will be an amount equal to the percentage of the then current NAV per Unit of their Units as set out in the paragraph 13 of the decision; and
- (iii) that the current NAV of the Tontine Trust will be affected by both the investment returns on its portfolio securities and the level of redemptions (voluntary and due to death).

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

Application File #: 2022/0168

B.3.10 Guardian Capital LP

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Exemption from subsection 5.1(a) of NI 81-105 to allow the investment fund manager to pay to a participating dealer direct costs incurred by the participating dealer relating to a sales communication, investor conference or investor seminar prepared or presented by the participating dealer which has a primary purpose of providing educational information on financial planning matters – Relief subject to conditions – National Instrument 81-105 Mutual Fund Sales Practices.

Applicable Legislative Provisions

National Instrument 81-105 Mutual Fund Sales Practices, ss. 5.1(a) and 9.1.

September 23, 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
GUARDIAN CAPITAL LP
(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 of the principal regulator (the **Legislation**) for relief from subsection 5.1(a) of National Instrument 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) to permit the Filer to pay, to a participating dealer, direct costs incurred by the participating dealer relating to a sales communication, investor conference or investor seminar prepared or presented by the participating dealer (each individually referred to as a **Cooperative Marketing Initiative** and collectively as **Cooperative Marketing Initiatives**) if the primary purpose of the Cooperative Marketing Initiative is to promote or provide educational information concerning investing in securities and investment, retirement, tax and estate planning (collectively, **Financial Planning**) matters (the **Exemption Sought**).

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

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

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 or NI 81-105 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 an Ontario limited partnership, which is wholly-owned by Guardian Capital Group Limited. The general partner of the Filer is Guardian Capital Inc., an Ontario corporation wholly-owned by Guardian Capital Group Limited, with its head office in Toronto, Ontario.

B.3: Reasons and Decisions

2. The Filer is registered as (i) a portfolio manager in all of the provinces of Canada; (ii) an exempt market dealer in all of the provinces of Canada; (iii) an investment fund manager in Ontario, Québec and Newfoundland and Labrador; (iv) commodity trading counsel in Ontario; and (v) a commodity trading manager in Ontario.
3. The Filer acts, and may in the future act, as an investment fund manager in respect of various mutual funds, including exchange-traded funds, (each a **Fund** and collectively, the **Funds**) governed by National Instrument 81-102 *Investment Funds*.
4. The Filer is, or will be in the future, a “member of the organization” (as that term is defined in NI 81-105) of the Funds, as the Filer is, or will be in the future, the manager of the Funds.
5. Each of the Funds is, or will be, an open-ended mutual fund established under the laws of Canada or a Jurisdiction. The securities of each of the Funds are, or will be, qualified for distribution pursuant to a prospectus that has been, or will be, prepared and filed in accordance with the securities legislation of each applicable Jurisdiction. Each of the Funds is, or will be, a reporting issuer in one or more Jurisdictions. Each of the Funds is, or will be, subject to NI 81-105, including Part 5 thereof which governs marketing and educational practices.
6. The Filer and the Funds that are reporting issuers at the time of this decision are not in default of securities legislation in any of the Jurisdictions.
7. Under subsection 5.1(a) of NI 81-105, the Filer is permitted to pay a participating dealer direct costs incurred by the participating dealer relating to a Cooperative Marketing Initiative if the primary purpose of the Cooperative Marketing Initiative is to promote, or provide educational information concerning a mutual fund, the mutual fund family of which the mutual fund is a member, or mutual funds generally.
8. Subsection 5.1(a) of NI 81-105 prohibits the Filer from paying to a participating dealer the direct costs incurred by the participating dealer relating to a Cooperative Marketing Initiative where the primary purpose is to provide educational information about Financial Planning matters. Consequently, the Filer is not permitted to sponsor the cost of Cooperative Marketing Initiatives where the main topics discussed include investment planning, retirement planning, tax planning and estate planning, each of which are aspects of Financial Planning.
9. The Filer and its affiliates have expertise in Financial Planning matters or may retain others with such expertise. In addition to the topics currently permitted under subsection 5.1(a) of NI 81-105, the Filer wishes to sponsor Cooperative Marketing Initiatives where the primary purpose is to provide educational information concerning Financial Planning. The Filer will otherwise comply with subsections 5.1(b) through (e) of NI 81-105 in respect of the Cooperative Marketing Initiatives it sponsors.
10. Mutual funds, including the Funds managed by the Filer, can be used to meet a variety of financial goals and accordingly, are regularly used as financial planning tools. The Filer's sponsorship of Cooperative Marketing Initiatives where the primary purpose is to provide educational information about Financial Planning matters may benefit investors as it may facilitate and potentially increase investors' access to educational information on such matters, which may better equip them to make financial decisions that involve mutual funds.
11. Under sections 5.2 and 5.5 of NI 81-105, the Filer is permitted to sponsor the costs incurred by participating dealers in attending or organizing and presenting at conferences where the primary purpose is the provision of educational information on, among other things, Financial Planning.
12. Specifically, under subsection 5.2(a) of NI 81-105, the Filer is permitted to provide a non-monetary benefit to a representative of a participating dealer by allowing him or her to attend a conference or seminar organized and presented by the Filer where the primary purpose is the provision of educational information about, among other things, financial planning, investing in securities or mutual fund industry matters.
13. Similarly, under subsection 5.5(a) of NI 81-105, the Filer is permitted to pay to a participating dealer part of the direct costs that the participating dealer incurs in organizing or presenting at a conference or seminar which is not an investor conference or investor seminar referred to in section 5.1 of NI 81-105, where the primary purpose is the provision of educational information about, among other things, financial planning, investing in securities or mutual fund industry matters.
14. The Filer will not require participating dealers to sell any of its Funds or other financial products to investors as a condition of the Filer's sponsorship of a Cooperative Marketing Initiative.
15. The Filer will pay for its sponsorship of a Cooperative Marketing Initiative out of its normal sources of revenue. Accordingly, the sponsorship cost will not be borne by the Funds.

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 in respect of a Cooperative Marketing Initiative whose primary purpose is to provide educational information concerning Financial Planning matters:

- a) the Filer otherwise complies with the requirements of subsections 5.1(b) through (e) of NI 81-105;
- b) the Filer does not require any participating dealer to sell any of the Funds or other financial products to investors;
- c) other than as permitted by NI 81-105, the Filer does not provide participating dealers and their representatives with any financial or other incentives for recommending any of the Funds to investors;
- d) the materials presented in a Cooperative Marketing Initiative concerning Financial Planning matters contain only general educational information about such matters;
- e) the Filer prepares or approves the content of the general educational information about Financial Planning matters presented in a Cooperative Marketing Initiative it sponsors and selects or approves an appropriately-qualified speaker for each presentation about such matters delivered in a Cooperative Marketing Initiative;
- f) any general educational information about Financial Planning matters presented in a Cooperative Marketing Initiative contains an express statement that the content presented is for information purposes only, and is not providing advice to the attendees of the investor conference or investor seminar or the recipients of the sales communication, as applicable; and
- g) any general educational information about Financial Planning matters presented in a Cooperative Marketing Initiative contains an indication of the types of professionals who may generally be qualified to provide advice on the subject matter of the information presented.

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

Application File #: 2022/0168

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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
Reef Resources Ltd.	December 10, 2013	December 23, 2013	December 23, 2013	September 23, 2022

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Nabati Foods Global Inc.	July 8, 2022	September 26, 2022

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

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

B.4.3 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Expire	Date of Issuer Temporary Order
Performance Sports Group Ltd.	19 October 2016	31 October 2016	31 October 2016		

Company Name	Date of Order	Date of Lapse
Agrios Global Holdings Ltd.	September 17, 2020	
Gatos Silver, Inc.	April 1, 2022	
Gatos Silver, Inc.	April 12, 2022	
Sproutly Canada, Inc.	June 30, 2022	
Gatos Silver, Inc.	July 7, 2022	
PlantX Life Inc.	August 4, 2022	
Radient Technologies Inc.	August 5, 2022	
AION THERAPEUTIC INC.	August 31, 2022	

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B.6

Request for Comments

B.6.1 CSA Notice and Request for Comment – Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers



CSA Notice and Request for Comment

Proposed Amendments and Proposed Changes to Implement an Access-Based Model for Investment Fund Reporting Issuers

September 27, 2022

Introduction

The Canadian Securities Administrators (CSA or we) are proposing an alternative to delivering financial statements, which include interim financial reports, and interim and annual management reports of fund performance (**MRFPs**, and with financial statements, **designated documents**) for investment fund reporting issuers. The access-based model proposed by the CSA is seeking to modernize the current delivery of continuous disclosure document requirements and reduce the regulatory burden on investment fund reporting issuers.

We are publishing for a 90-day comment period

- proposed amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure (NI 81-106)*,
- proposed changes to Companion Policy 81-106CP *Continuous Disclosure Obligations (81-106CP)*, and
- proposed consequential amendments to
 - National Instrument 41-101 *General Prospectus Requirements (NI 41-101)*, and
 - National Instrument 81-101 *Mutual Fund Prospectus Disclosure (NI 81-101)*,

(collectively, the **Proposed Amendments**).

For the reasons outlined in this notice, we are not proposing to extend an access-based model for investment funds disclosure documents other than the designated documents. We are interested, however, in understanding whether there are any other changes that we should consider in order to help facilitate alternatives to delivery in paper format, such as electronic delivery for these other documents.

We are seeking specific feedback on a number of consultation questions, but we welcome comments on all aspects of the Proposed Amendments.

The text of the Proposed Amendments is contained in Annexes A, B, C, and D of this notice and will also be available on the websites of the following CSA jurisdictions:

www.lautorite.qc.ca
www.asc.ca
www.bscsc.bc.ca
nssc.novascotia.ca.
www.fcnb.ca
www.osc.gov.on.ca
www.fcaa.gov.sk.ca
www.msc.gov.mb.ca

Substance and Purpose

The purpose of the Proposed Amendments is to modernize the way designated documents are made available to investors and to reduce printing and mailing costs associated with the current regime. The Proposed Amendments would enable a more cost-efficient, timely and environmentally friendly manner of making these documents available to investors, which could assist in reducing the regulatory burden on investment funds without compromising investor protection.

The Proposed Amendments would replace the current delivery requirements, for designated documents of an investment fund that is a reporting issuer, with a designated website posting requirement, a requirement to issue, file, and post a news release announcing the availability of the documents, and requirements to send documents to a registered holder or a beneficial owner of securities of the investment fund (a **Securityholder**) on request or in accordance with standing instructions.

The Proposed Amendments are being proposed on the basis that the current delivery requirements impose a significant cost on investment funds without a corresponding benefit to Securityholders. Securityholders would benefit from the Proposed Amendments because the information would be more readily available to them.

We recognize that information technology is an important and useful tool in facilitating communication with investors. The Proposed Amendments are consistent with the general evolution of the investment fund industry, particularly the increased availability and accessibility of information online. The Proposed Amendments also recognize increased investor capacity and preference for accessing and consuming information electronically.

The Proposed Amendments would not remove an investor's ability to request designated documents in paper or electronic form. Investors would also have the ability to provide standing instructions to receive paper or electronic copies of designated documents.

Background

In April 2017, the CSA published CSA Consultation Paper 51-404 *Considerations for Reducing Regulatory Burden for Non-Investment Fund Reporting Issuers (CP 51-404)* to identify and consider areas of securities legislation that could benefit from a reduction of undue regulatory burden, without compromising investor protection or the efficiency of the capital markets. Commenters responding to CP 51-404 were generally supportive of developments which would further facilitate electronic delivery of documents. Investment fund stakeholders specifically commented that it is overly onerous and expensive to comply with the condition that they send an annual reminder, or send annual notices, in order to rely on the exemption from sending designated documents and advocated for its removal.

In January 2020, the CSA published CSA Consultation Paper 51-405 *Consideration of Access Equals Delivery Model for Non-Investment Fund Reporting Issuers (CP 51-405)*. While CP 51-405 focused on non-investment fund reporting issuers, some commenters nevertheless raised concerns about the costs to investment funds of complying with the delivery requirements in Part 5 of NI 81-106. These commenters supported an access-based model for investment funds.

The Proposed Amendments are informed by the comment letters received in response to CP 51-404 and CP 51-405.

On April 7, 2022, the CSA published CSA Notice and Request for Comment *Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers* (the **Non-Investment Fund Proposal**) which proposed to implement an access-based model for non-investment fund reporting issuers in respect of prospectuses, annual financial statements, interim financial reports and related management's discussion & analysis. The Proposed Amendments are also informed by the Non-Investment Fund Proposal, but are targeted specifically to the investment funds context, and consequently are different in some key areas.

Existing requirements

Under subsection 5.1(2) of NI 81-106, an investment fund must send financial statements and, if applicable, copies of MRFPs, to a Securityholder.

Section 5.2 of NI 81-106 permits the investment fund to request standing instructions (**Standing Instructions**) from a Securityholder with respect to the documents they wish to receive. When soliciting Standing Instructions from Securityholders, an investment fund can deem no response from a Securityholder to be an election not to receive designated documents. Subsection 5.2(5) of NI 81-106 provides that, even if the investment fund obtains Standing Instructions, it must send an annual letter (**Annual Notices**) reminding those Securityholders of, among other things, their right to receive designated documents. Alternatively, under section 5.3 of NI 81-106, an investment fund may solicit annual delivery instructions (**Annual Instructions**) from Securityholders.

Under subsection 5.4(1) of NI 81-106, an investment fund must send designated documents to a Securityholder who requests them. An investment fund must file these documents on SEDAR and, under section 5.5 of NI 81-106, an investment fund that is a reporting issuer must post these documents on its designated website.

Summary of the Proposed Amendments

Under the Proposed Amendments, the requirements for an investment fund that is a reporting issuer to send designated documents, to solicit Standing Instructions and send Annual Notices, and solicit Annual Instructions would be repealed and replaced with requirements to:

- post designated documents in a prominent manner on the investment fund's designated website;
- issue, file on SEDAR, and post on the investment fund's designated website, a news release announcing the availability of the designated documents;
- send a designated document to a Securityholder who requests a copy; and
- send a designated document that is filed by the investment fund to a Securityholder who provides the investment fund with standing instructions to receive copies of all documents commencing with the next document filed after the Securityholder has provided those standing instructions and continuing until the Securityholder changes those standing instructions.

The Proposed Amendments do not amend the requirement to file designated documents on SEDAR.

In applicable jurisdictions, a mutual fund that is not a reporting issuer continues to be subject to requirements substantially identical to the existing requirements under Part 5 of NI 81-106.

Under the transition provisions of the Proposed Amendments, a Securityholder is considered to have provided standing instructions to receive paper copies of the designated documents if they have previously provided Standing Instructions to the investment fund to deliver financial statements or MRFP but has not previously consented to electronic delivery. If a Securityholder previously consented to electronic delivery, the Securityholder is deemed to have provided standing instructions to receive electronic copies of the designated documents.

Content of Annexes

This notice contains the following annexes:

- Annex A - Proposed Amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure*
- Annex B - Proposed Changes to Companion Policy 81-106 *Investment Fund Continuous Disclosure*
- Annex C - Proposed Consequential Amendments to National Instrument 41-101 *General Prospectus Requirements*
- Annex D - Proposed Consequential Amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure*
- Annex E - Local Matters

Specific Questions

In addition to your comments on all aspects of the Proposed Amendments, the CSA also seeks specific feedback on the following questions:

1. Standing instructions to receive paper copies

Under subsection 5.3(2) of the proposed amendments to NI 81-106, a Securityholder can provide standing instructions in order to receive a paper copy of a designated document that is filed by the investment fund. These instructions will apply to the next designated document filed and continue to apply until the standing instructions are changed by the Securityholder. While the costs of complying with this requirement may be greater than the costs for the delivery of electronic copies, we are of the view that these costs are outweighed by the benefits to Securityholders being able to provide standing instructions to receive paper copies. Do you agree? Please explain.

2. Standing instructions to receive electronic copies

Under subsection 5.3(4) of the proposed amendments to NI 81-106, a Securityholder can provide standing instructions in order to receive an electronic copy of a designated document that is filed by the investment fund. These instructions will apply to the next designated document filed by the investment fund and continue to apply until the standing instructions are changed by the Securityholder. We are of the view that the cost of complying with this requirement is *de minimis* while the benefits to

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Securityholders of being able to provide standing instructions to receive electronic copies is significant. Do you agree? Please explain.

3. Notification methods

Under subsection 5.4(1) of the proposed amendments to NI 81-106, an investment fund would be required to file a news release and to post that news release on its designated website, indicating that the designated document is available electronically and that a paper or electronic copy can be obtained upon request.

- a. Would this be an effective way to notify Securityholders that designated documents are available? If not, please explain why.
- b. Should the news release or the designated website include any information other than the information required in subsection 5.4(2) of the proposed amendments to NI 81-106?
- c. Are there any alternative ways of notifying Securityholders we should consider that would be effective and practical? Please provide specific details on how to implement your proposal, along with an outline of the costs and benefits of your suggested approach. Are there any obstacles to using your suggested approach? For example, if you propose notification by email, how would an investment fund obtain a Securityholder's email address? What should be the outcome if the Securityholder does not keep their email address updated or does not provide consent to receiving these communications by email?

4. Designated websites

The effectiveness of the Proposed Amendments depends in part on whether investors will be able to easily find and retrieve the designated documents that they are interested in on a fund's designated website. Subsection 11.1(5) of 81-106CP provides that a designated website should be designed in a manner that allows an individual investor with a reasonable level of technological skill and knowledge to easily access, read and search the information and the documents posted on the website, and download and print the documents.

- a. Is this guidance sufficient? Are there additional best practices beyond the guidance in Part 11 of 81-106CP that should be highlighted?
- b. Alternatively, should the CSA establish specific requirements for the posting and maintenance of any regulatory document on a designated website in order to create more consistency and comparability in terms of investor experience in accessing these documents? In responding, please specify the additional guidance or specific presentation requirements that we should consider and outline the reason for your preferred approach. Where possible, please also outline if there are any significant cost or benefit differences between these two approaches.

5. No further broadening of access-based model

Both CP 51-404 and CP 51-405 were limited in scope to non-investment fund reporting issuers. In response to these publications, commenters said that the reasons underlying an alternative delivery model for non-investment fund reporting issuers are equally applicable to investment fund reporting issuers. While the underlying principles may be similar, there are fundamental differences between non-investment funds and investment funds that justify the application of different delivery models between these types of issuers.

We have reviewed the delivery requirements applicable to investment funds and are of the view that extending the Proposed Amendments beyond financial statements and MRFPs is not appropriate at this time. Specifically, we have considered the delivery requirements for the following documents:

- **Fund Facts document and ETF Facts document:** The Fund Facts and the ETF Facts are plain language documents that concisely highlight key information about a mutual fund that our research has identified as important to investors. The Fund Facts is required to be delivered prior to the purchase of a mutual fund, and so it does not lend itself to being part of an access-based model. For consistency, we think an access-based model should not apply to ETFs and that ETF investors should also continue to receive the ETF Facts. These documents are an important way to assist mutual fund and ETF investors in their decision-making process and in discussions with their financial advisors.
- **Prospectuses for mutual funds and ETFs:** The prospectus delivery requirement does not apply to a dealer selling a mutual fund or an ETF. Instead, for a mutual fund that is not an ETF, a dealer is required to deliver a Fund Facts prior to purchase. For ETFs, a dealer is required to deliver an ETF Facts document instead.

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- **Prospectuses for scholarship plans:** In our view, an access-based model for this type of document is not appropriate. Like mutual funds and ETFs, we consider the delivery of key informational documents as important to assist scholarship plan investors in their decision-making process. We think the key informational document for a scholarship plan is its prospectus.
- **Prospectuses for non-redeemable investment funds (that are not ETFs):** We think investment fund investors should have a consistent means of obtaining the information they need to make a purchase decision. As discussed above, we are not proposing an access-based model for Fund Facts or ETF Facts documents or scholarship plan prospectuses. For consistency, we also think it is appropriate to retain the current prospectus delivery requirements for non-redeemable investment funds.
- **Proxy materials:** In 2021, the CSA adopted a notice-and-access system for the solicitation of proxies for investment funds that is substantially similar to the regime for non-investment fund issuers. Notice-and-access differs from an access-based model in that it permits delivery of proxy-related materials by sending a notice providing Securityholders with summary information about the proxy-related materials and instructions on how to access them. In our view, an access-based model for this type of document, with no notice, is not appropriate. As discussed in the Non-Investment Fund Proposal, stakeholder comments in response to CP 51-404 and CP 51-405 cautioned the CSA against introducing an access-based model to documents that require a time sensitive response from investors.

The CSA has published for comment an access-based model for prospectuses of non-investment fund reporting issuers under the Non-Investment Fund Proposal. We think the typical investor in non-investment fund reporting issuers has different informational needs than the typical investor in investment fund reporting issuers. We are not proposing an access-based model for offering documents (Fund Facts, ETF Facts, or prospectus as applicable) of investment fund reporting issuers because we think there are significant benefits to the typical investor in investment fund reporting issuers in receiving the relevant offering documents rather than only having access to them.

We have the following additional questions:

- a. Do you agree with our views about the delivery requirements for each type of document described above? Please justify your response with reference to the costs and benefits of an access-based model for each type of document.
- b. If you think the CSA should adopt an access-based model for a specific type of document, please describe the model and explain how that approach would be beneficial to funds, dealers and investors.
- c. Are there alternative ways, other than adopting an access-based model, to improve or modernize the current delivery requirements for investment fund documents other than designated documents? For example, does securities legislation impose any impediments to greater adoption of electronic delivery? Could the methods of electronic delivery be modernized? If so, please describe any methods, provide the reasons why those methods are an improvement and explain what regulatory changes would be required to use any proposed method.

How to Provide Your Comments

Please provide your comments in writing by **December 26, 2022**.

We cannot keep submissions confidential because securities legislation requires publication of a summary of written comments received during the comment period. All comments received will be posted on the website of each of the Alberta Securities Commission at www.asc.ca, the Ontario Securities Commission at www.osc.ca and the Autorité des marchés financiers at www.lautorite.qc.ca. Therefore, you should not include personal information directly in comments to be published. It is important you state on whose behalf you are making the submissions.

Thank you in advance for your comments.

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Please address your submission to all of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission, New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Service NL
Northwest Territories Office of the Superintendent of Securities
Office of the Yukon Superintendent of Securities
Superintendent of Securities, Nunavut

Please send your comments only to the following addresses. Your comments will be forwarded to the remaining jurisdictions:

The Secretary Ontario Securities Commission 20 Queen Street West 22nd Floor, Box 55 Toronto, Ontario M5H 3S8 Fax: 416-593-2318 Email: comment@osc.gov.on.ca	Me Philippe Lebel Corporate Secretary and Executive Director, Legal Affairs Autorité des marchés financiers Place de la Cité, tour Cominar 2640, boulevard Laurier, bureau 400 Québec (Québec) G1V 5C1 Fax: (514) 864-8381 Email: consultation-en-cours@lautorite.qc.ca
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Questions

Please refer your questions to any of the following:

British Columbia Securities Commission

Noreen Bent
Chief, Corporate Finance Legal Services
Tel: 604 899-6741
Email: nbent@bcsc.bc.ca

James Leong
Senior Legal Counsel, Corporate Finance
Tel: 604 899-6681
Email: jleong@bcsc.bc.ca

Alberta Securities Commission

Chad Conrad
Senior Legal Counsel, Corporate Finance
Tel: (403) 297-4295
Email: chad.conrad@asc.ca

Financial and Consumer Affairs Authority of Saskatchewan

Heather Kuchuran
Director, Corporate Finance
Securities Division
Tel: 306-787-1009
Email: heather.kuchuran@gov.sk.ca

Manitoba Securities Commission

Patrick Weeks
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Email: Patrick.weeks@gov.mb.ca

Ontario Securities Commission

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Tel: 416-593-2393
Email: spaglia@osc.gov.on.ca

Michael Tang
Senior Legal Counsel, Investment Funds and Structured Products Branch
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Autorité des marchés financiers

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Financial and Consumer Services Commission of New Brunswick

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Nova Scotia Securities Commission

Abel Lazarus
Director, Corporate Finance
Tel: 902-424-6859
Email: Abel.Lazarus@novascotia.ca

ANNEX A

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 81-106 INVESTMENT FUND CONTINUOUS DISCLOSURE

1. ***National Instrument 81-106 Investment Fund Continuous Disclosure is amended by this Instrument.***
2. ***In paragraph 2.11(b), “Part 5” is replaced with “Part 5A”.***
3. ***Part 5 is replaced with the following:***

Part 5 – Access to and Delivery of Financial Statements and Management Reports of Fund Performance – Reporting Issuers

- 5.1 Interpretation and Application – (1) In this Part, “designated document” means any of the following documents an investment fund is required to file on SEDAR:
 - (a) financial statements;
 - (b) annual management reports of fund performance; and
 - (c) interim management reports of fund performance.

(2) This Part does not apply to an investment fund that is not a reporting issuer.
- 5.2 Posting on Designated Website – (1) An investment fund must post a designated document on its designated website no later than the date that the designated document is filed.

(2) An investment fund referred to in subsection (1) must include, on its designated website, a statement that
 - (a) explains the choices a registered holder or beneficial owner of securities issued by the investment fund has to receive designated documents;
 - (b) describes how the registered holder or beneficial owner may provide the investment fund with standing instructions to receive either electronic or paper copies of all of the investment fund’s designated documents commencing with the next designated document filed after the registered holder or beneficial owner provides the instructions; and
 - (c) explains that the investment fund will continue to follow the instructions provided by the registered holder or beneficial owner until they are changed by the registered holder or beneficial owner.

(3) An investment fund must display a designated document posted under subsection (1) and the statement included under subsection (2) in a manner that would be considered prominent to a reasonable person.
- 5.3 Sending Paper and Electronic Copies of Designated Documents – (1) An investment fund must send a paper copy of a designated document to a registered holder or beneficial owner of securities issued by the investment fund if the registered holder or beneficial owner requests a paper copy of the designated document.

(2) If a registered holder or beneficial owner of securities issued by an investment fund provides the investment fund with standing instructions to receive paper copies of a designated document, the investment fund must send paper copies of the designated document to the registered holder or beneficial owner, commencing with the next designated document filed after the registered holder or beneficial owner provides the investment fund with those standing instructions.

(3) An investment fund must send an electronic copy of a designated document to a registered holder or beneficial owner of securities issued by an investment fund if the registered holder or beneficial owner requests an electronic copy of the designated document.

(4) If a registered holder or beneficial owner of securities issued by an investment fund provides the investment fund with standing instructions to receive electronic copies of a designated document, the investment fund must send electronic copies of the designated document to the registered holder or beneficial owner, commencing with the next designated document filed after the registered holder or beneficial owner provides the investment fund with those standing instructions.

- (5) If a registered holder or beneficial owner of securities issued by the investment fund makes a request under subsection (1) or provides standing instructions under subsection (2), the investment fund must send a copy of the designated document by the later of
 - (a) the filing deadline for the designated document; and
 - (b) 10 calendar days after the investment fund receives the request or instructions.
 - (6) If a registered holder or beneficial owner of securities issued by the investment fund makes a request under subsection (3) or provides standing instructions under subsection (4), the investment fund must send a copy of the designated document by the later of
 - (a) the filing deadline for the designated document; and
 - (b) five calendar days after the investment fund receives the request or instructions.
 - (7) An investment fund must not charge a fee for sending a designated document under this section.
- 5.4 News Release – (1) On the date that a designated document is filed, an investment fund must
 - (a) issue a news release stating that the investment fund has filed the designated document;
 - (b) file the news release on SEDAR; and
 - (c) post the news release on the investment fund's designated website.
- (2) A news release under subsection (1), must
 - (a) state in the title that the designated document is available,
 - (b) state that the designated document is available at www.sedar.com and on the investment fund's designated website,
 - (c) provide the investment fund's designated website address,
 - (d) state the following:
 - (i) “A paper copy of the [insert name of the designated document] may be obtained by a registered holder or beneficial owner of securities issued [insert name of the investment fund], without charge, from [insert name of the manager of the investment fund].”,
 - (ii) “If a registered holder or beneficial owner of securities issued by [insert name of the investment fund] wants to receive paper copies of any of [insert list designated documents the investment fund is required to file] filed by [insert name of investment fund] in the future, please provide standing instructions to [insert name of the manager of the investment fund]. The standing instructions will continue to be followed by [insert name of investment fund] until they are changed by the registered holder or beneficial owner.”,
 - (iii) “An electronic copy of the [insert name of the designated document] may be obtained by a registered holder or beneficial owner of securities issued by [insert name of the investment fund], without charge, from [insert name of the manager of the investment fund].”,
 - (iv) “If a registered holder or beneficial owner of securities issued by [insert name of the investment fund] wants to receive electronic copies of any of [insert list designated documents the investment fund is required to file] filed by [insert name of investment fund] in the future, please provide standing instructions to [insert name of the manager of the investment fund]. The standing instructions will continue to be followed by [insert name of investment fund] until they are changed by the registered holder or beneficial owner.”, and
 - (v) the name, address, toll-free telephone number, e-mail address, and website of the manager of the investment fund.

4. ***The following Part 5A is added after Part 5:***

Part 5A – Delivery of Financial Statements – Non-Reporting Mutual Funds

- 5A.1 Application – This Part does not apply to a mutual fund that is a reporting issuer.
- 5A.2 Delivery of Financial Statements – Subject to sections 5A.3 and 5A.4, a mutual fund must send financial statements to a registered holder or beneficial owner of securities issued by the mutual fund by the filing deadline for the financial statements.
- 5A.3 Sending According to Standing Instructions – (1) Section 5A.2 does not apply to a mutual fund that requests standing instructions from a registered holder or beneficial owner of securities issued by the mutual fund in accordance with this section and sends financial statements according to those instructions.
- (2) A mutual fund relying on subsection (1) must send, to each registered holder or beneficial owner of securities issued by the mutual fund, a document that
- (a) explains the choices a registered holder or beneficial owner of securities issued by the mutual fund has to receive financial statements;
 - (b) requests instructions from the registered holder or beneficial owner of securities issued by the mutual fund about delivery of financial statements; and
 - (c) explains that the mutual fund will continue to follow the instructions provided by the registered holder or beneficial owner of securities issued by the mutual fund until they are changed by the registered holder or beneficial owner.
- (3) If a person or company becomes a registered holder or beneficial owner of securities issued by a mutual fund, the mutual fund must request instructions in accordance with subsection (2) from the registered holder or beneficial owner as soon as reasonably practicable after the mutual fund accepts a purchase order from the registered holder or beneficial owner.
- (4) A mutual fund must rely on instructions given under this section until a registered holder or beneficial owner of securities issued by the mutual fund changes them.
- (5) At least once a year, a mutual fund must send each registered holder or beneficial owner of securities issued by the mutual fund a reminder that
- (a) the registered holder or beneficial owner is entitled to receive financial statements;
 - (b) the mutual fund is relying on delivery instructions provided by the registered holder or beneficial owner;
 - (c) explains how a registered holder or beneficial owner of securities issued by the mutual fund can change the instructions it has given; and
 - (d) the registered holder or beneficial owner can obtain the financial statements by contacting the mutual fund, or, if applicable, on www.sedar.com or on the mutual fund's website.
- 5A.4 Sending According to Annual Instructions – (1) Section 5A.2 does not apply to a mutual fund that requests annual instructions from a registered holder or beneficial owner of securities issued by the mutual fund in accordance with this section and sends financial statements according to those instructions.
- (2) Subsection (1) does not apply to a mutual fund that has previously requested standing instructions in accordance with section 5A.3.
- (3) A mutual fund relying on subsection (1) must send annually to each registered holder or beneficial owner of securities issued by the mutual fund a request form the registered holder or beneficial owner may use to instruct the mutual fund as to which financial statements the registered holder or beneficial owner wishes to receive.
- (4) The request form referred to in subsection (3) must be accompanied by a notice explaining that
- (a) the registered holder or beneficial owner is providing delivery instructions for the current year only; and
 - (b) the registered holder or beneficial owner can obtain financial statements by contacting the mutual fund, or, if applicable, on www.sedar.com or on the mutual fund's website.

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- 5A.5 General – (1) If a registered holder or beneficial owner of securities issued by a mutual fund requests financial statements, the mutual fund must send a copy of the requested financial statements by the later of
- (a) the filing deadline for the requested financial statements; and
 - (b) 10 calendar days after the mutual fund receives the request.
- (2) A mutual fund must not charge a fee for sending the financial statements referred to in this Part and must ensure that registered holders or beneficial owners of securities issued by the mutual fund can respond without cost to the requests for instructions required by this Part.
- (3) For the purposes of this section, mutual funds under common management may send one request form to serve as a standing instruction or an annual instruction, as applicable, from a registered holder or beneficial owner of securities issued by the mutual funds that will apply to all of the mutual funds under common management held by that registered holder or beneficial owner.

Transition

5. For the purposes of subsection 5.3(2), a registered holder or beneficial owner of securities issued by an investment fund is considered to have provided standing instructions to receive paper copies of designated documents immediately after this Instrument comes into force if:
- (a) the investment fund is a reporting issuer;
 - (b) immediately before this Instrument comes into force, the investment fund has standing or annual instructions from the registered holder or beneficial owner to deliver annual financial statements, interim financial reports, or annual or interim management reports of fund performance to the registered holder or beneficial owner; and
 - (c) immediately before this Instrument comes into force, the investment fund does not have the consent of the registered holder or beneficial owner to electronic delivery of the annual financial statements, the interim financial reports, or the annual or interim management reports of fund performance.
6. For the purposes of subsection 5.3(4), a registered holder or beneficial owner of securities issued by an investment fund is considered to have provided standing instructions to receive electronic copies of designated documents immediately after this Instrument comes into force if:
- (a) the investment fund is a reporting issuer;
 - (b) immediately before this Instrument comes into force, the investment fund has standing or annual instructions from the registered holder or beneficial owner to deliver annual financial statements, interim financial reports, or annual or interim management reports of fund performance to the registered holder or beneficial owner; and
 - (c) immediately before this Instrument comes into force, the investment fund has the consent of the registered holder or beneficial owner to electronic delivery of the annual financial statements, the interim financial reports, or the annual or interim management reports of fund performance.
7. A mutual fund may rely on subsection 5A.3(1) in connection with standing instructions from a registered holder or beneficial owner of securities issued by the mutual fund if:
- (a) immediately before this Instrument comes into force, the mutual fund had requested standing instructions from the registered holder or beneficial owner under subsection 5.2(1) of National Instrument 81-106 *Investment Fund Continuous Disclosure* as it read on **[DATE IMMEDIATELY BEFORE EFFECTIVE DATE OF THIS INSTRUMENT]**;
 - (b) the mutual fund sends annual financial statements or interim financial reports according to those instructions; and
 - (c) the mutual fund otherwise complies with section 5A.3.
8. A mutual fund may rely on subsection 5A.4(1) in connection with annual instructions from a registered holder or beneficial owner of securities issued by the mutual fund if:
- (a) immediately before this Instrument comes into force, the mutual fund had requested annual instructions from the registered holder or beneficial owner under subsection 5.3(1) of National Instrument 81-106 *Investment Fund Continuous Disclosure* as it read on **[DATE IMMEDIATELY BEFORE EFFECTIVE DATE OF THIS INSTRUMENT]**; and

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- (b) the mutual fund sends annual financial statements or interim financial reports according to those instructions; and
- (c) the mutual fund otherwise complies with section 5A.4.

Effective Date

9. (1) This Instrument comes into force on [DATE].
- (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after [DATE], this Instrument comes into force on the day on which it is filed with the Registrar of Regulations."

ANNEX B

PROPOSED CHANGES TO COMPANION POLICY 81-106CP TO NATIONAL INSTRUMENT 81-106 INVESTMENT FUND CONTINUOUS DISCLOSURE

1. ***Companion Policy 81-106CP to National Instrument 81-106 Investment Fund Continuous Disclosure is changed by this Document.***

2. ***Part 4 is replaced with the following:***

Part 4 – Access to and Delivery of Financial Statements and Management Reports of Fund Performance – Reporting Issuers

4.1 Sending Designated Documents – Subsections 5.3(1) and (2) of the Instrument require an investment fund that is a reporting issuer to send a paper or an electronic copy, as applicable, of a designated document to a registered holder or beneficial owner of securities of the investment fund if requested. A registered holder or beneficial owner making such a request would likely do so by using the contact information disclosed under paragraph 5.4(2)(d) of the Instrument, as applicable. However, the investment fund should comply with any reasonable request even if it is not made by using the contact information required to be disclosed under those paragraphs.

Section 5.4 of the Instrument requires an investment fund that is a reporting issuer to issue and file on SEDAR, and post on its designated website, a news release announcing it has filed a designated document. This section also requires that the news release provide information about how a registered holder or beneficial owner of securities of the investment fund can contact the investment fund to obtain a paper or electronic copy of a designated document. So that a registered holder or beneficial owner clearly understands how they should contact the investment fund to obtain a designated document, we think registered holders or beneficial owners would find it helpful if an investment fund used the same contact information in its news releases, its designated website and in its Fund Facts, ETF Facts, or scholarship plan prospectus, as applicable.

4.2 Electronic Delivery – A designated document required to be sent electronically under Part 5 of the Instrument should follow the guidance in National Policy 11-201 *Delivery of Documents by Electronic Means*.

3. ***The following Part 4A is added after Part 4:***

Part 4A – Delivery of Financial Statements – Non-Reporting Mutual Funds

4A.1 Delivery Instructions – (1) The Instrument gives mutual funds that are not reporting issuers the following choices for the delivery of financial statements:

- (a) send these documents to all registered holders or beneficial owners of securities of the mutual fund;
- (b) obtain standing instructions from registered holders or beneficial owners with respect to the documents they wish to receive; or
- (c) obtain annual instructions from registered holders or beneficial owners by sending them an annual request form they can use to indicate which documents they wish to receive.

The choices are intended to provide some flexibility concerning the delivery of financial statements to registered holders or beneficial owners of securities of a mutual fund. The mutual fund can use any combination of the delivery options for registered holders or beneficial owners. However, the Instrument specifies that if the mutual fund chooses option (b) for a registered holder or beneficial owner, it cannot switch back to option (c) for that registered holder or beneficial owner at a later date. The purpose of this requirement is to encourage mutual funds that are not reporting issuers to obtain standing instructions and to ensure that if a registered holder or beneficial owner provides standing instructions, the mutual fund will abide by those instructions unless the registered holder or beneficial owner specifically changes them.

(2) When requesting delivery instructions from a registered holder or beneficial owner of securities of a mutual fund that is not a reporting issuer, the mutual fund may treat no response from the registered holder or beneficial owner to be a request by the registered holder or beneficial owner to receive all, some or none of the financial statements. When requesting delivery instructions, the mutual fund should make clear what the consequence of no response will be to registered holders or beneficial owners.

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- (3) A mutual fund that is not a reporting issuer should request delivery instructions sufficiently ahead of time so that registered holders or beneficial owners of securities of the mutual fund can receive the requested financial statements within the time required by the Instrument. Registered holders or beneficial owners should also be given a reasonable amount of time to respond to a request for instructions. The mutual fund should provide registered holders or beneficial owners with complete contact information for the mutual fund, including a toll-free telephone number or a number for collect calls.
 - (4) Mutual funds that are not reporting issuers and that are under common management can request one set of delivery instructions from a registered owner or beneficial owner of securities of the mutual funds that will apply to all of the mutual funds that are not reporting issuers in the same fund family that the registered holder or beneficial owner owns. If a registered holder or beneficial owner has given a mutual fund that is not a reporting issuer standing delivery instructions and then later acquires the securities of another mutual fund that is not a reporting issuer managed by the same manager, the newly acquired mutual fund can rely on those standing instructions.
- 4A.2 Communication with Beneficial Owners – A mutual fund that is not a reporting issuer and that is relying on Part 5A of the Instrument must have the necessary information to communicate with a beneficial owner of its securities. If the mutual fund does not have this information, the mutual fund cannot rely on the filing exemption in section 2.11 of the Instrument.
- 4A.3 Electronic Delivery – Any documents required to be sent under Part 5A of the Instrument may be sent by electronic delivery. Such electronic delivery should be made following the guidance in National Policy 11-201 *Delivery of Documents by Electronic Means*. In particular, the annual reminder required by section 5A.3(5) and the request form required by section 5A.4(3) of the Instrument may be given in electronic form and may be combined with other notices. Request forms and notices may alternatively be sent with account statements or other materials sent to registered holders or beneficial owners of securities of a mutual fund that is not a reporting issuer by the mutual fund.
4. These changes become effective on [DATE].

ANNEX C

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 41-101 GENERAL PROSPECTUS REQUIREMENTS

1. ***National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.***
2. ***Form 41-101F3 is amended by replacing subsections (1) and (2) of Item 12 of Part A with the following:***
 - (1) Under the sub-heading "For more information", state the following using substantially similar wording:

"The Detailed Plan Disclosure delivered with this Plan Summary contains further details about this plan, and we recommend that you read it. You may also contact [insert name of the manager of the scholarship plan] or your sales representative for more information about this plan. You can obtain a copy of the plan's financial statements and management reports of fund performance by contacting [insert name of manager of the scholarship plan]. Please contact [insert contact information of manager of the scholarship plan] or visit [insert address of designated website of the scholarship plan] for instructions on how to provide standing instructions to receive filed financial statements and management reports of fund performance in the future."
 - (2) State the name, address, toll-free telephone number, e-mail address and website of the investment fund manager of the plan.
3. ***Form 41-101F4 is amended by replacing subsections (1) and (2) of Item 3 of Part II with the following:***
 - (1) Under the heading "For more information", state the following using substantially similar wording:

"Contact [insert name of the manager of the ETF] or your representative or visit [insert address of designated website of the ETF] for a copy of the ETF's prospectus and other disclosure documents. You can obtain a copy of the ETF's financial statements and management reports of fund performance by contacting [insert name of the manager of the ETF]. These documents and the ETF Facts make up the ETF's legal documents. Please contact [insert contact information of the manager of the ETF] or visit [insert address of designated website of the ETF] for instructions on how to provide standing instructions to receive filed financial statements and management reports of fund performance in the future."
 - (2) State the name, address, toll-free telephone number, e-mail address and website of the manager of the ETF.

Effective Date

4. (1) This Instrument comes into force on **[DATE]**.
- (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after **[DATE]**, this Instrument comes into force on the day on which it is filed with the Registrar of Regulations.

ANNEX D

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE

1. ***National Instrument 81-101 Mutual Fund Prospectus Disclosure is amended by this Instrument.***
2. ***Form 81-101F3 is amended by replacing subsection (1) Item 3 of Part II with the following:***
 - (1) Under the heading “For more information”, state the following using substantially similar wording:

“Contact [insert name of the manager of the mutual fund] or your representative or visit [insert address of designated website of the mutual fund] for a copy of the fund’s simplified prospectus and other disclosure documents. These documents and the Fund Facts make up the fund’s legal documents. You can obtain a copy of the fund’s financial statements and management reports of fund performance by contacting [insert name of the manager of the mutual fund]. Please contact [insert contact information of the manager of the mutual fund] or visit [insert address of designated website of the mutual fund] for instructions on how to provide standing instructions to receive filed financial statements and management reports of fund performance in the future.”
3. ***Form 81-101F3 is amended by replacing subsection (2) Item 3 of Part II of with the following:***
 - (2) State the name, address, toll-free telephone number, e-mail address and website of the manager of the mutual fund.
4. ***This Instrument comes into force on [DATE].***
 - (1) This Instrument comes into force on [DATE].
 - (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after [DATE], this Instrument comes into force on the day on which it is filed with the Registrar of Regulations.

ANNEX E
LOCAL MATTERS
ONTARIO SECURITIES COMMISSION

1. Introduction

The Ontario Securities Commission (the **Commission**) is publishing this Annex to supplement the CSA Notice and Request for Comment (the **CSA Notice**) and to set out matters required to be addressed by the *Securities Act* (Ontario) (the **Act**).

The CSA are publishing for comment proposed amendments and proposed changes to existing rules and policies (the **CSA Proposed Amendments**) as part of a staged approach to the implementation of an access-based model for investment fund reporting issuers (**IFRI**).

Please refer to the main body of the CSA Notice.

2. Local Amendments

In connection with the CSA Proposed Amendments, the Commission is also publishing for comment proposed amendments (**Local Proposed Amendments**, and together with the CSA Proposed Amendments, the **Proposed Amendments**) to Ontario Securities Commission Rule 81-801 *Implementing National Instrument 81-106 Investment Fund Continuous Disclosure* (attached as Schedule 1 to this Annex).

The Local Proposed Amendments are consequential to the proposed amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure* (**NI 81-106**) and clarify that the requirement under section 79 of the Act to deliver financial statements (as defined in NI 81-106) does not apply to an IFRI that complies with Part 5 of NI 81-106. The Local Proposed Amendments also clarify that the requirement under section 79 of the Act to deliver financial statements does not apply to a mutual fund that is not a reporting issuer that complies with Part 5A of NI 81-106.

3. Rationale for Intervention

We recognize that information technology is an important and useful tool in improving communication with investors and are committed to facilitating electronic access to documents where appropriate. Our objective is to enhance the accessibility of information for investors while reducing regulatory burden on issuers. As an access-based model, the Proposed Amendments are consistent with the general evolution of our capital markets, including changes in technology and, in particular, the increased availability and accessibility of information.

4. Proposed Intervention

Under the Proposed Amendments, providing public electronic access to financial statements and management reports of fund performance (**designated documents**) and alerting investors that the designated document is available constitutes delivery under securities legislation. Specifically, delivery is effected once

- the designated document is filed on the System for Electronic Document Analysis and Retrieval (**SEDAR**),
- the designated document is posted on the issuer's designated website (as defined in NI 81-106), and
- a news release is issued, filed on SEDAR, and posted on the issuer's designated website indicating that the designated document is available electronically and that a paper or an electronic copy can be obtained upon request.

The purpose of the Proposed Amendments is to modernize the way documents are made available to investors and reduce costs associated with the printing and mailing of documents, which are currently borne directly by IFRI, and indirectly by registered holders and beneficial owners of their securities (**Securityholders**). The Proposed Amendments provide a more cost-efficient, timely and environmentally friendly manner of communicating information to investors than the existing requirements under Part 5 of NI 81-106. In our view, the Proposed Amendments reduce regulatory burden on issuers without compromising investor protection. The Proposed Amendments are consistent with the recommendation in the Capital Markets Modernization Taskforce Final Report dated January 2021 that an access equals delivery model should replace the defaulted delivery of disclosure documents of all issuers, including the designated documents of IFRI.

5. Affected Stakeholders

a. IFRI

The access-based model under the Proposed Amendments will only be available to IFRI. As of December 31, 2020, there were approximately 3600 IFRI in good standing in Ontario.

B.6: Request for Comments

Currently, under subsection 5.1(2) of NI 81-106, an IFRI must send applicable designated documents to its Securityholders. Section 5.2 of NI 81-106 permits the IFRI to solicit standing instructions (**Standing Instructions**) from its Securityholders who elect not to receive designated documents. Subsection 5.2(5) of NI 81-106 provides that, even if the IFRI obtains Standing Instructions, it must send an annual letter (**Annual Notices**) reminding those Securityholders of, among other things, their right to receive designated documents. Alternatively, under section 5.3 of NI 81-106, an IFRI may solicit annual delivery instructions (**Annual Instructions**) from its Securityholders. Under subsection 5.4(1) of NI 81-106, an IFRI must send designated documents to a Securityholder who requests them. An IFRI must file these documents on SEDAR and, under section 5.5 of NI 81-106, an IFRI must post these documents on its designated website.

Under the Proposed Amendments, the requirements for an IFRI to send designated documents, to solicit Standing Instructions and send Annual Notices, and solicit Annual Instructions would be repealed and replaced with requirements to: (i) post designated documents on the IFRI's designated website; (ii) issue, file, and post on the IFRI's designated website and on SEDAR, a news release announcing the availability of the designated documents; (iii) send a designated document to a Securityholder who requests a copy; and (iv) send a designated document that is filed by the IFRI commencing with the next document filed after the Securityholder provides the IFRI with standing instructions to receive copies of all documents until the standing instructions are changed by the Securityholder. We are of the view that the access-based model under the Proposed Amendments will reduce the financial burden on IFRI, primarily by eliminating the costs of soliciting Standing Instructions and sending Annual Notices or soliciting Annual Instructions.

b. IFRI Securityholders

According to the Investment Funds Institute of Canada (**IFIC**), 4.9 million,¹ or 35% of the approximately 14.1 million households in Canada,² invest in mutual funds. Approximately 47% of Canadians who have savings or investments own investment funds and investment funds account for half of Canadians' retirement savings.³ According to the 2020 Canadian Internet Survey, the percentage of Canadians over 15 who use the internet continues to increase over time. In 2020, approximately 92.3% of Canadians used the internet for personal use, up from 91.3% in 2018.⁴ Moreover, 74.9% of Canadians conducted online banking in 2020, up from 72.9% in 2018.⁵ Although internet usage varies by age group and location,⁶ the Proposed Amendments preserve the ability to request paper copies of the designated documents. Thus, we do not anticipate that investors would be disadvantaged by the Proposed Amendments.

We anticipate that the access-based model under the Proposed Amendments will have little impact on IFRI Securityholders. We estimate that between 0.5% and 4% of current IFRI Securityholders make requests under the current requirements to receive copies of designated documents.⁷ We do not anticipate that these percentages will materially change under the Proposed Amendments.

Current IFRI Securityholders will continue to receive copies of designated documents under the Proposed Amendments. New and current IFRI Securityholders who have not requested to receive copies of designated documents may request copies and provide Standing Instructions; however, they will not be solicited to provide Standing Instructions and sent Annual Notices, nor will they be solicited through Annual Instructions, as a reminder of their right to receive designated documents. We are of the view that the access-based model under the Proposed Amendments is comparable to soliciting Standing Instructions and sending Annual Notices, or soliciting Annual Instructions, as a reminder to IFRI Securityholders of their right to receive designated documents.

c. Mutual funds that are not reporting issuers (**MFNRI**) and MFNRI Securityholders

The Proposed Amendments will not materially revise the existing delivery requirements under Part 5 of NI 81-106 for MFNRI. These delivery requirements will be moved to proposed Part 5A of NI 81-106. We note that MFNRI are only subject to these delivery requirements if they are relying on the filing exemption under section 2.11 of NI 81-106. We are of the view that the access-based model under the Proposed Amendments will not impact MFNRI and MFNRI Securityholders.

d. Third-party service providers

If the Proposed Amendments are adopted and IFRI rely on an access-based model for designated documents, IFRI will not be required under securities law to solicit Standing Instructions and send Annual Notices, or to solicit Annual Instructions. Third-party service providers who help IFRI solicit Standing Instructions and send Annual Notices, or solicit Annual Instructions, will be

¹ See [The evolution of mutual funds - Investor Centre \(ific.ca\)](https://www.ific.ca/en/investor-centre/the-evolution-of-mutual-funds)

² Statistics Canada Census of Population, 2016 (<https://www150.statcan.gc.ca/n1/daily-quotidien/170913/t001a-eng.htm>)

³ See <https://www.ific.ca/en/articles/who-we-are-our-industry/>

⁴ Statistics Canada. (2022). *Table 22-10-0135-01 Personal internet use from any location by province and age group*.

<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=2210013501>

⁵ Statistics Canada. (2020). *Table 22-10-0137-01 Selected online activities by gender, age group and highest certificate, diploma or degree completed*.

<https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=2210013701>

⁶ For example, 76.4% of Canadians aged 65 and over used the internet in 2020. By comparison, 98.2% of Canadians aged between 25 and 44 used the internet over the same period.

⁷ Based on stakeholder comments received in response to CSA Consultation Paper 51-405 *Consideration of Access Equals Delivery Model for Non-Investment Fund Reporting Issuers*.

B.6: Request for Comments

impacted. However, IFRI may still seek help from third-party service providers to maintain and manage sending designated documents to IFRI Securityholders who have provided Standing Instructions under the Proposed Amendments.

6. Anticipated Costs and Benefits of the Proposed Amendments

The following section analyzes the anticipated costs and benefits to the affected stakeholders described above. We understand that IFRI communicate directly with IFRI Securityholders, generally with the assistance of a third-party service provider. We think that the primary benefit of the Proposed Amendments will be the reduction in the cost to IFRI of sending Annual Notices or Annual Instructions to IFRI Securityholders. As a corollary, we think the primary cost of the Proposed Amendments will be the value of the notification to IFRI Securityholders provided by Annual Notices or Annual Instructions.

a. IFRI

The benefit of the Proposed Amendments to IFRI is that they will not be required to send Annual Notices or Annual Instructions. Based on stakeholder input, we estimate the annual costs of complying with one of these options to be approximately \$1 per IFRI Securityholder. We are not aware of reliable estimates of the total number of IFRI Securityholders and thus cannot estimate the total reduction in costs resulting from the Proposed Amendments.

Under the Proposed Amendments, IFRI must post designated documents on their designated websites. We understand most IFRI already do so but even if they do not, we think the incremental costs of this new requirement under the Proposed Amendments will be *de minimis*.

Under the Proposed Amendments, IFRI must issue, file and post a news release announcing the availability of its designated documents. To the extent that an IFRI is not already doing so, the preparation, filing and issuance of a news release would be an incremental cost of the Proposed Amendments. OSC staff undertook a review of the issuance of news releases by a sample of 30 IFRI announcing the release of designated documents. The review found that none of the reviewed IFRI currently issue press releases relating to the publication of designated documents. The requirements to issue a press release apply at the fund level. There were approximately 3600 IFRI as of December 31, 2020. Assuming costs of approximately \$1500 per press release,⁸ and two press releases per year, the Proposed Amendments would result in approximately \$10.8 million in incremental costs.

Under the Proposed Amendments, IFRI Securityholders retain the ability to request copies of designated documents on a one-off basis or by providing Standing Instructions to the IFRI. Thus, an IFRI will still be required to manage and maintain a list of its Securityholders who have provided, or will provide, standing instructions to receive copies of designated documents. In our view, these costs are not an incremental cost of the Proposed Amendments because they are being incurred by an IFRI under the current requirements.

There will also be an initial one-time cost associated with learning and meeting the specific requirements of the Proposed Amendments. We anticipate that the time spent understanding the Proposed Amendments will be minimal. We estimate that in-house senior counsel for IFRI would spend approximately 4 hours to understand the Proposed Amendments and to update existing policies and procedures as necessary⁹. The costs associated with preparing the news release announcing the availability of designated documents will be the most significant component of the IFRI's compliance costs.

b. IFRI Securityholders

The elimination of the requirement to send Annual Notices or Annual Instructions to IFRI Securityholders represents the primary cost of the Proposed Amendments. It is difficult to quantify the cost of the loss of the notification benefits of these mailings to IFRI Securityholders. However, we understand that less than 4% of IFRI Securityholders request copies of designated documents in any given year under the current requirements. Accordingly, we think that the cost of the loss of the notification benefit is limited to a small number of IFRI Securityholders.

The loss of the notification benefit is also mitigated by two new requirements under the Proposed Amendments. First, we think the requirement to issue, file and post a news release announcing the availability of designated documents will have notification benefits comparable to the notification benefits of the current requirements. Second, the transition provisions under which any IFRI Securityholder who has provided Standing Instructions under the current requirements will continue to be sent designated documents, which should offset the loss of the notification benefits of the current requirements entirely for existing IFRI Securityholders.

While the reduction in costs to IFRI from the elimination of the requirement to send Annual Notices or Annual Instructions does not directly benefit IFRI Securityholders, we expect a portion of these reduced costs may be passed on to them through a reduction in fees.

⁸ Estimates are based on the Cision PR Newswire 2021 Pricing Guide https://cdn.ymaws.com/sites/www.ibpa-online.org/resource/resmgr/docs/PRNewswire_pricing_guide_20.pdf

⁹ This translates to approximately \$360 per IFRI, assuming an hourly rate of \$90 for senior in-house counsel. The hourly rate is based on the Counsel Network's *In-House Counsel Compensation and Career Report 2020* <https://inhousecounsel.com/In-House-Counsel-Compensation-&-Career-Report-2020.pdf>.

B.6: Request for Comments

c. MFNRI and MFNRI Securityholders

There should be no material costs or benefits for an MFNRI and MFNRI Securityholders as the Proposed Amendments will not materially revise the existing delivery requirements for MFNRI.

d. Third-party service providers

If the Proposed Amendments are adopted and IFRI rely on an access-based model for designated documents, IFRI will not be required under securities law to solicit Standing Instructions and send Annual Notices, or to solicit Annual Instructions. Third-party service providers who help IFRI solicit Standing Instructions and send Annual Notices, or solicit Annual Instructions, could be negatively impacted by a reduction in revenue. The impact on these third-party providers will depend on their individual agreements with IFRI and is therefore difficult to estimate but could be greater than the estimated cost of soliciting Standing Instructions and sending Annual Notices, or soliciting Annual Instructions, which we have estimated to be approximately \$1 per IFRI Securityholder. However, IFRI may still seek help from third-party service providers to maintain and manage sending designated documents to Securityholders who have provided Standing Instructions or who request single copies of designated documents.

7. Rule-making Authority

In Ontario, the following provisions of the Act provide the Commission with authority to make the Proposed Amendments:

- paragraph 39(ii) and paragraph 39(iii) of subsection 143(1) of the Act authorizes the Commission to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules, all applications to the Commission under the *Business Corporations Act* and all documents determined by the regulations or the rules to be ancillary to the documents, including preliminary prospectuses and prospectuses;
- paragraph 45 of subsection 143(1) of the Act authorizes the Commission to make rules establishing requirements for and procedures in respect of the use of an electronic or computer-based system for the filing, delivery or deposit of documents or information; and
- paragraph 49 of subsection 143(1) of the Act authorizes the Commission to make rules permitting or requiring, or varying the Act to permit or require, methods of filing or delivery, to or by the Commission, issuers, registrants, security holders or others, of documents, information, notices, books, records, things, reports, orders, authorizations or other communications required under or governed by Ontario securities law.

8. Alternatives Considered

a. Status quo

An alternative considered was to maintain the *status quo*, which would mean that paper delivery would continue to be the current default unless investors “opt in” to receive documents electronically.

b. Altering the current default of paper delivery to electronic delivery

Another alternative considered was to alter the current default of paper delivery to electronic delivery. Under this option, investors would receive documents by email unless they “opt in” to receiving paper documents as opposed to the status quo where investors must “opt in” to receive documents electronically.

There are challenges associated with altering the current default to electronic delivery, including legal uncertainties to satisfying electronic delivery of documents under other legislation such as corporate law and electronic commerce legislation that may require consent to electronic delivery. Altering the default to electronic delivery may require legislative change and would also require clarifying the current requirements regarding investor consent in National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*, as well as modernizing the current guidance in National Policy 11-201 *Electronic Delivery of Documents*. An additional challenge associated with altering the current default is that the issuer may need to consult its investors and obtain an affirmative response from each respective investor (i.e. e-mail address) in order to avail itself of electronic delivery.

9. Reliance on Unpublished Studies

The Commission is not relying on any unpublished study, report or other written material in proposing the Proposed Amendments.

ANNEX E

Schedule 1

**PROPOSED AMENDMENTS TO
ONTARIO SECURITIES COMMISSION RULE 81-801 *IMPLEMENTING NATIONAL INSTRUMENT 81-106*
*INVESTMENT FUND CONTINUOUS DISCLOSURE***

1. ***Ontario Securities Commission Rule 81-801 Implementing National Instrument 81-106 Investment Fund Continuous Disclosure is amended by this Instrument.***
2. ***Section 3.5 is replaced by the following:***

3.5 Access to Financial Statements – reporting investment funds– Section 79 of the Act does not apply to an investment fund that is a reporting issuer that complies with Part 5 of NI 81-106 in the case of

- (a) annual financial statements for financial years ending on or after [DATE]; and
- (b) interim financial reports for interim periods ending after the period determined in subsection (a).

3. ***The following is added after section 3.5:***

3.5.1 Delivery of Financial Statements – non-reporting mutual funds – Section 79 of the Act does not apply to a mutual fund that is not a reporting issuer that complies with Part 5A of NI 81-106 in the case of

- (a) annual financial statements for financial years ending on or after [DATE]; and
- (b) interim financial reports for interim periods ending after the period determined in subsection (a).

Effective date

4. This Instrument comes into force on [DATE].

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B.7

Insider Reporting

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

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

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

B.9

IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:

NS Partners International Equity Focus Fund
Principal Regulator – Ontario

Type and Date:

Preliminary Simplified Prospectus dated Sep 23, 2022
NP 11-202 Final Receipt dated Sep 26, 2022

Offering Price and Description:**Underwriter(s) or Distributor(s):**

N/A

Promoter(s):

N/A

Project #3434176

Issuer Name:

NBI Active Global Equity Fund
NBI Active International Equity Fund
Principal Regulator – Quebec

Type and Date:

Preliminary Simplified Prospectus dated Sep 23, 2022
NP 11-202 Preliminary Receipt dated Sep 26, 2022

Offering Price and Description:**Underwriter(s) or Distributor(s):**

N/A

Promoter(s):

N/A

Project #3439829

Issuer Name:

Manulife Smart International Defensive Equity ETF
Manulife Smart International Dividend ETF
Principal Regulator – Ontario

Type and Date:

Combined Preliminary and Pro Forma Long Form
Prospectus dated Sep 21, 2022
NP 11-202 Preliminary Receipt dated Sep 21, 2022

Offering Price and Description:**Underwriter(s) or Distributor(s):**

N/A

Promoter(s):

N/A

Project #3438865

Issuer Name:

Chou Asia Fund
Chou Associates Fund
Chou Bond Fund
Chou Europe Fund
Chou RRSP Fund
Principal Regulator – Ontario

Type and Date:

Final Simplified Prospectus dated Sep 23, 2022
NP 11-202 Final Receipt dated Sep 26, 2022

Offering Price and Description:**Underwriter(s) or Distributor(s):**

N/A

Promoter(s):

N/A

Project #3423443

Issuer Name:

CI Auspice Broad Commodity ETF
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Sep 19, 2022
NP 11-202 Final Receipt dated Sep 20, 2022

Offering Price and Description:**Underwriter(s) or Distributor(s):**

N/A

Promoter(s):

N/A

Project #3424590

Issuer Name:

Desjardins Alt Long/Short Global Equity Markets ETF
Principal Regulator – Quebec

Type and Date:

Preliminary Long Form Prospectus dated Sep 20, 2022
NP 11-202 Final Receipt dated Sep 23, 2022

Offering Price and Description:**Underwriter(s) or Distributor(s):**

N/A

Promoter(s):

N/A

Project #3411927

Issuer Name:

Dynamic Active Discount Bond ETF
Principal Regulator – Ontario

Type and Date:

Preliminary Long Form Prospectus dated Sep 22, 2022
NP 11-202 Preliminary Receipt dated Sep 22, 2022

Offering Price and Description:

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3439242

Issuer Name:

Dynamic Active Retirement Income+ ETF
Principal Regulator - Ontario

Type and Date:

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

NP 11-202 Final Receipt dated Sep 21, 2022

Offering Price and Description:

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3320882

Issuer Name:

Dynamic Retirement Income+ Fund
Principal Regulator - Ontario

Type and Date:

Amendment #4 to Final Simplified Prospectus dated
September 16, 2022

NP 11-202 Final Receipt dated Sep 21, 2022

Offering Price and Description:

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3267119

Issuer Name:

Ninepoint High Interest Savings Fund
Principal Regulator - Ontario

Type and Date:

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

NP 11-202 Final Receipt dated Sep 20, 2022

Offering Price and Description:

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3362432

Issuer Name:

CC&L Diversified Income Portfolio
Principal Regulator - Ontario

Type and Date:

Amended and Restated to Final Simplified Prospectus
dated September 23, 2022

NP 11-202 Final Receipt dated Sep 26, 2022

Offering Price and Description:

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3406303

Issuer Name:

RBC Emerging Markets Bond Fund (CAD Hedged)
BlueBay Global Monthly Income Bond Fund
BlueBay Global Sovereign Bond Fund (Canada)
BlueBay Global Investment Grade Corporate Bond Fund (Canada)
BlueBay \$U.S. Global Investment Grade Corporate Bond Fund (Canada)
BlueBay European High Yield Bond Fund (Canada)
BlueBay \$U.S. Global High Yield Bond Fund (Canada)
BlueBay Emerging Markets Bond Fund (Canada)
BlueBay Emerging Markets Local Currency Bond Fund (Canada)
BlueBay Emerging Markets Corporate Bond Fund
BlueBay Emerging Markets High Yield Corporate Bond Fund (Canada)
BlueBay Global Convertible Bond Fund (Canada)
RBC Emerging Markets Balanced Fund
RBC Emerging Markets Multi-Strategy Equity Fund
RBC Emerging Markets Dividend Fund
RBC Emerging Markets ex-China Dividend Fund
RBC Emerging Markets Equity Fund
RBC Emerging Markets Equity Focus Fund
RBC QUBE Low Volatility Emerging Markets Equity Fund
RBC Emerging Markets Small-Cap Equity Fund
RBC Vision Fossil Fuel Free Emerging Markets Equity Fund
RBC Select Very Conservative Portfolio
RBC Select Conservative Portfolio
RBC Select Balanced Portfolio
RBC Select Growth Portfolio
RBC Select Aggressive Growth Portfolio
RBC Managed Payout Solution
RBC Managed Payout Solution - Enhanced
RBC Select Choices Conservative Portfolio
RBC Select Choices Balanced Portfolio
RBC Select Choices Growth Portfolio
RBC Select Choices Aggressive Growth Portfolio
Principal Regulator - Ontario

Type and Date:

Amendment #2 to Final Simplified Prospectus dated September 20, 2022
NP 11-202 Final Receipt dated Sep 23, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3387821

Issuer Name:

Global Dividend Growth Split Corp.
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus (NI 44-102) dated September 22, 2022

NP 11-202 Receipt dated September 23, 2022

Offering Price and Description:

-

Underwriter(s) or Distributor(s):

N/A

Promoter(s):

N/A

Project #3437616

NON-INVESTMENT FUNDS

Issuer Name:

Canadian Imperial Bank of Commerce
Principal Regulator - Ontario

Type and Date:

Preliminary Shelf Prospectus dated September 23, 2022
NP 11-202 Preliminary Receipt dated September 23, 2022

Offering Price and Description:

Debt Securities (unsubordinated indebtedness) Debt
Securities (subordinated indebtedness) Common Shares
Class A Preferred Shares

Underwriter(s) or Distributor(s):**Promoter(s):**

-
Project #3439720

Issuer Name:

Chicane Capital I Corp.
Principal Regulator - Ontario

Type and Date:

Preliminary CPC Prospectus dated September 22, 2022
NP 11-202 Preliminary Receipt dated September 22, 2022

Offering Price and Description:

Minimum Offering: \$300,000.00 - (3,000,000 Common
Shares)
Maximum Offering: \$350,000.00 - (3,500,000 Common
Shares)

Price: \$0.10 per Common Share

Underwriter(s) or Distributor(s):
HAYWOOD SECURITIES INC.**Promoter(s):**

-
Project #3439215

Issuer Name:

Faraday Copper Corp. (formerly Copperbank Resources
Corp.)

Principal Regulator - British Columbia

Type and Date:

Preliminary Shelf Prospectus dated September 19, 2022
NP 11-202 Preliminary Receipt dated September 20, 2022

Offering Price and Description:

\$75,000,000.00 - Common Shares, Preferred Shares, Debt
Securities, Warrants, Subscription Receipts, Units

Underwriter(s) or Distributor(s):**Promoter(s):**

-
Project #3438389

Issuer Name:

Open Daily Technologies Inc.
Principal Regulator - British Columbia

Type and Date:

Amendment dated September 15, 2022 to Preliminary Long
Form Prospectus dated June 16, 2022

NP 11-202 Preliminary Receipt dated September 23, 2022

Offering Price and Description:

Qualifies for Distribution up to 3,333,333 Common Shares
of the Company upon the Conversion of Subscription
Receipts and Qualifies for Distribution 2,000,000 Common
Shares of the Company

Underwriter(s) or Distributor(s):**Promoter(s):**

Matthew Schmidt
Miriam Alden

Project #3400103

Issuer Name:

Raging Rhino Capital Corp.
Principal Regulator - British Columbia

Type and Date:

Preliminary CPC Prospectus dated September 20, 2022
NP 11-202 Preliminary Receipt dated September 22, 2022

Offering Price and Description:

\$250,000.00 - 2,500,000 COMMON SHARES

PRICE: \$0.10 per Common Share

Underwriter(s) or Distributor(s):**Promoter(s):**

Project #3438629

Issuer Name:

SANDSTORM GOLD LTD.
Principal Regulator - British Columbia

Type and Date:

Preliminary Short Form Prospectus dated September 22,
2022

NP 11-202 Preliminary Receipt dated September 22, 2022

Offering Price and Description:

Common Shares, Warrants, Subscription Receipts, Units

Underwriter(s) or Distributor(s):**Promoter(s):**

Project #3439256

Issuer Name:

SP Strategic Acquisition Corp.
Principal Regulator - Ontario

Type and Date:

Preliminary CPC Prospectus dated September 22, 2022
NP 11-202 Preliminary Receipt dated September 23, 2022

Offering Price and Description:

\$500,000.00 - 5,000,000 Common Shares
Price: \$0.10 per Common Share

Underwriter(s) or Distributor(s):

EIGHT CAPITAL

Promoter(s):

-
Project #3439377

Issuer Name:

Canadian Imperial Bank of Commerce
Principal Regulator - Ontario

Type and Date:

Final Shelf Prospectus dated September 23, 2022
NP 11-202 Receipt dated September 23, 2022

Offering Price and Description:

Debt Securities (unsubordinated indebtedness) Debt
Securities (subordinated indebtedness) Common Shares
Class A Preferred Shares

Underwriter(s) or Distributor(s):

-
Promoter(s):

-
Project #3439720

Issuer Name:

Red Pine Exploration Inc.
Principal Regulator - Ontario

Type and Date:

Final Short Form Prospectus dated September 22, 2022
NP 11-202 Receipt dated September 22, 2022

Offering Price and Description:

\$5,000,180.00 - 7,693,000 COMMON SHARES 10,000,000
FLOW-THROUGH COMMON SHARES

Underwriter(s) or Distributor(s):

HAYWOOD SECURITIES INC.
CANACCORD GENUITY CORP.
LAURENTIAN BANK SECURITIES INC.

Promoter(s):

-
Project #3435580

Issuer Name:

SANDSTORM GOLD LTD.
Principal Regulator - British Columbia

Type and Date:

Final Short Form Prospectus dated September 22, 2022
NP 11-202 Receipt dated September 22, 2022

Offering Price and Description:

Common Shares, Warrants, Subscription Receipts, Units

Underwriter(s) or Distributor(s):

-
Promoter(s):

-
Project #3439256

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B.10 Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Stack Capital Advisors Ltd.	Portfolio Manager and Exempt Market Dealer	September 21, 2022
New Registration	AQN Asset Management Ltd.	Portfolio Manager and Commodity Trading Manager	September 21, 2022
New Registration	AimStar Capital Group Inc.	Investment Dealer	September 23, 2022
New Registration	Baseline Securities Corp.	Exempt Market Dealer	September 26, 2022

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B.12

Other Information

B.12.1 Consents

B.12.1.1 Akumin Inc. – s. 21(b) of Ont. Reg. 398/21 of the OBCA

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under the Delaware General Corporation Law.

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 398/21, s. 21(b).

September 23, 2022

**IN THE MATTER OF
ONTARIO REGULATION 398/21,
AS AMENDED
(the “Regulation”)**
**MADE UNDER
THE BUSINESS CORPORATIONS ACT (ONTARIO),
R.S.O. 1990, c. B.16, AS AMENDED
(the “OBCA”)**
AND
**IN THE MATTER OF
AKUMIN INC.
(the “Applicant”)**
CONSENT
(Subsection 21(b) of the Regulation)

UPON the application (the “Application”) of the Applicant to the Ontario Securities Commission (the “Commission”) requesting the consent of the Commission, pursuant to subsection 21(b) of the Regulation, for the Applicant to continue in another jurisdiction pursuant to section 181 of the OBCA (the “Continuance”);

AND UPON considering the Application and the recommendation of the staff of the Commission; **AND UPON** the Applicant having represented to the Commission that:

1. The Applicant is an offering corporation under the OBCA.
2. The Applicant’s common shares (the “Common Shares”) are listed on the Toronto Stock Exchange (the “TSX”) and the Nasdaq Stock Exchange (the “NASDAQ”) under the symbol “AKU”.
3. The Applicant’s authorized share capital currently consists of an unlimited number of Common Shares and preferred shares. No preferred shares have been issued to date. As at the close of business on September 14, 2022, there were 89,636,513 Common Shares outstanding.
4. The Applicant intends to apply to the Director under the OBCA pursuant to section 181 of the OBCA (the “Application for Continuance”) for authorization of the Continuance to continue as a corporation under the General Corporation Law of the State of Delaware (the “DGCL”).
5. The principal reason for the Continuance is reducing operating expenses and transactional inefficiencies that currently result from being subject to Canadian corporate laws despite having no operations in Canada, and the State of Delaware was chosen to be the Applicant’s domicile because the more favourable corporate environment afforded by Delaware

B.12: Other Information

will help the Applicant compete effectively in raising the capital necessary for the Applicant to continue to implement its strategic plan. Upon completion of the Continuance, the Applicant will continue its legal existence in Delaware as if it had originally been incorporated under Delaware law.

6. The proposed Continuance was provided to the Applicant's shareholders for approval in the management proxy circular of the Applicant dated May 17, 2022 (the "Circular") in respect of the Applicant's annual general and special meeting of shareholders held on June 30, 2022 (the "Meeting").
7. The Circular described the proposed Continuance and disclosed the reasons for, and the implications of, the proposed Continuance. The Applicant's shareholders had the right to dissent with respect to the proposed Continuance pursuant to section 185 of the OBCA, and the Circular disclosed particulars of this right in accordance with applicable law.
8. The Applicant's shareholders authorized the proposed Continuance at the Meeting by a special resolution that was approved by 99.9% of the votes cast by the shareholders of the Applicant in person or represented by proxy. No shareholders exercised their dissent rights under section 185 of the OBCA.
9. The Applicant is a reporting issuer under the *Securities Act (Ontario)* (the "Act") and the securities legislation of each of the other provinces and territories of Canada (other than Québec) (collectively, the "Legislation").
10. Following the Continuance, the Applicant will remain a reporting issuer in Ontario and in each of the other provinces and territories of Canada (other than Québec).
11. The Applicant's registered office is located at 151 Bloor Street West, Suite 603, Toronto, Ontario, Canada M5S 1S4. Following the Continuance, the Applicant's registered office will be relocated to the State of Delaware. The Applicant's corporate head office is, and will be following the Continuance, located 8300 W. Sunrise Blvd, Plantation, Florida, USA 33322.
12. Following the Continuance, the Commission will remain the Applicant's principal regulator.
13. Following the completion of the Continuance, the Common Shares will continue to be listed on the NASDAQ and the TSX under the symbol "AKU".
14. The Applicant is not in default of any applicable requirement of (i) any of the provisions of the OBCA, the Act or the Legislation, including any of the rules or regulations made thereunder; and (ii) any of the rules, regulations or policies of the TSX and the NASDAQ.
15. The Applicant is not subject to any proceeding under the OBCA, the Act or Legislation.
16. The material rights, duties and obligations of a corporation governed by the DGCL are substantially similar to those of a corporation governed by the OBCA. Nonetheless, certain of the material rights, duties and obligations of a corporation governed by the DGCL are different from those of a corporation governed by the OBCA. The material differences were disclosed to the Applicant's shareholders in the Circular and the proposed by-laws of the Applicant following the Continuance are expected to incorporate certain fundamental requirements imposed on non-Canadian corporations by the TSX and the NASDAQ.
17. Subsection 21(b) of the Regulation requires the Application for Continuance to be accompanied by a consent from the Commission.
18. Following the Continuance, the Applicant will continue to maintain a corporate office in Toronto, Ontario. The Applicant has provided an undertaking (the "**Undertaking**") to the Commission (attached at Appendix "A" hereto) that it will complete and file an "Issuer Form of Submission to Jurisdiction and Appointment of Agent for Service of Process" (in the form of Schedule "A" thereto) (the "**Submission to Jurisdiction Form**") with the Commission through the System for Electronic Document Analysis and Retrieval (SEDAR) promptly upon the Applicant ceasing to maintain a corporate office in Canada subsequent to the Continuance. The Undertaking also provides that the Applicant will maintain and update the information contained in the Submission to Jurisdiction Form, or furnish a new Submission to Jurisdiction Form, in accordance with the provisions contained therein.

AND UPON the Commission being satisfied that to do so would not be prejudicial to the public interest;

THE COMMISSION HEREBY CONSENTS to the continuance of the Applicant as a corporation under the DGCL.

DATED at Toronto on this 23rd day of September, 2022.

"Erin O'Donovan"
Manager (Acting), Corporate Finance
Ontario Securities Commission

OSC File #: 2022/0428

APPENDIX "A"

UNDERTAKING

To: Ontario Securities Commission (the "Commission")
Re: Akumin Inc. (the "Applicant")

Application dated September 14, 2022 for consent from the Commission to continue to Delaware pursuant to clause 21(b) of Ontario Regulation 398/21 made under the Business Corporations Act, R.S.O. 1990, c. B. 16

The Applicant hereby undertakes that it will complete and file an "Issuer Form of Submission to Jurisdiction and Appointment of Agent for Service of Process" in the form of Schedule "A" hereto (the "**Submission to Jurisdiction Form**") with the Commission through the System for Electronic Document Analysis and Retrieval (SEDAR) promptly upon the Applicant ceasing to maintain a corporate office in Canada subsequent to the Continuance.

The Applicant hereby further undertakes that it will maintain and update the information contained in the Submission to Jurisdiction Form, or furnish a new Submission to Jurisdiction Form, in accordance with the provisions contained therein.

Dated: September 21, 2022

AKUMIN INC.

"Riad Zine"
Chief Executive Officer

Schedule A

Issuer Form of Submission to Jurisdiction and Appointment of Agent for Service of Process

1. Name of issuer (the "Issuer"):

2. Jurisdiction of incorporation, or equivalent, of Issuer:

3. Address of principal place of business of Issuer:

4. Description of securities (the "Securities"):

5. Name of agent for service of process (the "Agent"):

6. Address for service of process of Agent in Canada (the address may be anywhere in Canada):

7. The Issuer designates and appoints the Agent at the address of the Agent stated above as its agent upon whom may be served any notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding (the "Proceeding") arising out of, relating to or concerning the obligations of the Issuer as a reporting issuer, and irrevocably waives any right to raise as a defence in any such Proceeding any alleged lack of jurisdiction to bring such Proceeding.

8. The Issuer irrevocably and unconditionally submits to the non-exclusive jurisdiction of

(a) the judicial, quasi-judicial and administrative tribunals of each of the provinces and territories of Canada in which the securities have been distributed; and

(b) any administrative proceeding in any such province or territory,

in any Proceeding arising out of or related to or concerning the obligations of the issuer as a reporting issuer.

9. Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file a new submission to jurisdiction and appointment of agent for service of process in this form at least 30 days before termination of this submission to jurisdiction and appointment of agent for service of process.

10. Until six years after it has ceased to be a reporting issuer in any Canadian province or territory, the Issuer shall file an amended submission to jurisdiction and appointment of agent for service of process at least 30 days before any change in the name or above address of the Agent.

11. This submission to jurisdiction and appointment of agent for service of process shall be governed by and construed in accordance with the laws of Ontario.

Dated: _____.

AKUMIN INC.

Signature of Issuer

Print name and title of signing officer of Issuer

B.12: Other Information

AGENT

The undersigned accepts the appointment as agent for service of process of Akumin Inc. under the terms and conditions of the appointment of agent for service of process stated above.

Dated: _____.

Signature of Agent

Print name of person signing and, if Agent is not an individual, the title of the person signing

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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.capitalmarkettribunal.ca.

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