

The Ontario Securities Commission

# OSC Bulletin

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The Ontario Securities Commission exercises its regulatory oversight function through the administration and enforcement of Ontario's *Securities Act* (R.S.O. 1990, c. S.5) and *Commodity Futures Act* (R.S.O. 1990, c. C.20), and administration of certain provisions of the *Business Corporations Act* (R.S.O. 1990, c. B.16).

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# A. Capital Markets Tribunal

## A.2 Other Notices

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### A.2.1 Bridging Finance Inc. et al.

**FOR IMMEDIATE RELEASE**  
May 17, 2023

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

**TORONTO** – The Tribunal issued its Reasons for Decision in the above-named matter.

A copy of the Reasons for Decision dated May 16, 2023 is available at [capitalmarketstribunal.ca](https://capitalmarketstribunal.ca).

Registrar, Governance & Tribunal Secretariat  
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### A.2.2 Kenton Roy Rustulka

**FOR IMMEDIATE RELEASE**  
May 17, 2023

**KENTON ROY RUSTULKA,  
File No. 2023-9**

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

A copy of the Order dated May 17, 2023 is available at [capitalmarketstribunal.ca](https://capitalmarketstribunal.ca).

Registrar, Governance & Tribunal Secretariat  
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**A.2.3 Cormark Securities Inc. et al.**

**FOR IMMEDIATE RELEASE  
May 18, 2023**

**CORMARK SECURITIES INC.,  
WILLIAM JEFFREY KENNEDY,  
MARC JUDAH BISTRICER, AND  
SALINE INVESTMENTS LTD.,  
File No. 2022-24**

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

A copy of the Order dated May 8, 2023 is available at [capitalmarketstribunal.ca](https://capitalmarketstribunal.ca).

Registrar, Governance & Tribunal Secretariat  
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**A.2.4 STEER Technologies Inc. (formerly Facedrive Inc.) et al.**

**FOR IMMEDIATE RELEASE  
May 19, 2023**

**STEER TECHNOLOGIES INC.  
(FORMERLY FACEDRIVE INC.),  
SAYANTHAN NAVARATNAM,  
SUMAN PUSHPARAJAH, AND  
JUNAID RAZVI,  
File No. 2023-10**

**TORONTO** – Following a hearing held today, the Tribunal issued an Order in the above-named matter approving the Settlement Agreement reached between Staff of the Commission and Steer Technologies Inc., Sayanthan Navaratnam, Suman Pushparajah, and Junaid Razvi.

A copy of the Order dated May 19, 2023 and Settlement Agreement dated May 2, 2023 are available at [capitalmarketstribunal.ca](https://capitalmarketstribunal.ca).

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## A.3 Orders

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A.3.1 Kenton Roy Rustulka

**IN THE MATTER OF  
KENTON ROY RUSTULKA**

File No. 2023-9

Adjudicator: James Douglas

May 17, 2023

**ORDER**

**WHEREAS** the Capital Markets Tribunal has considered a request by Kenton Roy Rustulka (**Rustulka**) for an extension of time to serve and file his hearing brief and written submissions, previously set in the Notice of Hearing issued April 6, 2023;

**ON READING** the correspondence of Staff of the Ontario Securities Commission and Rustulka;

**IT IS ORDERED THAT:**

1. Rustulka shall serve and file his hearing brief, if any, and written submissions, by 4:30 p.m. on May 31, 2023; and
2. Staff shall serve and file their reply written submissions, if any, by 4:30 p.m. on June 14, 2023.

“James Douglas”

A.3.2 Cormark Securities Inc. et al.

**IN THE MATTER OF  
CORMARK SECURITIES INC.,  
WILLIAM JEFFREY KENNEDY,  
MARC JUDAH BISTRICER, AND  
SALINE INVESTMENTS LTD.**

File No. 2022-24

Adjudicators: M. Cecilia Williams  
(chair of the panel)  
Sandra Blake  
Timothy Moseley

May 8, 2023

**ORDER**

**WHEREAS** on May 4, 2023, the Capital Markets Tribunal held a hearing by videoconference in relation to a disclosure motion filed by Marc Judah Bistricer;

**ON READING** the motion materials filed by Bistricer and Staff of the Ontario Securities Commission, and on hearing the submissions of the representatives for each of the respondents and for Staff of the Ontario Securities Commission;

**IT IS ORDERED**, for reasons to follow, that Bistricer’s motion for disclosure is dismissed.

“M. Cecilia Williams”

“Sandra Blake”

“Timothy Moseley”

A.3.3 STEER Technologies Inc. (formerly Facedrive Inc.) et al. – ss. 127, 127.1

**IN THE MATTER OF  
STEER TECHNOLOGIES INC. (FORMERLY FACEDRIVE INC.),  
SAYANTHAN NAVARATNAM,  
SUMAN PUSHPARAJAH, AND  
JUNAID RAZVI**

**File No. 2023-10**

**Adjudicators:** James Douglas (chair of the panel)  
Dale Ponder  
M. Cecilia Williams

**May 19, 2023**

**ORDER**

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

**WHEREAS** on May 19, 2023, the Capital Markets Tribunal held a hearing by videoconference to consider the request for approval of settlement agreement between Enforcement Staff of the Ontario Securities Commission (**Staff**) and each of the respondents dated May 2, 2023 (the **Settlement Agreement**);

**ON READING** the Joint Application for Settlement Hearing, including the Statement of Allegations dated April 5, 2023 and the Settlement Agreement, the written submissions, and on hearing the submissions of representatives of each of the parties, and on being advised by Staff that the Commission has received the payments from the respondents in accordance with the terms of the Settlement Agreement, and that Suman Pushparajah has completed a course on disclosure issues satisfactory to the Enforcement Branch of the Commission;

**IT IS ORDERED THAT:**

1. the Settlement Agreement is approved;
2. Steer Technologies Inc. (**Steer**) shall:
  - (a) pay an administrative penalty to the Commission in the amount of \$300,000, pursuant to paragraph 9 of subsection 127(1) of the Act;
  - (b) submit to a review by an independent consultant acceptable to the Enforcement Branch of the OSC, and paid for by Steer, of:
    - (i) its corporate governance framework, including the roles of its officers and directors and the composition of its Disclosure Committee;
    - (ii) its disclosure policies; and
    - (iii) the policies processes, reports, and systems related to disclosure controls and procedures;the terms of which are set forth in Schedule “A” to this Order, and institute such changes as the independent consultant recommends within 60 days of receiving the consultant’s recommendations;
  - (c) submit, at its own cost, to quarterly reviews of its disclosure practices by a consultant acceptable to the Enforcement Branch of the OSC, for a period of two years after the receipt of the consultant’s recommendations referred to in paragraph 2(a) of this Order;
  - (d) institute the following requirements for its Disclosure Committee for a period of two years from the date of this Order:
    - (i) the Disclosure Committee shall be composed of four members, at least two of whom shall be independent directors of Steer; and
    - (ii) all continuous disclosure documents and any public disclosure in whole or in part of an investor-relations nature shall be approved by the Disclosure Committee;
  - (e) require all members of its Disclosure Committee to participate in a corporate governance and continuous & timely disclosure course acceptable to the Enforcement Branch of the OSC; and



**A.3: Orders**

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(f) pay costs to the Commission in the amount of \$40,000, pursuant to section 127.1 of the Act.

3. Sayanthan Navaratnam shall:

- (a) pay an administrative penalty to the Commission in the amount of \$75,000, pursuant to paragraph 9 of subsection 127(1) of the Act;
- (b) be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Steer or its affiliates, for three years from the date of this Order;
- (c) complete a course on disclosure issues satisfactory to the Enforcement Branch of the OSC; and
- (d) pay costs to the Commission in the amount of \$15,000, pursuant to section 127.1 of the Act.

4. Suman Pushparajah shall:

- (a) be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Steer or its affiliates, for two years from the date of this Order;
- (b) pay costs to the Commission in the amount of \$15,000, pursuant to section 127.1 of the Act.

5. Junaid Razvi shall:

- (a) pay an administrative penalty to the Commission in the amount of \$40,000, pursuant to paragraph 9 of subsection 127(1) of the Act;
- (b) be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Steer or its affiliates, for two years from the date of this Order;
- (c) complete a course on disclosure issues satisfactory to the Enforcement Branch of the OSC; and
- (d) pay costs to the Commission in the amount of \$15,000, pursuant to section 127.1 of the Act.

“James D.G. Douglas”

“Dale R. Ponder”

“M. Cecilia Williams”

**SCHEDULE "A"**

**IN THE MATTER OF  
STEER TECHNOLOGIES INC. (FORMERLY FACEDRIVE INC.),  
SAYANTHAN NAVARATNAM,  
SUMAN PUSHPARAJAH, AND  
JUNAID RAZVI**

**TERMS AND CONDITIONS OF  
INDEPENDENT REVIEW OF  
PRACTICES AND PROCEDURES**

This document is made in connection with the settlement agreement dated May 2, 2023 (the **Settlement Agreement**) in File No. 2023-10. All terms in this document have the same meaning as in the Settlement Agreement.

Steer shall:

1. Retain, within thirty (30) days of the date of the Order, at its own expense a qualified independent consultant (the **Consultant**) acceptable to the Enforcement Branch of the OSC, to review Steer's corporate governance framework, its disclosure policies, and the policies, processes, reports, and systems related to disclosure controls and procedures. The Consultant's review and evaluation shall include an assessment of the following:
  - (a) its corporate governance framework, including the roles of its officers and directors and the composition of its Disclosure Committee;
  - (b) its disclosure policies; and
  - (c) the policies, processes, reports, and systems related to disclosure controls and procedures,
2. Provide, within forty-five (45) days of the date of the Order, a copy of the engagement letter detailing the Consultant's responsibilities to a Manager of the Enforcement Branch of the OSC.
3. Require the Consultant, at the conclusion of the review, which in no event shall be more than 120 days after the date of the Order, to submit the Consultant's report to Steer and to a Manager of the Corporate Finance Branch of the OSC. The report shall address the Consultant's findings and shall include a description of the review performed, the conclusions reached, and the Consultant's recommendations for changes or improvements.
4. Adopt, implement, and maintain all policies, procedures and practices recommended in the report of the Consultant within 60 days of receiving the report from the Consultant. As to any of the Consultant's recommendations about which Steer and the Consultant do not agree, such parties shall attempt in good faith to reach agreement within 90 days of the date of the Order. In the event that Steer and the Consultant are unable to agree on an alternative proposal within 90 days of the date of the Order, Steer will abide by the determination of the Consultant and adopt those recommendations deemed appropriate by the Consultant.
5. Cooperate fully with the Consultant in its review, including making such information and documents available as the Consultant may reasonably request, and by permitting and requiring the Steer's employees and agents to supply such information and documents as the Consultant may reasonably request, subject to any applicable privilege.
6. To ensure the independence of the Consultant, Steer (i) shall not have received legal, auditing, or other services from, or have had any affiliations with, the Consultant during the two years prior to the date of the Order; (ii) shall not have the authority to terminate the Consultant without prior written approval of the Enforcement Branch of the OSC; and (iii) shall compensate the Consultant for services rendered pursuant to the Order at their reasonable and customary rates.
7. Require the Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with the Respondents, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Consultant will require that any firm with which they are affiliated or of which they are a member, and any person engaged to assist the Consultant in performance of their duties under the Order shall not, without prior written consent of the Enforcement Branch of the OSC, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Steer, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of engagement and for a period of two years after the engagement.
8. The reports by the Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the reports could discourage cooperation, impede pending or potential government

### A.3: Orders

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investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the OSC determines in its sole discretion that disclosure would be in furtherance of the OSC's discharge of its duties and responsibilities, or (4) is otherwise required by law.

9. Require the Consultant to report to a Manager of the Corporate Finance of the OSC on its activities as the OSC may request.
10. Steer agrees that the OSC may extend any of the dates set forth above at its discretion.
11. Certify, in writing, compliance with the requirements set forth above. The certification shall identify the requirements, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The OSC may make reasonable request for further evidence of compliance, and Steer agrees to provide such evidence. The certification and reporting material shall be submitted to the Manager of the Corporate Finance Branch of the OSC no later than thirty days (30) from the date of the completion of the requirements.

**IN THE MATTER OF  
STEER TECHNOLOGIES INC. (FORMERLY FACEDRIVE INC.),  
SAYANTHAN NAVARATNAM,  
SUMAN PUSHPARAJAH, AND  
JUNAID RAZVI**

**SETTLEMENT AGREEMENT**

**PART I - INTRODUCTION**

1. Between April 2020 and January 2021 (the **Material Time**), Steer published contradictory and misleading news releases regarding the capabilities and consumer readiness of its COVID-19 digital contact-tracing platform, TraceScan. Steer also failed to correct forward-looking information contained in a news release after it had become clear that the information was inaccurate.
2. Public companies that issue misleading news releases regarding the status of their products, particularly in emerging sectors such as COVID-19-related health technologies, deprive investors of the ability to make informed investment decisions. It is vital that investors receive complete, factual and balanced information, especially in emerging sectors. Public companies in these sectors that overemphasize the market readiness of their products while omitting the challenges of launching to market may mislead investors.
3. Officers and directors of public companies have important gatekeeping roles in ensuring that the public is provided with accurate and balanced information. When officers and directors fail to ensure that news releases and other public disclosures are accurate and balanced, they undermine confidence in Ontario's capital markets.
4. Steer Technologies Inc., formerly Facedrive Inc. (**Steer**), is a public company listed on the TSXV and OTCQX. Steer describes itself as "an integrated ESG technology platform offering on-demand and subscription-based mobility services." Its offerings include food delivery services, ride sharing, health technologies, and an electric vehicle subscription business.
5. The parties will jointly file a request that the Capital Markets Tribunal (the **Tribunal**) issue a Notice of Hearing to announce it will hold a hearing to consider whether, pursuant to sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5 (the **Act**), it is in the public interest for the Tribunal to make certain orders against the Respondents.

**PART II - JOINT SETTLEMENT RECOMMENDATION**

6. The Respondents consent to the making of an order (the **Order**) substantially in the form attached as Schedule "A" to this Settlement Agreement based on the facts set out in this Settlement Agreement.
7. For the purposes of this proceeding, and any other regulatory proceeding commenced by a Canadian securities regulatory authority only, the Respondents agree with the facts set out in Part III of this Settlement Agreement and the conclusions in Part IV of this Settlement Agreement.

**PART III - AGREED FACTS**

**A. The Parties**

8. Steer is a public company listed on the TSXV and OTCQX. Steer describes itself as "an integrated ESG technology platform offering on-demand and subscription-based mobility services." Its offerings include food delivery services, ride sharing, health technologies, and an electric vehicle subscription business.
9. Sayanthan Navaratnam (**Navaratnam**) was Steer's CEO and Chairman of the Board of Directors from September 2019 to September 1, 2021. During the Material Time, Navaratnam was a member of the Disclosure Committee and owned approximately 30% of Steer's shares.
10. Suman Pushparajah (**Pushparajah**) was Steer's Chief Operating Officer and the leader of "Facedrive Health", which oversaw the development of TraceScan during the Material Time. He owned more than 5% of Steer's shares.
11. Junaid Razvi (**Razvi**) was the Chair of Steer's Disclosure Committee. He was also Vice-President, corporate secretary, and a director of Steer during the Material Time. He owned approximately 8% of Steer's shares.
12. Navaratnam, Pushparajah, and Razvi were officers of Steer during the Material Time. They failed to conduct sufficient diligence to ensure that the news releases were accurate before approving the releases for dissemination to the public.

**B. The TraceScan Platform**

13. In early 2020, Steer, in conjunction with other entities, began developing a COVID-19 contact-tracing platform called TraceScan. Initially, TraceScan consisted of a digital contact-tracing app (the **TraceScan App** or the **App**) that was intended to exchange Bluetooth signals between mobile devices and detect when two mobile devices were within a certain distance of each other for contact-tracing purposes.
14. In March or April 2020, Steer began to develop a Bluetooth wearable device (the **TraceScan Wearable** or the **Wearable**), in addition to the TraceScan App, which planned to use Bluetooth signals to detect when two or more Wearables were within a certain distance of each other. The TraceScan Wearable, when fully developed, was intended to collect contact data that could be used to identify individuals that were in close contact with a positive case. The TraceScan App and the TraceScan Wearable, collectively, are referred to as **TraceScan**.

**C. News Releases**

15. As set out below:
- (a) during the Material Time, Steer issued news releases that announced product developments and launches in unbalanced terms; and
  - (b) several of those news releases created confusion or a misleading impression about the status of TraceScan's development and its availability to the public.

I. The April 20, 2020 News Release

16. On April 20, 2020, Steer issued a news release introducing TraceScan. The news release included the following statement:

(a) The TraceScan App “is expected to release within the next 30 days.”

II. The May 20, 2020 News Release

17. On May 20, 2020, Steer issued a news release that included references to the existence of the TraceScan Wearable. As of that date, Steer's TraceScan Wearable was not consumer-ready. However, the news release included statements that suggested otherwise, including:

- (a) “[t]he TraceSCAN app and wearables provide contact tracing to help mitigate the spread of the COVID-19 virus”; and
- (b) “TraceSCAN recognizes privacy concerns and has built the app and wearables in line with the government's recommendations, alongside MT>Ventures.”

III. The May 28, 2020 News Release

18. On May 28, 2020, Steer issued a news release which suggested that:
- (a) a TraceScan Wearable existed in a consumer-ready state as part of a comprehensive solution that included the App and Wearable; and
  - (b) the University of Waterloo team (the **Waterloo Team**) was developing Bluetooth-based wearables with Steer that would include “real-time monitoring of the recovery process through the measurement of specific vital signs.”
19. However, as of May 28, 2020, Steer had only developed a prototype of a Wearable. Steer first sold a TraceScan Wearable in August 2020.
20. The news release included the following statements implying that the TraceScan Wearable was consumer-ready:
- (a) “Facedrive Inc. ... is pleased to announce “TraceSCAN”, the COVID-19 contact tracing platform which includes an application, wearables and artificial intelligence technology that helps to mitigate the spread of COVID-19 and predict future outbreaks.”
  - (b) “TraceSCAN...is a comprehensive solution that combines a smart contact tracing app, wearable technology and artificial intelligence, setting it apart from other contact tracing solutions.”

21. In addition, while the news release stated that the TraceScan Wearables would benefit the general public, it did not mention that:
- (a) the Wearables were designed to be used in contained spaces such as offices, warehouses, and manufacturing facilities where they could be supported with additional data collection equipment and/or other associated technology; and
  - (b) for members of the general public to benefit from the contact tracing features, the TraceScan Wearable would either need to interact with other contact tracing devices (which it was not capable of doing) or be supported by the government to ensure a sufficient level of adoption.

22. The news release included the following statements regarding TraceScan’s purported benefit to the general public:

- (a) “TraceSCAN is available for the general public enabling users to take safety precautions such as self-isolation or close monitoring for signs of COVID-19 symptoms.”
- (b) “As part of the TraceSCAN platform, Facedrive Health and Waterloo researchers are also developing Bluetooth-based wearables that will improve contact tracing accuracy and real-time monitoring of the recovery progress through measurement of specific vital signs.”

IV. The June 4, 2020 News Release

23. On June 4, 2020, Steer issued a news release announcing, for at least the third time, the launch of the TraceScan App. The news release stated that Steer had “completed the development and testing of the TraceSCAN app” and anticipated “that the platform as well as the associated wearable technology will be made available for public use by the end of June 2020.”

24. Steer did not explain why:

- (a) it was announcing that the TraceScan App would be available by end of June 2020 when it had already previously announced that the App was expected to be released within 30 days of its April 20, 2020 news release; or
- (b) it was announcing that the TraceScan Wearable would be available by the end of June 2020 when it had previously announced the TraceScan Wearable “is available for the general public” in its May 28, 2020 news release.

V. The July 7, 2020 News Release

25. On July 7, 2020, Steer issued a news release that announced that its “newly launched COVID-19 contact tracing solution, TraceSCAN Bluetooth wearable technology is available for market next week.” It further noted that “[w]ith the availability of TraceSCAN wearables next week, contact tracing will be made possible without smartphones among at-risk demographics, such as senior citizens, children, and low-income individuals.”

26. Steer did not reconcile this announcement that the TraceScan Wearable would be available the following week with the following announcements it had previously made:

- (a) the May 20, 2020 statement that “[t]he TraceSCAN app and wearables provide contact tracing to help mitigate the spread of the COVID-19 virus”;
- (b) the May 28, 2020 statements that:
  - (i) “TraceSCAN...is a comprehensive solution that combines a smart contact tracing app, wearable technology and artificial intelligence”; and
  - (ii) “TraceSCAN is available for the general public”; and
- (c) the June 4, 2020 statement that the “wearable technology will be made available for public use by the end of June 2020.”

27. In addition, the July 7, 2020 news release did not explain that while the TraceScan Wearable no longer required a smart-phone to collect contact data, the TraceScan Wearable still requires either a mobile device or data collection equipment to collect and analyze the contact data.

VI. The January 5, 2021 News Release & March 31, 2021 MD&A

28. On January 5, 2021, Steer issued a news release announcing the release of “TraceSCAN V2”, the latest version of its wearable device (**TraceScan V2**). The news release announced that TraceScan V2 had significantly enhanced features and passed “all requisite testing and deployment procedures” and that Steer anticipated having TraceScan V2 ready for release in February 2021. As of January 5, 2021, Steer had not developed or tested the advertised features in TraceScan V2 and was not in a position to release TraceScan V2 with all of those features.

29. The news release included the following statements about TraceScan V2:

- (a) “TraceSCAN V2 features an extensive set of enhanced functionalities aimed at providing key health and safety benefits...and vital sign monitoring capability.”
- (b) “TraceSCAN V2 will also further integrate temperature checking and other key health and safety functionalities...”

30. Despite the representations that TraceScan V2 “will also further integrate temperature checking and other key health and safety functionalities”, TraceScan V2 did not include vital sign monitoring or other health and safety functionalities beyond temperature checking.

31. In its Management’s Discussion & Analysis (**MD&A**) for the three months ended March 31, 2021, Steer updated the estimated release date of TraceScan V2. Steer stated that it had anticipated releasing TraceScan V2 in July 2021 but because of a global chipset shortage there was no assurance that TraceScan V2 would be available within such a timeframe. Steer did not explain the change in the anticipated TraceScan V2 release date from February 2021 to July 2021.

**D. The April 9, 2021 News Release**

32. As a result of a continuous disclosure review (the **Continuous Disclosure Review**) by the Ontario Securities Commission (**OSC**) that began in 2020, the OSC requested that Steer issue a news release to address certain issues identified during the review, including in respect of TraceScan. Steer issued a news release on April 9, 2021 in response to the OSC’s request.

33. Steer prepared the April 9, 2021 news release through a special process established in response to the Continuous Disclosure Review. Steer’s in-house counsel worked with a special committee of independent directors to prepare and approve the April 9, 2021 news release, which contained a quarter-by-quarter development summary for TraceScan for 2020. In the course of the OSC’s investigation into this matter, it was found that the development summary did not achieve the intended effect of clarifying the development stages of TraceScan throughout 2020.

**E. Relationship With Medtronics**

34. On May 11, 2020, Steer entered into a consulting services agreement with Medtronics Online Solutions Ltd. (**Medtronics**). Under the agreement, Medtronics was to assist with a business expansion strategy, assist with the design and implementation of marketing and promotional activities, and provide general consulting services. Steer and Medtronics terminated their relationship on October 19, 2020.

35. The CEO of Medtronics was also the editor of the website OilPrice.com. During the Material Time, which included the period of the contract between Medtronics and Steer, OilPrice.com issued numerous overly promotional articles about Steer.

36. OilPrice.com had also issued overly promotional material regarding Steer before Medtronics entered into a contract with Steer, but only after Steer and Medtronics had agreed upon a draft contract.

37. Each of OilPrice.com’s promotional articles included a disclaimer stating that OilPrice.com had a relationship with Steer that created “a major conflict with our ability to be unbiased.”

38. The Respondents were aware of OilPrice.com’s promotional articles, at least one of which included a quote from Navaratnam, Steer’s CEO. Despite this knowledge, Steer proceeded with and continued the relationship with Medtronics. Neither Steer, nor its executives, took steps to stop OilPrice.com from releasing overly promotional content.

**F. Failure to Correct Forward-Looking Information**

39. In its May 28, 2020 news release, Steer announced that the Waterloo Team was developing a prototype of an AI platform for TraceScan, which would be available for testing within 30 to 90 days. It described this AI platform as consisting of

“algorithms, using clustering techniques to group individuals within a community and incorporate physical distancing, quarantining, and testing results to assist in forecasting the spread of COVID-19 and predicting future outbreaks.”

40. The Waterloo Team’s AI platform was not available for testing within 90 days of the May 28, 2020 news release.
41. When Steer’s projected dates for the availability of its AI platform for testing did not materialize, Steer failed to update the announced forward-looking information in subsequent news releases, including the development summary in the April 9, 2021 news release, or in any of its MD&As.

**G. Mitigating Factors**

42. The Respondents cooperated fully with the OSC during the investigation into this matter, including by producing all requested documents in a timely manner.
43. The Respondents also cooperated fully with the OSC during the Continuous Disclosure Review, including by issuing the April 9, 2021 news release and other disclosures.
44. Steer voluntarily took the following actions before entering into this agreement:
  - (a) hired internal legal counsel;
  - (b) created a special committee of independent directors to investigate and review circumstances related to disclosure issues raised by the OSC during the Continuous Disclosure Review;
  - (c) revised its existing disclosure policy, including by having external legal counsel review all of its continuous disclosure; and
  - (d) changed the composition of its Disclosure Committee to include its internal legal counsel.

**PART IV - NON-COMPLIANCE WITH ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST**

45. By engaging in the conduct described above, the Respondents acknowledge and admit that:
  - (a) Steer issued contradictory and misleading news releases, contrary to the public interest;
  - (b) Navaratnam, Pushparajah, and Razvi each failed to take adequate steps to ensure that Steer’s news releases were not misleading, contrary to the public interest;
  - (c) Steer entered into a contractual relationship with Medtronics, which was operated by the same person who posted biased and promotional articles about Steer on OilPrice.com both before and during the relationship, contrary to the public interest;
  - (d) Navaratnam and Razvi authorized Steer to enter into a contractual relationship with Medtronics when they knew or ought to have known that OilPrice.com was publishing biased and promotional articles about Steer, contrary to the public interest;
  - (e) Steer failed to update or correct the anticipated date when the Waterloo Team’s AI platform would be available for testing, either in a subsequent news release or in its next MD&A, contrary to section 5.8 of NI 51-102; and
  - (f) Navaratnam and Razvi each authorized, permitted or acquiesced in Steer’s contravention of section 5.8 of NI 51-102, contrary to subsection 129.2 of the Act.

**PART V - TERMS OF SETTLEMENT**

46. The Respondents agree to the terms of settlement set forth below.
47. The Respondents consent to the Order substantially in the form attached to this Settlement Agreement as Schedule “A”, pursuant to which it is ordered that:
  - (a) this Settlement Agreement is approved;
  - (b) Steer shall:
    - (i) pay an administrative penalty to the Commission in the amount of \$300,000, pursuant to paragraph 9 of subsection 127(1) of the Act;



- (ii) submit, at its own cost, to a review by an independent consultant acceptable to the Enforcement Branch of the OSC of:
    - a. its corporate governance framework, including the roles of its officers and directors and the composition of its Disclosure Committee;
    - b. its disclosure policies; and
    - c. the policies, processes, reports, and systems related to disclosure controls and procedures, the terms of which are set forth in Schedule "A" to the Order and shall institute such changes as the independent consultant recommends within 60 days of receiving the consultant's recommendations;
  - (iii) submit, at its own cost, to quarterly reviews of its disclosure practices by a consultant acceptable to the Enforcement Branch of the OSC, for a period of two years after the receipt of the consultant's recommendations referred to in subparagraph 47(b)(ii);
  - (iv) institute the following requirements of its Disclosure Committee for a period of two years after the date of Order:
    - a. the Disclosure Committee shall be composed of four members, at least two of whom shall be independent directors of Steer; and
    - b. all continuous disclosure documents and any public disclosure in whole or in part of an investor-relations nature shall be approved by the Disclosure Committee;
  - (v) require all members of its Disclosure Committee to participate in a corporate governance and continuous & timely disclosure course acceptable to the Enforcement Branch of the OSC; and
  - (vi) pay costs to the Commission in the amount of \$40,000, pursuant to section 127.1 of the Act.
- (c) Navaratnam shall:
- (i) pay an administrative penalty to the Commission in the amount of \$75,000, pursuant to paragraph 9 of subsection 127(1) of the Act;
  - (ii) complete a course on disclosure issues satisfactory to the Enforcement Branch of the OSC;
  - (iii) be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Steer or its affiliates, for three years; and
  - (iv) pay costs to the Commission in the amount of \$15,000, pursuant to section 127.1 of the Act.
- (d) Pushparajah shall:
- (i) be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Steer or its affiliates, for two years;
  - (ii) complete a course on disclosure issues satisfactory to the Enforcement Branch of the OSC;
  - (iii) be prohibited from certifying an interim filing or an annual filing, as those terms are defined in National Instrument 52-109 *Certification of Disclosure in Issuers' Annual and Interim Filings*, until he has completed the course referred to in paragraph 47(d)(ii) above; and
  - (iv) pay costs to the Commission in the amount of \$15,000, pursuant to section 127.1 of the Act.
- (e) Razvi shall:
- (i) pay an administrative penalty to the Commission in the amount of \$40,000, pursuant to paragraph 9 of subsection 127(1) of the Act;
  - (ii) complete a course on disclosure issues satisfactory to the Enforcement Branch of the OSC;
  - (iii) be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Steer or its affiliates, for two years; and
  - (iv) pay costs to the Commission in the amount of \$15,000, pursuant to section 127.1 of the Act.

48. Pushparajah shall make a voluntary payment to the Commission in the amount of \$50,000.
49. The Respondents shall pay all administrative penalties and costs set out in paragraph 47 and the voluntary payment set out in paragraph 48 by wire transfer to the Commission before the commencement of the settlement hearing (the **Settlement Hearing**).
50. The Respondents consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the sanctions set out in paragraph 47. The applicable sanctions may be modified to reflect the provisions of the relevant provincial or territorial securities law.
51. The Respondents acknowledge that this Settlement Agreement and/or the Order may form the basis for orders of parallel effect (but, for clarity, without duplication of the monetary payments set out in paragraphs 47 and 48) in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondents. The Respondents should contact the securities regulator of any other jurisdiction in which the Respondents intends to engage in any securities- or derivatives-related activities, prior to undertaking such activities.

#### **PART VI - FURTHER PROCEEDINGS**

52. If the Tribunal approves this Settlement Agreement, no enforcement proceeding will be commenced or continued against the Respondents under Ontario securities law based on the misconduct described in Part III of this Settlement Agreement, unless the Respondents fail to comply with any term in this Settlement Agreement.
53. If the Respondents fail to comply with any term in this Settlement Agreement, enforcement proceedings under Ontario securities law may be brought against the Respondents.
54. The Respondents waive any defences to a proceeding referenced in paragraphs 52 or 53 that are based on the limitation period in the Act, provided that no such proceeding shall be commenced later than six years from the date of the occurrence of the last failure to comply with this Settlement Agreement.

#### **PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT**

55. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Tribunal, which shall be held on a date determined by the Tribunal in accordance with this Settlement Agreement and the Tribunal's *Rules of Procedure and Forms*.
56. The Respondents will attend the Settlement Hearing by video conference.
57. The parties confirm that this Settlement Agreement sets forth all facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.
58. If the Tribunal approves this Settlement Agreement:
  - (a) the Respondents irrevocably waive all rights to a full hearing, judicial review or appeal of this matter under the Act; and
  - (b) neither party will make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.
59. Whether or not the Tribunal approves this Settlement Agreement, the Respondents will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Tribunal's jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may be available.

#### **PART VIII - DISCLOSURE OF SETTLEMENT AGREEMENT**

60. If the Tribunal does not make the Order:
  - (a) this Settlement Agreement and all discussions and negotiations between the parties before the Settlement Hearing will be without prejudice to either party; and
  - (b) the parties will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations contained in the Statement of Allegations in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

**A.3: Orders**

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61. The parties will keep the terms of this Settlement Agreement confidential until the Tribunal approves the Settlement Agreement, except as is necessary to make submissions at the Settlement Hearing. If, for whatever reason, the Tribunal does not approve the Settlement Agreement, the terms of the Settlement Agreement shall remain confidential indefinitely, unless the parties otherwise agree in writing or if required by law.

**PART IX - EXECUTION OF SETTLEMENT AGREEMENT**

62. This Settlement Agreement may be signed in one or more counterparts which together constitute a binding agreement.

63. An electronic copy of any signature will be as effective as an original signature.

**DATED at Toronto, Ontario, this 2nd day of May, 2023.**

**STEER TECHNOLOGIES INC.**

I have authority to bind the Corporation.

By: "Suman Pushparajah"

Name: Suman Pushparajah

Title: CEO

**DATED at Toronto, Ontario, this 2nd day of May, 2023.**

**SAYANTHAN NAVARATNAM**

"Sayanthan Navaratnam"

Sayanthan Navaratnam

**DATED at Toronto, Ontario, this 2nd day of May, 2023.**

**SUMAN PUSHPARAJAH**

"Suman Pushparajah"

Suman Pushparajah

**DATED at Toronto, Ontario, this 2nd day of May, 2023.**

**JUNAID RAZVI**

"Junaid Razvi"

Junaid Razvi

**DATED at Toronto, Ontario, this 2nd day of May, 2023.**

**ONTARIO SECURITIES COMMISSION**

By:

"Jeff Kehoe"

Name: Jeff Kehoe

Title: Director, Enforcement Branch

**SCHEDULE "A"**

**IN THE MATTER OF  
STEER TECHNOLOGIES INC. (FORMERLY FACEDRIVE INC.),  
SAYANTHAN NAVARATNAM,  
SUMAN PUSHPARAJAH, AND  
JUNAID RAZVI**

File No.

*(Names of panelists comprising the panel)*

*(Day and date order made)*

**ORDER**

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

**WHEREAS** on [date] the Capital Markets Tribunal held a hearing by videoconference to consider the request for approval of settlement agreement between Enforcement Staff of the Ontario Securities Commission (**Staff**) and each of the respondents dated [date] (the **Settlement Agreement**);

**ON READING** the Joint Application for Settlement Hearing, including the Statement of Allegations dated [date] and the Settlement Agreement, the written submissions, and on hearing the submissions of representatives of each of the parties, and on being advised by Staff that the Commission has received the payments from the respondents in accordance with the terms of the Settlement Agreement,

**IT IS ORDERED** that:

1. the Settlement Agreement is approved;
2. Steer Technologies Inc. (**Steer**) shall:
  - (a) pay an administrative penalty to the Commission in the amount of \$300,000 , pursuant to paragraph 9 of subsection 127(1) of the Act;
  - (b) submit to a review by an independent consultant acceptable to the Enforcement Branch of the OSC, and paid for by Steer, of:
    - (i) its corporate governance framework, including the roles of its officers and directors and the composition of its Disclosure Committee
    - (ii) its disclosure policies, and
    - (iii) the policies processes, reports, and systems related to disclosure controls and procedures, the terms of which are set forth in Schedule "A" to this Order, and institute such changes as the independent consultant recommends within 60 days of receiving the consultant's recommendations;
  - (c) submit, at its own cost, to quarterly reviews of its disclosure practices by a consultant acceptable to the Enforcement Branch of the OSC, for a period of two years after the receipt of the consultant's recommendations referred to in paragraph 2(a) of this Order;
  - (d) institute the following requirements of its Disclosure Committee for a period of two years from the date of this Order:
    - (i) the Disclosure Committee shall be composed of four members, at least two of whom shall be independent directors of Steer; and
    - (ii) all continuous disclosure documents and any public disclosure in whole or in part of an investor-relations nature shall be approved by the Disclosure Committee;
  - (e) require all members of its Disclosure Committee to participate in a corporate governance and continuous & timely disclosure course acceptable to the Enforcement Branch of the OSC; and
  - (f) pay costs to the Commission in the amount of \$40,000, pursuant to section 127.1 of the Act.

**A.3: Orders**

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3. Sayanthan Navaratnam shall:
- (a) pay an administrative penalty to the Commission in the amount of \$75,000, pursuant to paragraph 9 of subsection 127(1) of the Act;
  - (b) be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Steer or its affiliates, for three years from the date of this Order;
  - (c) complete a course on disclosure issues satisfactory to the Enforcement Branch of the OSC; and
  - (d) pay costs to the Commission in the amount of \$15,000, pursuant to section 127.1 of the Act.
4. Suman Pushparajah shall:
- (a) be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Steer or its affiliates, for two years from the date of this Order;
  - (b) complete a course on disclosure issues satisfactory to the Enforcement Branch of the OSC;
  - (c) be prohibited from certifying an interim filing or an annual filing, as those terms are defined in National Instrument 52-109 Certification of Disclosure in Issuers' Annual and Interim Filings, until he has completed the course referred to in paragraph 4(a) above; and
  - (d) pay costs to the Commission in the amount of \$15,000, pursuant to section 127.1 of the Act.
5. Junaid Razvi shall:
- (a) pay an administrative penalty to the Commission in the amount of \$40,000, pursuant to paragraph 9 of subsection 127(1) of the Act;
  - (b) be prohibited from becoming or acting as a director or officer of a reporting issuer, other than Steer or its affiliates, for two years from the date of this Order;
  - (c) complete a course on disclosure issues satisfactory to the Enforcement Branch of the OSC; and
  - (d) pay costs to the Commission in the amount of \$15,000, pursuant to section 127.1 of the Act.

[Adjudicator]

[Adjudicator]

[Adjudicator]

**IN THE MATTER OF  
STEER TECHNOLOGIES INC. (FORMERLY FACEDRIVE INC.),  
SAYANTHAN NAVARATNAM,  
SUMAN PUSHPARAJAH, AND  
JUNAID RAZVI**

**TERMS AND CONDITIONS OF  
INDEPENDENT REVIEW OF  
PRACTICES AND PROCEDURES**

This document is made in connection with the settlement agreement dated [date] (the **Settlement Agreement**) in File No. [XXX]. All terms in this document have the same meaning as in the Settlement Agreement.

Steer shall:

1. Retain, within thirty (30) days of the date of the Order, at its own expense a qualified independent consultant (the **Consultant**) acceptable to the Enforcement Branch of the OSC, to review Steer's corporate governance framework, its disclosure policies, and the policies, processes, reports, and systems related to disclosure controls and procedures. The Consultant's review and evaluation shall include an assessment of the following:
  - (a) its corporate governance framework, including the roles of its officers and directors and the composition of its Disclosure Committee;
  - (b) its disclosure policies; and
  - (c) the policies, processes, reports, and systems related to disclosure controls and procedures,
2. Provide, within forty-five (45) days of the date of the Order, a copy of the engagement letter detailing the Consultant's responsibilities to a Manager of the Enforcement Branch of the OSC.
3. Require the Consultant, at the conclusion of the review, which in no event shall be more than 120 days after the date of the Order, to submit the Consultant's report to Steer and to a Manager of the Corporate Finance Branch of the OSC. The report shall address the Consultant's findings and shall include a description of the review performed, the conclusions reached, and the Consultant's recommendations for changes or improvements.
4. Adopt, implement, and maintain all policies, procedures and practices recommended in the report of the Consultant within 60 days of receiving the report from the Consultant. As to any of the Consultant's recommendations about which Steer and the Consultant do not agree, such parties shall attempt in good faith to reach agreement within 90 days of the date of the date of the Order. In the event that Steer and the Consultant are unable to agree on an alternative proposal within 90 days of the date of the Order, Steer will abide by the determination of the Consultant and adopt those recommendations deemed appropriate by the Consultant.
5. Cooperate fully with the Consultant in its review, including making such information and documents available as the Consultant may reasonably request, and by permitting and requiring the Steer's employees and agents to supply such information and documents as the Consultant may reasonably request, subject to any applicable privilege.
6. To ensure the independence of the Consultant, Steer (i) shall not have received legal, auditing, or other services from, or have had any affiliations with, the Consultant during the two years prior to the date of the Order; (ii) shall not have the authority to terminate the Consultant without prior written approval of the Enforcement Branch of the OSC; and (iii) shall compensate the Consultant for services rendered pursuant to the Order at their reasonable and customary rates.
7. Require the Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with the Respondents, or any of their present or former affiliates, directors, officers, employees, or agents acting in their capacity. The agreement will also provide that the Consultant will require that any firm with which they are affiliated or of which they are a member, and any person engaged to assist the Consultant in performance of their duties under the Order shall not, without prior written consent of the Enforcement Branch of the OSC, enter into any employment, consultant, attorney-client, auditing or other professional relationship with Steer, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity as such for the period of engagement and for a period of two years after the engagement.
8. The reports by the Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the reports could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as

### A.3: Orders

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agreed to by the parties in writing, (3) to the extent that the OSC determines in its sole discretion that disclosure would be in furtherance of the OSC's discharge of its duties and responsibilities, or (4) is otherwise required by law.

9. Require the Consultant to report to a Manager of the Corporate Finance of the OSC on its activities as the OSC may request.
10. Steer agrees that the OSC may extend any of the dates set forth above at its discretion.
11. Certify, in writing, compliance with the requirements set forth above. The certification shall identify the requirements, provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The OSC may make reasonable request for further evidence of compliance, and Steer agrees to provide such evidence. The certification and reporting material shall be submitted to the Manager of the Corporate Finance Branch of the OSC no later than thirty days (30) from the date of the completion of the requirements.

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# A.4

## Reasons and Decisions

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### A.4.1 Bridging Finance Inc. et al. – s. 12(1) of the Statutory Powers Procedure Act and rule 26(1) of the CMT Rules of Procedure and Forms

Citation: *Bridging Finance Inc (Re)*, 2023 ONCMT 19

Date: 2023-05-16

File No. 2022-09

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

#### REASONS FOR DECISION

(Subsection 12(1) of the *Statutory Powers Procedure Act*, RSO 1990, c S.22 and Rule 26(1) of the *Capital Markets Tribunal Rules of Procedure and Forms*)

**Adjudicators:** Russell Juriansz (chair of the panel)  
Timothy Moseley  
Sandra Blake

**Hearing:** In writing; final written submissions received May 10, 2023

**Appearances:** Brian H. Greenspan For David Sharpe  
Naomi M. Lutes  
Alistair Crawley  
Melissa MacKewn  
Daniel Thomas  
Alexandra Grishanova  
Lawrence E. Thacker For Natasha Sharpe  
Jonathan Chen  
Mari Galloway  
Mark Bailey For Staff of the Ontario Securities Commission  
Johanna Braden

#### REASONS FOR DECISION

### 1. OVERVIEW

- [1] The respondents David Sharpe and Natasha Sharpe moved to stay this enforcement proceeding. The motions arise from the Ontario Securities Commission's decision not to seek an order under s. 17 of the *Securities Act* (the **Act**)<sup>1</sup> before including certain compelled evidence in the OSC's 2021 application to the Superior Court of Ontario for the appointment of a receiver over Bridging entities.
- [2] The Sharpes ask this Tribunal to issue summonses to five members of Staff of the OSC, compelling their attendance at the hearing of the stay motions. The Sharpes submit that the intended witnesses may have relevant evidence to give about how the OSC proceeded with the receivership application. We treat the Sharpes' request for summonses as a motion to be heard in writing.

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<sup>1</sup> RSO 1990, c S.5

[3] On May 15, 2023, we dismissed the request, for reasons to follow.<sup>2</sup> In these reasons for that decision, we explain that in substance, the request is an impermissible attempt to re-litigate issues that we decided in dismissing the Sharpes' earlier request for documentary disclosure in aid of the stay motions.<sup>3</sup>

## 2. ANALYSIS

[4] The Sharpes request summonses under s. 12(1) of the *Statutory Powers Procedure Act*<sup>4</sup> and rule 26(1) of the *Capital Markets Tribunal Rules of Procedure*. Those provisions say that this Tribunal "may" require the attendance of a person at a hearing.

[5] The Sharpes submit that they are entitled to a full evidentiary record for their stay motions. They want to elicit evidence about what the internal process was behind the OSC's decision to pursue the receivership application without a s. 17 order. They seek evidence about, among other things: (i) the OSC's analysis of that question, (ii) the preparation of some of the materials in the court application, (iii) the OSC's communications with the media and the receiver, (iv) any consideration by the OSC of the Sharpes' interests with respect to publication of the compelled testimony, and (v) the OSC's communications with law enforcement about ongoing or potential criminal investigations.

[6] The Sharpes ask that we issue summonses to the OSC's Chief Executive Officer, its Director of Enforcement, two Senior Litigation Counsel, and one Senior Forensic Accountant. The Sharpes submit that to the best of their knowledge, those five individuals were central to the decision to include compelled evidence in the receivership application.

[7] In their earlier motion for documentary disclosure, the Sharpes sought various documents that might exist and that the Sharpes hoped would support their stay motions. The scope of their request closely resembled the above list of topics.<sup>5</sup> In dismissing that earlier motion, we found that the Sharpes had failed to establish a tenable case for their stay motions. Specifically:

- a. the publication the Sharpes complained of was in a different proceeding (the receivership proceeding in court), and had it occurred in this proceeding, it would have been permitted by s. 17(6) of the *Act*;<sup>6</sup>
- b. the Sharpes failed to persuade us how the OSC's wrongful act in the receivership proceeding might have an effect on this proceeding;<sup>7</sup>
- c. the Sharpes failed to demonstrate a reasonable possibility that the continuation of this proceeding would violate the fundamental principles of justice;<sup>8</sup> and
- d. the Sharpes conceded that there was no evidence of bad faith on the part of OSC Staff.<sup>9</sup>

[8] The only indications that exist in the record about what underlay the OSC's decision to proceed without a s. 17 order run counter to the Sharpes' assertion that the decision may have improperly targeted David Sharpe. Those indications are:

- a. in the evidentiary record, an email from Staff litigation counsel at the time of the initial request for a temporary order, in which email the Staff counsel advised of the OSC's position that no s. 17 order was required in connection with the receivership application; and
- b. Staff's unchallenged submission, made in a previous hearing and acknowledged in an earlier decision of this Tribunal, that the OSC had on other unrelated occasions publicly disclosed compelled evidence in connection with a receivership application, without a s. 17 order.<sup>10</sup>

[9] Despite that background, the Sharpes urge us to see this request for summonses as being very different from their earlier request for documents. They correctly point out that the two requests are based on different statutory provisions and rules. However, the differences are not meaningful.

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<sup>2</sup> *Bridging Finance Inc (Re)*, Order dated May 15, 2023

<sup>3</sup> *Bridging Finance Inc (Re)*, 2023 ONCMT 8 (**Documentary Disclosure Decision**)

<sup>4</sup> RSO 1990, c S.22

<sup>5</sup> *Documentary Disclosure Decision* at para 8

<sup>6</sup> *Documentary Disclosure Decision* at para 22

<sup>7</sup> *Documentary Disclosure Decision* at paras 27-38

<sup>8</sup> *Documentary Disclosure Decision* at para 25

<sup>9</sup> *Documentary Disclosure Decision* at para 32

<sup>10</sup> *Sharpe (Re)*, 2022 ONSEC 3 at para 114

#### A.4: Reasons and Decisions

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- [10] In substance the two requests are congruent, as foreshadowed by counsel for David Sharpe at an April 14, 2023, attendance in this proceeding: “Having been refused the documents, we still have the opportunity to seek to summons the individuals. We just will be less pointed in our efforts because we don’t have the documents.”<sup>11</sup>
- [11] The congruence is also exemplified by how the Sharpes described the purpose of their request for summonses: “...so that evidence that informs the issues engaged by the Stay Motion is tendered at the hearing by the Relevant Witnesses”,<sup>12</sup> and how they described the purpose of their earlier request for documents: “all of the requested materials are relevant... to the stay motion being brought by Mr. Sharpe.”<sup>13</sup>
- [12] The Sharpes have not persuaded us that we ought to apply a different standard to this request as we did to the earlier request that we dismissed. In both instances, the Sharpes ask us to compel the delivery of evidence, whether that evidence is oral or documentary. We see no reason in principle to take a different approach.
- [13] The Sharpes also correctly submit that the applicable standard is a low bar. But there is a bar, and that bar requires us to assess whether we have any basis in the record to think that the requested summonses are more than a fishing expedition. The Sharpes have identified nothing to suggest that the summonses would lead to relevant evidence that might indicate abusive conduct on the part of Staff. It is not sufficient to speculate that such evidence might exist.
- [14] Our conclusions on this motion are unaffected by the recent Supreme Court of Canada decision in *R v Haevischer*,<sup>14</sup> about which Staff provided further submissions. The Sharpes did not provide submissions in response. In our view, *Haevischer* does not relate to the issues on this motion. That decision relates to the screening threshold for applications for a stay of proceedings based on allegations of abuse of process. Our decision on this motion is confined to whether we should issue summonses in aid of a motion.
- [15] There is no reasonable basis for the Sharpes’ request. We decline to exercise our discretion to issue any of the requested summonses.

Dated at Toronto this 16th day of May, 2023

“Russell Juriansz”

“Timothy Moseley”

“Sandra Blake”

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<sup>11</sup> Hearing transcript, April 14, 2023 at p 19 lines 14-16

<sup>12</sup> Written submissions of David and Natasha Sharpe, April 21, 2023 at para 29

<sup>13</sup> Written submissions of David Sharpe, January 6, 2023 at para 42

<sup>14</sup> 2023 SCC 11

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# B. Ontario Securities Commission

## B.2 Orders

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### B.2.1 Yamana Gold Inc.

#### Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – the issuer ceases to be a reporting issuer under securities legislation of each of the provinces and territories of Canada – the securities of the issuer are beneficially owned by more than 50 persons and are not traded through any exchange or market – there is a de minimis number of Canadian securityholders holding a de minimis number of debt securities – the debt securities are guaranteed by a reporting issuer that would qualify as a "credit support issuer" under section 13.4 of National Instrument 51-102 Continuous Disclosure Obligations.

#### Applicable Legislative Provisions

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

May 15, 2023

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

**AND**

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

**AND**

**IN THE MATTER  
YAMANA GOLD INC.  
(the Filer)**

**ORDER**

#### Background

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

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

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

#### Interpretation

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

## Representations

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

1. The Filer is a corporation governed by the *Canada Business Corporations Act* with its head office located in Toronto, Ontario.
2. The Filer is a reporting issuer in each of the provinces and territories of Canada and is not in default of any of its obligations under the securities legislation of any of the provinces and territories of Canada.
3. The authorized capital of the Filer consists of common shares. As at March 30, 2023, the Filer had the following issued and outstanding securities: (i) 962,196,883 common shares (the **Filer Shares**) listed on the Toronto Stock Exchange, the NYSE American LLC and the London Stock Exchange; (ii) 1,241,077 restricted share units; (iii) 2,213,967 performance share units; (iv) 5,444,594 deferred share units; and (v) US\$782,875,000 of Senior Notes (defined below).
4. On January 31, 2023, the shareholders of the Filer approved a statutory plan of arrangement under section 192(7) of the *Canada Business Corporations Act* (**Plan of Arrangement**).
5. The arrangement (the **Arrangement**) was completed on March 31, 2023 (the **Effective Date**).
6. Under the Plan of Arrangement, Pan American Silver Corp. (**Pan American**) acquired all of the Filer Shares after the sale to Agnico Eagle Mines Limited (**Agnico**) of the Filer's Canadian assets, including certain subsidiaries and partnership which hold the Filer's interests in the Canadian Malartic mine, all upon the terms and conditions of the arrangement agreement dated November 4, 2022, between the Filer, Pan American and Agnico. The Filer obtained the final order of the Ontario Superior Court of Justice approving the Arrangement on February 6, 2023.
7. Pursuant to the Plan of Arrangement, among other things, the following occurred on the Effective Date:
  - a. all of the Filer Shares have been transferred to Pan American in exchange for common shares of Pan American; and
  - b. all of the Filer's restricted share units, performance share units and deferred share units have been transferred to the Filer and cancelled in exchange for a cash payment.
8. Immediately upon the completion of the Arrangement, on the Effective Date, the Filer became a wholly-owned subsidiary of Pan American, and as of the Effective Date, the only securities of the Filer that are outstanding are: (i) 962,196,883 Filer Shares held by Pan American; and (ii) US\$782,875,000 of Senior Notes (defined below).
9. As a result of the completion of the Arrangement, the Filer has no active operations in Canada.
10. The Filer previously issued US\$500 million aggregate principal amount of 2.63% senior notes due August 2031 (the **2031 Notes**) and US\$300 million aggregate principal amount of 4.625% senior notes due December 2027 (the **2027 Notes**).
11. US\$17.125 million of the 2027 Notes have been redeemed, resulting in US\$282.875 million aggregate principal amount of 2027 Notes outstanding (together, with the 2031 Notes, the **Senior Notes**).
12. The Senior Notes were issued pursuant to a trust indenture dated June 30, 2014 as amended and supplemented from time to time (the **Indenture**) on a private placement basis, primarily to qualified institutional buyers in the United States in accordance with Rule 144A of the United States Securities Act of 1933 (the **Securities Act**) as well as to persons outside the United States in accordance with Regulation S of the Securities Act.
13. The Senior Notes have not been qualified for distribution to the public under the securities laws of any province or territory of Canada and may not be offered and sold in Canada, directly or indirectly, other than pursuant to applicable private placement exemptions. The Senior Notes are not convertible or exchangeable into equity or other voting securities of the Filer.
14. All of the Senior Notes are held in book-entry form and are represented by global certificates registered in the name of The Depository Trust Company or its nominee (**DTC**), with beneficial interests therein recorded in the records maintained by DTC and its participants as financial intermediaries that hold securities on behalf of their clients.
15. The Filer made diligent enquiry with Broadridge Financial Solutions, Inc. (**Broadridge**) and obtained information to ascertain the beneficial ownership of the Senior Notes.
16. The Filer reviewed reports prepared by Broadridge as at April 6, 2023 (the **Securityholder Reports**) to better understand the number of Canadian beneficial holders of the Senior Notes. The Securityholder Reports, comprised of a Canadian

## B.2: Orders

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and a foreign beneficial holder report, contain the geographical holdings information gathered by Broadridge from financial intermediaries in Canada and the United States that hold beneficial interests in the Senior Notes.

17. Out of the aggregate principal amount of US\$782,875,000 of Senior Notes, the Securityholder Reports provide a geographic breakdown representing US\$735,086,004 of the Senior Notes, and the remaining US\$47,788,996 of the Senior Notes, representing 6.104% of the aggregate principal amount of the Senior Notes, were held by an undisclosed number of holders who have elected not to be identified.
18. The Securityholder Reports capture collectively 1,031 known beneficial holders of Senior Notes, representing 93.896% of the aggregate principal amount of the Senior Notes, of which 1 is a Canadian resident in Quebec, holding US\$15,000 of aggregate principal amount of the Senior Notes (representing approximately 0.002% of the issued and outstanding Senior Notes).
19. The terms of the Senior Notes do not require that the Filer maintain its status as a reporting issuer in any jurisdiction or otherwise restrict the Filer's ability to obtain the Order Sought.
20. Pan American is a reporting issuer in each of the provinces and territories of Canada.
21. In accordance with the terms of the Indenture, Pan American, the Filer, Wilmington Trust, National Association, as the trustee (**Trustee**) and Citibank, NA (**Securities Administrator**) entered into a supplemental indenture dated as of March 31, 2023, as filed on SEDAR on March 31, 2023, whereby Pan American voluntarily agreed to become a guarantor under the Indenture.
22. As Pan American became a guarantor under the Indenture, Pan American would qualify as a "credit support issuer" under section 13.4 of National Instrument 51-102 *Continuous Disclosure Obligations*.
23. The Indenture includes a reporting covenant providing that notwithstanding that the Filer may not be required to remain subject to reporting requirements under U.S. securities laws, or otherwise report on an annual and quarterly basis on forms provided for such annual and quarterly reporting, the Filer shall continue to provide Trustee and Securities Administrator:
  - a. within 90 days of the end of each fiscal year, audited consolidated financial statements of the Filer for the preceding fiscal year, and a corresponding management's discussion and analysis of such audited consolidated financial statements; and
  - b. within 60 days of the end of the first three fiscal quarters of each fiscal year, unaudited financial statements of the Filer for the preceding fiscal quarter, and a corresponding management's discussion and analysis of such unaudited consolidated financial statements.
24. The reporting covenant can only be modified with consent of the majority of noteholders. On May 5, 2023, Pan American announced the successful completion of a consent solicitation process that amends the reporting covenant in the Indenture to provide that, for so long as the Senior Notes are guaranteed by Pan American or any other entity that directly or indirectly controls the Filer, reports of Pan American or of such other controlling entity may be provided in lieu of reports of the Filer. The amendments were approved by a majority in the principal amount outstanding of each series of Senior Notes. As such, reports will continue to be provided to Trustee and Securities Administrator.
25. The Filer Shares have been delisted from the Toronto Stock Exchange effective as of the close of trading on April 3, 2023, and from the NYSE American LLC effective as of the open of trading on April 3, 2023.
26. The Financial Conduct Authority has cancelled the listing of the Filer Shares on the standard listing segment of the official list as of the open of trading on April 3, 2023, and the London Stock Exchange has cancelled the trading of the Filer Shares on the London Stock Exchange's main market as of the open of trading on April 3, 2023.
27. The Senior Notes have never been listed on any exchange.
28. The Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*.
29. No securities of the Filer, including debt securities, are traded in Canada or another country on a marketplace as defined in National Instrument 21-101 *Marketplace Operation* or any other facility for bringing together buyers and sellers of securities where trading data is publicly reported.
30. The Filer is applying for an order that the Filer has ceased to be a reporting issuer in all of the jurisdictions of Canada in which it is a reporting issuer.

## B.2: Orders

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31. The Filer has no current intention to seek financing by way of public offering of securities in Canada or to distribute securities to the public in Canada.
32. The Filer is not eligible to use the simplified procedure under National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* as it has more than 51 holders of Senior Notes.

### Order

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

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

"Marie-France Bourret"  
Manager, Corporate Finance  
Ontario Securities Commission

OSC File #: 2023/0132



## B.3 Reasons and Decisions

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### B.3.1 Fidelity Investments Canada ULC

#### Headnote

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

#### Applicable Legislative Provisions

National Instrument 41-101 – General Prospectus Requirements, ss. 3.1(2) and 19.1(1).  
National Instrument 81-102 – Investment Funds, Parts 9, 10 and 14, and s. 19.1(1).

May 3, 2023

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

AND

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

AND

IN THE MATTER OF  
FIDELITY INVESTMENTS CANADA ULC  
(the Filer)

DECISION

#### Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of Fidelity Canadian Large Cap Fund (the **Existing Fund**) and such other mutual funds as are managed or may be managed by the Filer now or in the future that offer ETF Securities (as defined below) and Mutual Fund Securities (as defined below) (collectively, the **Future Funds** and together with the Existing Fund, the **Funds**, and each, a **Fund**), for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that:

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

**Requirements**) of Parts 9, 10 and 14 of National Instrument 81-102 *Investment Funds (NI 81-102)* (the **Sales and Redemptions Relief**),

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

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

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

### **Interpretation**

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

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

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

**Basket of Securities** means, in relation to the ETF Securities of a Fund, a group of some or all of the constituent securities of the Fund, a group of securities or assets representing the constituents of the Fund, or a group of securities selected by the portfolio manager or sub-advisor, as applicable, from time to time.

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

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

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

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

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

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

**Neo Exchange** means the Neo Exchange Inc.

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

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

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

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

**TSX** means the Toronto Stock Exchange.

### **Representations**

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

**The Filer**

1. The Filer is a corporation amalgamated under the laws of the province of Alberta and its head office is located in Toronto, Ontario.
2. The Filer is registered as: (a) a portfolio manager, mutual fund dealer and exempt market dealer in each of the provinces and territories of Canada; (b) an investment fund manager in the provinces of Ontario, Québec, and Newfoundland and Labrador; and (c) as a commodity trading manager in the province of Ontario.
3. The Filer, or an affiliate of the Filer, is, or will be, the investment fund manager of each of the Funds.
4. The Filer is not in default of securities legislation in any of the Canadian Jurisdictions.

**The Funds**

5. Each Fund is, or will be, an open-ended mutual fund established as either a trust or a class of shares of a mutual fund corporation under the laws of a Canadian Jurisdiction. Each Fund is, or will be, a reporting issuer in the Canadian Jurisdictions in which its securities are distributed. Each Fund that relies on the Exemption Sought will offer ETF Securities and Mutual Fund Securities.
6. Subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities, each Fund is, or will be, subject to NI 81-102 and Securityholders will have the right to vote at a meeting of Securityholders in respect of matters prescribed by NI 81-102.
7. The Existing Fund currently offers multiple series of Mutual Fund Securities under a simplified prospectus dated November 10, 2022, as amended on December 14, 2022 (the **Simplified Prospectus**).
8. On or about May 4, 2023, an amendment to the Simplified Prospectus in respect of the ETF Securities of the Existing Fund, as well as ETF Facts for each series of ETF Securities of the Existing Fund, will be filed with the securities regulatory authorities in each of the Canadian Jurisdictions.
9. The Filer will apply to list any ETF Securities of the Funds on the TSX, Neo Exchange or another Marketplace. The Filer will not file a final or amended simplified prospectus for any of the Funds in respect of the ETF Securities until the TSX, Neo Exchange or other applicable Marketplace has conditionally approved the listing of the ETF Securities.
10. The Existing Fund is not in default of securities legislation in any of the Canadian Jurisdictions.
11. Mutual Fund Securities may be subscribed for or purchased directly from a Fund through appropriately registered dealers.
12. ETF Securities will be distributed on a continuous basis in one or more of the Canadian Jurisdictions under a simplified prospectus. ETF Securities may generally only be subscribed for or purchased directly from the Funds (**Creation Units**) by Authorized Dealers or Designated Brokers. Generally, subscriptions or purchases may only be placed for a Prescribed Number of ETF Securities (or a multiple thereof) on any day when there is a trading session on the TSX, Neo Exchange or other Marketplace. Authorized Dealers or Designated Brokers subscribe for Creation Units for the purpose of facilitating investor purchases of ETF Securities on the TSX, Neo Exchange or another Marketplace.
13. In addition to subscribing for and reselling their Creation Units, Authorized Dealers, Designated Brokers and Affiliate Dealers will also generally be engaged in purchasing and selling ETF Securities of the same class or series as the Creation Units in the secondary market.
14. Each Designated Broker or Authorized Dealer that subscribes for Creation Units must deliver, in respect of each Prescribed Number of ETF Securities to be issued, a Basket of Securities and/or cash in an amount sufficient so that the value of the Basket of Securities and/or cash delivered is equal to the net asset value of the Prescribed Number of ETF Securities next determined following the receipt of the subscription order. In the discretion of the Filer, the Funds may also accept subscriptions for Creation Units in cash only, in securities other than Baskets of Securities and/or cash and, for certain Funds, in bitcoin or ether, as applicable, and/or cash, in each case in an amount equal to the net asset value of the Prescribed Number of ETF Securities next determined following the receipt of the subscription order.
15. The Designated Brokers and Authorized Dealers will not receive any fees or commissions in connection with the issuance of Creation Units to them. On the issuance of Creation Units, the Filer or the Fund may, in the Filer's discretion, charge a fee to a Designated Broker or an Authorized Dealer to offset the expenses incurred in issuing the Creation Units.
16. Each Fund will appoint a Designated Broker to perform certain other functions, which include standing in the market with a bid and ask price for ETF Securities for the purpose of maintaining liquidity for the ETF Securities.

### **B.3: Reasons and Decisions**

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17. Except for Authorized Dealer and Designated Broker subscriptions for Creation Units, as described above, and other distributions that are exempt from the Prospectus Delivery Requirement under the Legislation, ETF Securities generally will not be able to be purchased directly from a Fund. Investors are generally expected to purchase and sell ETF Securities, directly or indirectly, through dealers executing trades through the facilities of the TSX, Neo Exchange or another Marketplace in Canada. ETF Securities may also be issued directly to Securityholders upon a reinvestment of distributions of income or capital gains.
18. Securityholders that are not Designated Brokers or Authorized Dealers that wish to dispose of their ETF Securities may generally do so by selling their ETF Securities on the TSX, Neo Exchange or other Marketplace, through a registered dealer, subject only to customary brokerage commissions. A Securityholder that holds a Prescribed Number of ETF Securities or multiple thereof may exchange such ETF Securities for Baskets of Securities and/or cash, securities other than Baskets of Securities and/or cash, cash only or, for certain Funds, bitcoin or ether, as applicable, and/or cash, in the discretion of the Filer. Securityholders may also redeem ETF Securities for cash at a redemption price equal to 95% of the net asset value of the ETF Securities on the date of redemption.

#### ***ETF Prospectus Form Relief***

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

#### ***Sales and Redemptions Relief***

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

#### **Decision**

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

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

### B.3: Reasons and Decisions

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- (b) with respect to its ETF Securities, each Fund complies with the provisions of Parts 9 and 10 of NI 81-102 that apply to exchange-traded mutual funds.

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

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

Application File #: 2023/0037  
SEDAR Project #: 3534995

### B.3.2 1832 Asset Management L.P. or an Affiliate

#### Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – alternative mutual funds granted relief from: subsection 2.6(2), section 2.6.1 and section 2.6.2 of NI 81-102 to physically short sell and borrow cash up to 100% of NAV – mutual funds granted relief from subsection 6.1(1) of NI 81-102 to appoint additional custodians and to clarify that short sale proceeds are excluded for the purposes of calculating non-custodial borrowing agent collateral limits under section 6.8.1 of NI 81-102 – relief subject to conditions.

#### Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.6(2)(c), 2.6.1(1)(c)(v), 2.6.2, 6.1(1), 6.8.1, and 19.1.

May 17, 2023

**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.  
(1832 AM)  
OR AN AFFILIATE  
(collectively, the Filer)**

**DECISION**

#### Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer on behalf of each existing investment fund of which the Filer, or an affiliate of the Filer, is the manager and to which National Instrument 81-102 *Investment Funds (NI 81-102)* applies (the **Existing Funds**) and any future investment funds of which the Filer, or an affiliate of the Filer, is the manager and to which NI 81-102 applies (each a **Future Fund** and, collectively with the Existing Funds, the **Funds** and each a **Fund**) for a decision under the securities legislation of the Jurisdiction:

- (i) exempting each of Dynamic Short Term Credit PLUS Fund, Dynamic Alpha Performance II Fund and Dynamic Credit Absolute Return II Fund, and any future alternative mutual funds of which the Filer, or an affiliate of the Filer, is the manager and to which NI 81-102 applies (each an **Alternative Fund** and collectively, the **Alternative Funds**) from:
  - (a) subparagraph 2.6.1(1)(c)(v) of NI 81-102, which restricts an Alternative Fund from selling a security short if, at the time, the aggregate market value of all securities sold short by the Alternative Fund exceeds 50% of the Alternative Fund's NAV (together with (i)(c) below, the **Short Selling Limit**);
  - (b) subparagraph 2.6(2)(c) of NI 81-102, which restricts an Alternative Fund from borrowing cash if the value of cash borrowed, when aggregated with the value of all outstanding borrowing by the Alternative Fund, exceeds 50% of the Alternative Fund's NAV (together with (i)(c) below, the **Cash Borrowing Limit**); and
  - (c) section 2.6.2 of NI 81-102, which restricts an Alternative Fund from borrowing cash or selling securities short if, immediately after entering into a cash borrowing or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the Fund (the **Combined Aggregate Value**) would exceed 50% of the Alternative Fund's NAV and which requires an Alternative Fund, if the Combined Aggregate Value exceeds 50% of the Alternative Fund's

NAV, as quickly as commercially reasonable, to take all necessary steps to reduce the Combined Aggregate Value to 50% or less of the Alternative Fund's NAV;

- (ii) exempting each of the Funds from the requirement in subsection 6.1(1) of NI 81-102 that, except as provided, all portfolio assets of a Fund be held under the custodianship of one qualified custodian,
  - (a) to permit a Fund to deposit portfolio assets with a borrowing agent that is not the Fund's custodian or sub-custodian in connection with a short sale of securities, if the aggregate market value of the portfolio assets held by the borrowing agent after such deposit, excluding the aggregate market value of the proceeds from outstanding short sales of securities held by the borrowing agent, (i) in the case of a Fund that is a mutual fund, other than an alternative mutual fund, exceeds 10% of the Fund's NAV at the time of deposit or (ii) in the case of a Fund that is an alternative mutual fund, exceeds 25% of the Fund's NAV at the time of deposit (the **Short Sale Collateral Relief**); and
  - (b) to permit each Fund to appoint more than one custodian, each of which is qualified to be a custodian under Section 6.2 of NI 81-102 and each of which is subject to all of the other requirements in NI 81-102 Part 6 *Custodianship of Portfolio Assets* other than the prohibition against the Fund appointing more than one custodian in subsection 6.1(1) of NI 81-102 (the **Custodian Relief**),

((i)(a) and (i)(c) together, the **Short Selling Relief**, (i)(b) and (i)(c) together, the **Cash Borrowing Relief**, and collectively with the Short Sale Collateral Relief and the Custodian Relief, 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 the Application;
- (ii) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-202 *Passport System (MI 11-102)* is intended to be relied upon in each of British Columbia, Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut (collectively, together with the Jurisdiction, the **Canadian Jurisdictions**).

### **Defined Terms**

Unless expressly defined herein, terms in this Application have the respective meanings given to them in National Instrument 81-101 *Mutual Fund Prospectus Disclosure (NI 81-101)*, NI 81-102, National Instrument 14-101 *Definitions* or MI 11-102.

**Custodian** means the custodian of each Fund, other than an Additional Custodian appointed in reliance upon the Exemption Sought;

**NAV** means net asset value;

**Prime Broker** means any entity that acts as a lender or borrowing agent to investment funds;

**Prospectus** means a simplified prospectus of a Fund prepared in accordance with Form 81-101F1 – *Contents of Simplified Prospectus* or a prospectus of a Fund prepared in accordance with Form 41-101F2 *Information Required in an Investment Fund Prospectus*, as the same may be amended from time to time;

**Securities Lending Agreements** means agreements which effect securities lending, repurchase or reverse repurchase transactions between a Fund, as lender of the securities, third party borrowers and the Fund's securities lending agent; and

**Short Sale Collateral Limits** means the limits specified in subparagraph 6.8.1(1)(b) of NI 81-102 on the deposit of portfolio assets by a Fund with a borrowing agent (that is not the custodian or a sub-custodian of the Fund) as security in connection with a short sale of securities.

### **Representations**

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

#### *The Filer*

1. The Filer is a limited partnership formed and organized under the laws of the province of Ontario. The general partner of 1832 AM is 1832 Asset Management G.P. Inc., an Ontario corporation wholly-owned directly by the Bank of Nova Scotia, with its head office in Toronto, Ontario.
2. The Filer is registered as: (i) a portfolio manager in all the provinces of Canada and in the Northwest Territories and the Yukon; (ii) an exempt market dealer in all of the provinces in Canada (except Prince Edward Island and Saskatchewan);

(iii) an investment fund manager in Ontario, Quebec, Newfoundland and Labrador and the Northwest Territories; (iv) a commodity trading manager in Ontario; (v) an adviser in Manitoba; and (vi) a derivatives portfolio manager in Quebec.

3. The Filer is the manager of the Existing Funds and the Filer or an affiliate of the Filer will be the manager of any Future Funds.
4. The Filer is not in default of applicable securities legislation in any of the Canadian Jurisdictions.

*The Funds*

5. Each Fund is, or will be, established under the laws of Ontario or Canada as an investment fund that is a trust, a class of shares of a mutual fund corporation or limited partnership and is, or will be, a reporting issuer in one or more of the Canadian Jurisdictions.
6. Each of the Funds is, or will be, an investment fund governed by NI 81-102, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.
7. The securities of each Fund are, or will be, qualified for distribution in one or more of the Canadian Jurisdictions under a Prospectus prepared and filed in accordance with the securities legislation of such Canadian Jurisdictions.
8. None of the Existing Funds is in default of applicable securities legislation in any of the Canadian Jurisdictions except possibly in relation to the subject matter of the application filed by the Filer along with other investment fund managers on December 21, 2022 seeking an exemption from subsection 4.1(1) of NI 81-102.
9. The Bank of Nova Scotia (the **Current Custodian**), an affiliate of the Filer, is custodian of the assets of certain Funds managed by the Filer.

**Reasons for the Exemption Sought**

*Short Selling Relief and Cash Borrowing Relief*

10. The investment objective of each Alternative Fund will differ but, in each case, key investment strategies which may be utilized by an Alternative Fund may include (a) the use of market-neutral, offsetting, inverse or shorting strategies requiring the use of short selling in excess of the Short Selling Limit and/or (b) the use of cash borrowing to provide additional investment exposure in connection with the investment strategies of the Alternative Fund in excess of the Cash Borrowing Limit.
11. Market-neutral strategies are well-recognized for limiting market risk, balancing long and short positions within an investment portfolio with the objective of providing positive returns regardless of whether the broader market rises, falls or is flat. Market-neutral strategies are designed to have less volatility than the broader market when measured over medium to long-term periods. Market-neutral strategies also provide diversification to investors as returns are intended to be uncorrelated to the performance of the broader market – such strategies are designed to effectively remove any “beta” component from their returns and investment exposures.
12. As part of an investment strategy, short positions can serve as both a hedge against exposure to a long position or a group of long positions and also as a source of returns with an offsetting long position or positions. The Alternative Funds will generally seek to generate an attractive risk/return profile independent of the direction of the broad markets. As such, at the portfolio level, these strategies will seek to hedge out an Alternative Fund’s exposure to the direction of broad markets, and to generate positive performance from the difference, specifically, the spread between the performance of the portfolio’s long and short positions.
13. The ability to engage in additional short selling and cash borrowing in connection with the investment strategies of an Alternative Fund may provide material cost savings to the Alternative Fund compared to obtaining the same level of investment exposure through the use of specified derivatives while, at the same time, not increasing the overall level of risk to the Alternative Fund.
14. The costs to the Alternative Funds of engaging in physical short sales and cash borrowing are typically less when compared to the equivalent derivative transactions due to a number of factors which may include:
  - (a) Prime Brokers typically have greater flexibility to offer more favourable financing terms to an Alternative Fund in relation to the aggregate amount of the Alternative Fund’s assets held in the prime brokerage margin account in relation to short sales and cash borrowing.
  - (b) Margin requirements for derivative instruments are primarily based on the underlying investment exposure and, as a result, can be high.



- (c) Certain derivative instruments (such as futures contracts) require cash or near cash securities (such as government treasuries) to be deposited with the counterparty as collateral. This would require an Alternative Fund to use these portfolio assets to satisfy collateral requirements rather than utilizing them in connection with the Alternative Fund's investment strategy.
16. The Alternative Funds may use cash borrowing as a more flexible and cost-efficient means of providing additional leverage for investment strategies such as merger arbitrage strategies where the use of derivative instruments to provide the same level of exposure may not be practical. In connection with such strategies, the Filer is typically required to respond in a timely manner to public disclosure relating to a transaction and market movements in the share price of the target and/or acquiror company. The use of cash borrowing in such circumstances provides an easily accessible tool which enables the Filer to implement the investment decision more quickly compared to the use of derivative instruments which provide the same level of exposure on a synthetic basis.
17. Cash borrowing is more efficient to utilize on a day-to-day basis compared to derivative instruments which generally require a higher degree of negotiation and ongoing administration on the part of the Filer. The Cash Borrowing Relief would provide the Filer with access to a more functional source of additional leverage to utilize on behalf of the Alternative Funds at a lower cost which, in turn, would benefit investors.
18. The investment strategies of each Alternative Fund permit, or will permit, it to:
- (a) sell securities short, provided that, at the time the Alternative Fund sells a security short (i) the aggregate market value of securities of any one issuer (other than "government securities" as defined in NI 81-102 or index participation units as permitted by the exemptive relief granted to the Alternative Funds on September 19, 2019) sold short by the Alternative Fund does not exceed 10% of the Alternative Fund's NAV; and (ii) the aggregate market value of all securities sold short by the Alternative Fund does not exceed 100% of its NAV (other than "government securities" as defined in NI 81-102 as permitted by the exemptive relief granted to the Alternative Funds on June 21, 2019 and which is currently relied upon by Dynamic Credit Absolute Return II Fund and Dynamic Short Term Credit PLUS Fund);
- (b) borrow cash, provided that, at the time, the value of cash borrowed when aggregated with the value of all outstanding borrowing by the Alternative Fund does not exceed 100% of the Alternative Fund's NAV;
- (c) borrow cash or sell securities short, provided that the aggregate value of cash borrowed combined with the aggregate market value of the securities sold short by the Alternative Fund does not exceed 100% of the Alternative Fund's NAV (other than "government securities" as defined in NI 81-102 as permitted by the exemptive relief granted to the Alternative Funds on June 21, 2019 and which is currently relied upon by Dynamic Credit Absolute Return II Fund and Dynamic Short Term Credit PLUS Fund) (the **Total Borrowing and Short Selling Limit**). If the Total Borrowing and Short Selling Limit is exceeded, the Alternative Fund shall, as quickly as is commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short to be within the Total Borrowing and Short Selling Limit; and
- (d) borrow cash, sell securities short or enter into specified derivatives transactions, provided that, immediately after entering into a cash borrowing, short selling or specified derivative transaction, the aggregate value of cash borrowed combined with the aggregate market value of securities sold short and aggregate notional amount of the Alternative Fund's specified derivatives positions (other than positions held for hedging purposes, as defined in NI 81-102) would not exceed 300% of the Alternative Fund's NAV as set out in section 2.9.1 of NI 81-102 (the **Leverage Limit**). If the Leverage Limit is exceeded, the Alternative Fund shall, as quickly as is commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short and the aggregate notional amount of the Alternative Fund's specified derivatives positions (other than positions held for hedging purposes) to be within the Leverage Limit.
19. An alternative mutual fund that is subject to NI 81-102 is permitted to take leveraged long and short positions using specified derivatives up to the Leverage Limit. As such, the Short Selling Relief and Cash Borrowing Relief would not be required if the Alternative Funds utilized solely specified derivatives to obtain short exposure to the underlying securities or to provide additional investment exposure in connection with the Alternative Fund's investment strategies. NI 81-102 contemplates that alternative mutual funds may utilize shorting strategies using a combination of short sale transactions (subject to the Short Selling Limit) and specified derivative positions and obtain additional investment exposure using a combination of cash borrowing (subject to the Cash Borrowing Limit) and specified derivative positions subject, in all cases, to the Leverage Limit. Alternative mutual funds that were previously known as commodity pools provide 100% or 200% inverse exposure through the use of specified derivatives, which is consistent with the Leverage Limit and does not trigger the application of the Short Selling Limit or Cash Borrowing Limit for which the Filer is requesting exemptive relief. Accordingly, the Short Selling Relief and Cash Borrowing Relief would simply allow the Alternative Funds to do directly what they could otherwise do indirectly through the use of specified derivatives.

### B.3: Reasons and Decisions

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20. The Alternative Funds require the flexibility to enter into physical short positions and borrow cash when doing so is, in the opinion of the Filer, in the best interests of the applicable Alternative Fund and to not be obligated to utilize an equivalent short position or amount of leverage synthetically through the use of specified derivatives as a result of regulatory restrictions in NI 81-102 that the Filer believes do not provide any material additional benefit or protection to investors.
21. The Filer believes that the Short Selling Relief and the Cash Borrowing Relief would allow the Filer to more effectively manage each Alternative Fund's investment exposure by providing it with the ability to respond to market developments in a timely manner and enabling the Filer to reduce the related expenses incurred by the Alternative Funds. In addition, specified derivative options may not be readily available for certain securities, may be relatively illiquid or may require large capital commitments on the part of the Alternative Fund.
22. While there may be certain situations where using a synthetic short position may be preferable, physical short positions are typically less costly, because of the ability to execute trades with a larger number of counterparties, compared to a single counterparty for synthetic shorts. This can result in lower borrowing costs for the Alternative Fund and reduce its exposure to counterparty risk (e.g. counterparty default, counterparty insolvency and premature termination of derivatives) compared to a synthetic short position.
23. The Filer, as a registrant and a fiduciary, is in the best position to determine, depending on the surrounding circumstances, whether the Alternative Funds should enter into a physical short position and/or obtain additional investment exposure via cash borrowing versus achieving the same result through the use of specified derivatives. The Short Selling Relief and Cash Borrowing Relief would provide the Filer with the required flexibility to make timely trading decisions between physical and synthetic short sale positions and/or achieving additional investment exposure through cash borrowing or synthetic transactions. Accordingly, the Short Selling Relief and the Cash Borrowing Relief would permit the Filer to implement more effective portfolio management activities on behalf of an Alternative Fund and its investors. Investors would benefit by obtaining access to a more diversified set of investment opportunities than are currently available, while remaining within the overall investment limits set out in NI 81-102.
24. Any physical short position or cash borrowing transaction entered into by an Alternative Fund will be consistent with the investment objectives and strategies of the applicable Alternative Fund.
25. The investment strategies of each Alternative Fund will clearly disclose that the short selling and cash borrowing strategies and abilities of the Fund are outside the scope of NI 81-102, including that the aggregate market value of all securities sold short by the Alternative Fund and/or the aggregate amount of cash borrowed may exceed 50% of the Alternative Fund's NAV. The Prospectus will also contain appropriate risk disclosure, alerting investors of any material risks associated with such investment strategies.
26. The Filer does not consider that granting the Short Selling and Cash Borrowing Relief would constitute either a fundamental or material change for the Alternative Funds under NI 81-102 or National Instrument 81-106 *Investment Fund Continuous Disclosure*.
27. The Filer will determine the risk rating for each Alternative Fund using the Investment Risk Classification Methodology as set out in Appendix F of NI 81-102. The Filer does not anticipate that the current risk ratings of the Alternative Funds would change if the Short Selling and Cash Borrowing Relief were granted.
28. The Filer has comprehensive risk management policies and/or procedures that address the risks associated with short selling and cash borrowing in connection with the implementation of the investment strategy of each Alternative Fund.
29. Each Alternative Fund will implement the following controls when conducting a short sale:
  - (a) The Alternative Fund will assume the obligation to return to the borrowing agent the securities borrowed to effect the short sale;
  - (b) The Alternative Fund will receive cash for the securities sold short within normal trading settlement periods for the market in which the short sale is effected;
  - (c) The Filer will monitor the short positions within the constraints of the Exemption Sought as least as frequently as daily;
  - (d) The security interest provided by the Alternative Fund over any of its assets that is required to enable the Alternative Fund to effect a short sale transaction is made in accordance with industry practice for that type of transaction and relates only to obligations arising under such short sale transactions;
  - (e) The Filer will maintain appropriate internal controls regarding short sales, including written policies and procedures for the conduct of short sales, risk management controls and proper books and records; and

- (f) The Filer will keep proper books and records of short sales and all assets of an Alternative Fund deposited with borrowing agents as security.
30. The Filer believes that it is in the best interests of each of the Alternative Funds to be permitted to engage in physical short selling and to obtain additional investment exposure through the use of cash borrowing in excess of the current limits set out in NI 81-102.

*Short Sale Collateral Relief*

31. As part of its investment strategies, each Fund that engages in short sales of securities is permitted to grant a security interest in favour of and to deposit pledged portfolio assets with its Prime Broker. If a Fund engages as its Prime Broker an entity that is not its custodian or sub-custodian, then a Fund may only deliver to its Prime Broker portfolio assets having a market value, in the aggregate, of not more than (i) in the case of a Fund that is a mutual fund, other than an alternative mutual fund, 10% of the Fund's NAV at the time of deposit or (ii) in the case of an Alternative Fund, 25% of the Alternative Fund's NAV at the time of deposit.
32. A Prime Broker may not wish to act as the borrowing agent for a Fund that has the ability to sell securities short that have an aggregate market value of up to 50% of the Fund's NAV (or more in the case of an Alternative Fund if the Short Selling Relief is granted) if the Prime Broker is only permitted to hold, as security for such transactions, portfolio assets having an aggregate market value that is not in excess of either 10% or 25% of a Fund's NAV, as applicable.
33. Prime Brokers that are qualified to act as a custodian or sub-custodian under NI 81-102 are not widely appointed as custodians or sub-custodians under NI 81-102 as it can be both operationally challenging and costly to appoint them to act in such capacity.
34. Given the typical collateral requirements that Prime Brokers impose on their customers who engage in the short sale of securities, if the Short Sale Collateral Limits apply, the Funds would need to retain multiple Prime Brokers in order to sell short securities to the extent permitted under Section 2.6.1 of NI 81-102 and, if granted, the Short Selling Relief described above. Managing and overseeing relationships with multiple Prime Brokers introduces unnecessary operational and administrative complexities and additional costs of operation for the Funds.

*Custodian Relief*

35. The Filer would like the flexibility for each Fund to engage an additional custodian that is qualified to act as a custodian under subsection 6.2(3) of NI 81-102, which may include engaging Prime Brokers that satisfy such requirements (each, an **Additional Custodian**). The ability to appoint a Prime Broker to act as an Additional Custodian will increase operational efficiency and reduce execution risk and costs for a Fund as it will avoid the need to transfer the Fund's portfolio assets from a third party custodian to the Prime Broker to effect transactions conducted by the Fund through the Prime Broker. The Filer and any Additional Custodians would be subject to all requirements applicable to custodians under Part 6 of NI 81-102, other than the requirement in subsection 6.1(1) of NI 81-102 that there only be one custodian.
36. An Additional Custodian may also be appointed as a securities lending agent of the Funds and, in such circumstances, would provide the Funds with the opportunity to enter into a greater number of Securities Lending Agreements than would be the case with a single custodian and would therefore have the potential to increase revenues to the Funds from securities lending activities.
37. Prime Brokers are not widely appointed as sub-custodians by Custodians under NI 81-102 as it can be both operationally challenging for the Custodian and the Filer to appoint them to act in such capacity.
38. The Current Custodian is unable or unwilling to appoint a foreign sub-custodian to custody certain portfolio assets of the Funds in which it acts as custodian in certain foreign jurisdictions in which such Funds currently, or may intend to, custody assets, including Japan, Hong Kong, Singapore, Australia and New Zealand (the **Foreign Markets**), and is unable or unwilling to complete the process which would be required to approve a qualified sub-custodian in the applicable Foreign Markets.
39. If the Custodian Relief is granted, an Additional Custodian's responsibility for custody of a Fund's assets will apply only to the assets held by the Additional Custodian on behalf of the Fund (the **Relevant Assets**). The custodial arrangements between a Fund and an Additional Custodian will comply with the requirements of Part 6 of NI 81-102 other than subsection 6.1(1).
40. Any Additional Custodian will meet the requirements of NI 81-102 to act as a custodian for an investment fund and will have experience acting as custodian of the assets of public investment funds governed by NI 81-102. As custodian of the Relevant Assets, an Additional Custodian will comply with the standard of care applicable to qualified custodians under Section 6.6 of NI 81-102, will hold the Relevant Assets in the name of the applicable Fund in accordance with Section 6.5 of NI 81-102 and will include the provisions prescribed in Section 6.4 of NI 81-102 in its custody agreement

### B.3: Reasons and Decisions

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with the Filer and the Funds. Each Additional Custodian will complete the review and provide compliance reports to the Filer as contemplated in Section 6.7 of NI 81-102.

41. The ability to terminate an Additional Custodian as custodian of the Relevant Assets of a Fund at any time without cause on written notice will ensure that the Filer maintains ultimate control over all of the portfolio assets of the Funds if the Filer considers it to be in the best interests of the Funds and their respective securityholders to do so.
42. The appointment of an Additional Custodian should not have an impact on the safety of the portfolio assets of the Funds while also enhancing the Funds' abilities to engage in the efficient short selling of securities under Section 6.8.1 of NI 81-102 and to enter into additional Securities Lending Arrangements.
43. Disclosure regarding the particulars of the appointment of any Additional Custodian of the Funds with respect to the Relevant Assets will be included in the next Prospectus filed with respect to the applicable Funds after such appointment is made.

#### 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 the Short Selling Relief and the Cash Borrowing Relief*

1. An Alternative Fund may sell a security short or borrow cash only if, immediately after the cash borrowing or short selling transaction:
  - (a) the aggregate market value of all securities sold short by the Alternative Fund does not exceed 100% of the Alternative Fund's NAV;
  - (b) the aggregate value of all cash borrowing by the Alternative Fund does not exceed 100% of the Fund's NAV;
  - (c) the aggregate market value of securities sold short by the Alternative Fund combined with the aggregate value of cash borrowing by the Alternative Fund does not exceed 100% of the Alternative Fund's NAV; and
  - (d) the Alternative Fund's aggregate exposure to short selling, cash borrowing and specified derivatives does not exceed the Leverage Limit.
2. In the case of a short sale, the short sale:
  - (a) otherwise complies with all of the short sale requirements applicable to alternative mutual funds under sections 2.6.1 and 2.6.2 of NI 81-102; and
  - (b) is consistent with the Alternative Fund's investment objectives and strategies.
3. In the case of a cash borrowing transaction, the transaction:
  - (a) otherwise complies with all of the cash borrowing requirements applicable to alternative mutual funds under sections 2.6 and 2.6.2 of NI 81-102; and
  - (b) is consistent with the Alternative Fund's investment objectives and strategies.
4. The Prospectus under which securities of a Fund are offered discloses in the investment strategies that the Alternative Fund can sell securities short or borrow cash up to, and subject to, the limits described in condition 1 above.

#### *In respect of the Short Sale Collateral Relief:*

5. Each Fund otherwise complies with subsections 6.8.1(2) and (3) of NI 81-102.

#### *In respect of the Custodian Relief:*

6. A Fund may appoint one or more Additional Custodians provided that the following conditions are met:
  - (a) a single entity reconciles all the portfolio assets of each Fund and provides each Fund with valuation and securityholder recordkeeping services and will complete daily reconciliations amongst the Custodians before calculating a daily net asset value;

### B.3: Reasons and Decisions

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- (b) the Filer maintains such operational systems and processes, as between two or more Custodians and the single entity referred to in (a) above, in order to keep a proper reconciliation of all the portfolio assets that will move amongst the Custodians, as appropriate; and
- (c) the Additional Custodian will act as custodian, securities lending agent and/or prime broker only for the portion of portfolio assets of the Funds transferred to it.

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

Application File #: 2023/0185  
SEDAR Project#: 3537702

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## B.4 Cease Trading Orders

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

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke
THERE IS NOTHING TO REPORT THIS WEEK.				

### Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
Nebu Resources Inc.	April 5, 2023	May 18, 2023

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

Company Name	Date of Order	Date of Lapse
Cloud DX Inc.	May 3, 2023	May 17, 2023
Molecule Holdings Inc.	March 1, 2023	May 17, 2023

### 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	
iMining Technologies Inc.	September 30, 2022	
Molecule Holdings Inc.	March 1, 2023	May 17, 2023
Titan Medical Inc.	April 3, 2023	
Halo Collective Inc.	April 3, 2023	
Alkaline Fuel Cell Power Corp.	April 4, 2023	
mCloud Technologies Corp.	April 5, 2023	
Champion Gaming Group Inc.	May 2, 2023	
Element Nutritional Sciences Inc.	May 2, 2023	

**B.4: Cease Trading Orders**

<b>Company Name</b>	<b>Date of Order</b>	<b>Date of Lapse</b>
Eddy Smart Home Solutions Ltd.	May 2, 2023	
Cloud DX Inc.	May 3, 2023	May 17, 2023
CareSpan Health, Inc.	May 5, 2023	
Canada Silver Cobalt Works Inc.	May 5, 2023	
Asante Gold Corporation	May 5, 2023	
Altiplano Metals Inc.	May 5, 2023	
XTM Inc.	May 2, 2023	
VOLTAGE METALS CORP.	May 2, 2023	
Voxtur Analytics Corp.	May 5, 2023	
Hempsana Holdings Ltd.	May 4, 2023	
FRX Innovations Inc.	May 2, 2023	
Magnetic North Acquisition Corp.	May 8, 2023	



## **B.7 Insider Reporting**

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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](http://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](http://www.sedi.ca)).



## B.9

# IPOs, New Issues and Secondary Financings

### INVESTMENT FUNDS

**Issuer Name:**

Barrantagh Small Cap Canadian Equity Fund  
Principal Regulator – Ontario

**Type and Date:**

Final Simplified Prospectus dated May 18, 2023  
NP 11-202 Final Receipt dated May 19, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3517949**

**Issuer Name:**

Premium Cash Management Fund  
US Premium Cash Management Fund  
Principal Regulator – Ontario

**Type and Date:**

Final Long Form Prospectus dated May 18, 2023  
NP 11-202 Final Receipt dated May 19, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3529779**

**Issuer Name:**

Invesco International Developed Dynamic Multifactor Index ETF  
Invesco Morningstar Global Energy Transition Index ETF  
Invesco Russell 1000 Dynamic Multifactor Index ETF  
Principal Regulator – Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated May 18, 2023  
NP 11-202 Preliminary Receipt dated May 19, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3537890**

**Issuer Name:**

FT Balanced Growth Private Wealth Pool  
FT Balanced Income Private Wealth Pool  
FT Growth Private Wealth Pool  
Franklin ActiveQuant Canadian Fund  
Franklin ActiveQuant U.S. Fund  
Franklin Bissett Canada Plus Equity Fund  
Franklin Bissett Canadian Balanced Fund  
Franklin Bissett Canadian Bond Fund  
Franklin Bissett Canadian Dividend Fund  
Franklin Bissett Canadian Equity Fund  
Franklin Bissett Canadian Government Bond Fund  
Franklin Bissett Core Plus Bond Fund  
Franklin Bissett Corporate Bond Fund  
Franklin Bissett Dividend Income Fund  
Franklin Bissett Money Market Fund  
Franklin Bissett Monthly Income and Growth Fund  
Franklin Bissett Short Duration Bond Fund (formerly, Franklin Bissett Canadian Short Term Bond Fund)  
Franklin Bissett Small Cap Fund  
Franklin Bissett Ultra Short Bond Active ETF  
Franklin Brandywine Global Sustainable Balanced Fund  
Franklin Brandywine Global Sustainable Income Optimiser Fund (formerly Franklin Strategic Income Fund)  
Franklin Canadian Core Equity Fund  
Franklin ClearBridge Sustainable Global Infrastructure Income Fund  
Franklin ClearBridge U.S. Sustainability Leaders Fund  
Franklin Clearbridge Sustainable International Growth Fund (formerly, Franklin ClearBridge International Growth Fund)  
Franklin Conservative Income ETF Portfolio  
Franklin Core ETF Portfolio  
Franklin Emerging Markets Core Equity Fund  
Franklin Global Aggregate Bond Active ETF (CAD-Hedged) (formerly, Franklin Liberty Global Aggregard Bond ETF(CAD-Hedged))  
Franklin Global Growth Fund  
Franklin Growth ETF Portfolio  
Franklin High Income Fund  
Franklin Innovation Fund  
Franklin International Core Equity Fund  
Franklin Martin Currie Sustainable Emerging Markets Fund  
Franklin Martin Currie Sustainable Global Equity Fund (formerly, Franklin Martin Currie Global Equity Fund)  
Franklin Quotential Balanced Growth Portfolio  
Franklin Quotential Balanced Income Portfolio  
Franklin Quotential Diversified Equity Portfolio  
Franklin Quotential Diversified Income Portfolio  
Franklin Quotential Growth Portfolio  
Franklin Royce Global Small Cap Premier Fund (formerly, Templeton Global Smaller Companies Fund)  
Franklin Sustainable Canadian Core Equity Fund  
Franklin Sustainable International Core Equity Fund

**B.9: IPOs, New Issues and Secondary Financings**

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Franklin Sustainable U.S. Core Equity Fund  
Franklin U.S. Core Equity Fund  
Franklin U.S. Monthly Income Fund  
Franklin U.S. Opportunities Fund  
Franklin U.S. Rising Dividends Fund  
Franklin Western Asset Core Plus Bond Fund  
Templeton Emerging Markets Fund  
Templeton Global Bond Fund  
Templeton Growth Fund  
Templeton Sustainable Global Balanced Fund (formerly,  
Templeton Global Balanced Fund)  
Principal Regulator – Ontario

**Type and Date:**

Final Simplified Prospectus dated May 17, 2023  
NP 11-202 Final Receipt dated May 19, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3518388**

---

**Issuer Name:**

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

**Type and Date:**

Final Simplified Prospectus dated May 17, 2023  
NP 11-202 Final Receipt dated May 19, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3520613**

---

**Issuer Name:**

Educators Balanced Fund  
Educators Bond Fund  
Educators Dividend Fund  
Educators Growth Fund  
Educators Money Market Fund  
Educators Monitored Aggressive Portfolio  
Educators Monitored Balanced Portfolio  
Educators Monitored Conservative Portfolio  
Educators Monitored Growth Portfolio  
Educators Monthly Income Fund  
Educators Mortgage & Income Fund  
Educators U.S. Equity Fund  
Principal Regulator – Ontario

**Type and Date:**

Final Simplified Prospectus dated May 16, 2023  
NP 11-202 Final Receipt dated May 17, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3520573**

---

**Issuer Name:**

RBC Emerging Markets ex-China Equity Fund  
Principal Regulator – Ontario

**Type and Date:**

Combined Preliminary and Pro Forma Simplified  
Prospectus dated May 16, 2023  
NP 11-202 Preliminary Receipt dated May 17, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3536929**

---

**Issuer Name:**

Canoe International Equity Class  
Canoe Unconstrained Bond Class  
Canoe Unconstrained Bond Fund  
Principal Regulator – Alberta (ASC)

**Type and Date:**

Combined Preliminary and Pro Forma Simplified  
Prospectus dated May 18, 2023  
NP 11-202 Preliminary Receipt dated May 19, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3538116**

---

**Issuer Name:**

GreenWise Balanced Portfolio  
GreenWise Conservative Portfolio  
GreenWise Growth Portfolio  
RGP Alternative Income Portfolio  
RGP Global Sector Class (formerly R.E.G.A.R. Investment  
Management Global Equity Class)  
RGP Global Sector Fund (formerly R.E.G.A.R. Investment  
Management Global Equity Fund)  
RGP Impact Fixed Income Portfolio  
Sectorwise Balanced Portfolio  
Sectorwise Conservative Portfolio  
Sectorwise Growth Portfolio  
Principal Regulator – Quebec

**Type and Date:**

Final Simplified Prospectus dated May 17, 2023  
NP 11-202 Final Receipt dated May 17, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3502862**

---

**Issuer Name:**

Willoughby Investment Pool  
Principal Regulator – British Columbia

**Type and Date:**

Amendment #1 to Final Simplified Prospectus dated May  
12, 2023  
NP 11-202 Final Receipt dated May 18, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3501926**

**Issuer Name:**

Evolve Slate Global Real Estate Enhanced Yield Fund  
Principal Regulator - Ontario

**Type and Date:**

Amendment #1 to Final Long Form Prospectus dated May  
15, 2023

NP 11-202 Final Receipt dated May 17, 2023

**Offering Price and Description:**

-

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

-

**Promoter(s):**

-

**Project #3416288**

---

**Issuer Name:**

Canadian Banc Corp.  
Principal Regulator - Ontario

**Type and Date:**

Final Shelf Prospectus (NI 44-102) dated May 17, 2023  
NP 11-202 Receipt dated May 18, 2023

**Offering Price and Description:**

\$300,000,000 Preferred Shares and Class A Shares

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

-

**Promoter(s):**

-

**Project #3533058**

---

**Issuer Name:**

Dividend 15 Split Corp. II  
Principal Regulator - Ontario

**Type and Date:**

Final Shelf Prospectus (NI 44-102) dated May 17, 2023  
NP 11-202 Receipt dated May 18, 2023

**Offering Price and Description:**

\$900,000,000 Preferred Shares and Class A Shares

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

-

**Promoter(s):**

-

**Project #3534993**

---

**Issuer Name:**

Canadian Banc Corp.  
Principal Jurisdiction - Ontario

**Type and Date:**

Final Shelf Prospectus (NI 44-102) dated June 22, 2021  
Withdrawn on May 17, 2023

**Offering Price and Description:**

\$100,000,000 Preferred Shares and Class A Shares

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

-

**Promoter(s):**

-

**Project #3238792**

**B.9: IPOs, New Issues and Secondary Financings**

---

**Issuer Name:**

Dividend 15 Split Corp. II  
Principal Jurisdiction - Ontario

**Type and Date:**

Final Shelf Prospectus (NI 44-102) dated May 6, 2021  
Withdrawn on May 17, 2023

**Offering Price and Description:**

\$100,000,000  
Preferred Shares  
Class A Shares

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

-

**Promoter(s):**

-

**Project #3207532**

---

NON-INVESTMENT FUNDS

**Issuer Name:**

Eldorado Gold Corporation  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Shelf Prospectus dated May 18, 2023  
NP 11-202 Preliminary Receipt dated May 18, 2023

**Offering Price and Description:**

Common Shares, Debt Securities, Convertible Securities,  
Warrants, Rights, Subscription Receipts, Units

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

-

**Promoter(s):**

-

**Project #3537805**

---

**Issuer Name:**

Else Nutrition Holdings Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Preliminary Shelf Prospectus dated May 18, 2023  
NP 11-202 Preliminary Receipt dated May 18, 2023

**Offering Price and Description:**

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

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

-

**Promoter(s):**

-

**Project #3537986**

---

**Issuer Name:**

Flagship Communities Real Estate Investment Trust  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Shelf Prospectus dated May 17, 2023  
NP 11-202 Preliminary Receipt dated May 18, 2023

**Offering Price and Description:**

US\$350,000,000.00 - Trust Units, Debt Securities,  
Subscription Receipts, Warrants, Units

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

-

**Promoter(s):**

-

**Project #3537407**

**Issuer Name:**

GFL Environmental Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Shelf Prospectus dated May 17, 2023  
NP 11-202 Preliminary Receipt dated May 17, 2023

**Offering Price and Description:**

Subordinate Voting Shares, Preferred Shares, Debt  
Securities, Warrants, Share Purchase Contracts,  
Subscription Receipts, Units

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

-

**Promoter(s):**

-

**Project #3537164**

---

**Issuer Name:**

Lightspeed Commerce Inc.  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Shelf Prospectus dated May 18, 2023  
NP 11-202 Preliminary Receipt dated May 18, 2023

**Offering Price and Description:**

Subordinate Voting Shares, Preferred Shares, Debt  
Securities, Warrants, Subscription Receipts, Units

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

-

**Promoter(s):**

-

**Project #3537693**

---

**Issuer Name:**

Robex Resources Inc.  
Principal Regulator - Quebec

**Type and Date:**

Preliminary Shelf Prospectus dated May 15, 2023  
NP 11-202 Preliminary Receipt dated May 16, 2023

**Offering Price and Description:**

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

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

-

**Promoter(s):**

-

**Project #3536213**

**Issuer Name:**

SesameBuy Inc.  
Principal Regulator - Ontario

**Type and Date:**

Preliminary Long Form Prospectus dated May 17, 2023  
NP 11-202 Preliminary Receipt dated May 18, 2023

**Offering Price and Description:**

\$430,530.00 - 4,305,300 Common Shares on deemed  
exercise of 4,305,300 Special Warrants  
Price: \$0.10

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

-

**Promoter(s):**

-

Project #3537279

**Issuer Name:**

GFL Environmental Inc.  
Principal Regulator - Ontario

**Type and Date:**

Final Shelf Prospectus dated May 17, 2023  
NP 11-202 Receipt dated May 17, 2023

**Offering Price and Description:**

Subordinate Voting Shares, Preferred Shares, Debt  
Securities, Warrants, Share Purchase Contracts,  
Subscription Receipts, Units

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

-

**Promoter(s):**

-

Project #3537164

---

**Issuer Name:**

Bravo Mining Corp. (formerly BPG Metals Corp.)  
Principal Regulator - British Columbia

**Type and Date:**

Final Shelf Prospectus dated May 16, 2023  
NP 11-202 Receipt dated May 17, 2023

**Offering Price and Description:**

C\$200,000,000.00 - COMMON SHARES, WARRANTS,  
SUBSCRIPTION RECEIPTS, UNITS

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

-

**Promoter(s):**

LUIS MAURICIO F. AZEVEDO

Project #3534208

---

**Issuer Name:**

Lightspeed Commerce Inc.  
Principal Regulator - Quebec

**Type and Date:**

Final Shelf Prospectus dated May 18, 2023  
NP 11-202 Receipt dated May 18, 2023

**Offering Price and Description:**

Subordinate Voting Shares, Preferred Shares, Debt  
Securities, Warrants, Subscription Receipts, Units

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

-

**Promoter(s):**

-

Project #3537693

---

**Issuer Name:**

Eldorado Gold Corporation  
Principal Regulator - British Columbia

**Type and Date:**

Final Shelf Prospectus dated May 18, 2023  
NP 11-202 Receipt dated May 18, 2023

**Offering Price and Description:**

Common Shares, Debt Securities, Convertible Securities,  
Warrants, Rights, Subscription Receipts, Units

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

-

**Promoter(s):**

-

Project #3537805

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**Issuer Name:**

Westport Fuel Systems Inc.  
Principal Regulator - British Columbia

**Type and Date:**

Final Shelf Prospectus dated May 18, 2023  
NP 11-202 Receipt dated May 19, 2023

**Offering Price and Description:**

U.S.\$200,000,000 - Common Shares, Preferred Shares,  
Subscription Receipts, Warrants, Debt Securities, Units

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

-

**Promoter(s):**

-

Project #3519926



## B.10 Registrations

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### B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
New Registration	Hiive Markets Limited	Exempt Market Dealer	May 17, 2023
Name Change	From: VL Advisors Inc. To: Espresso Capital IFM Ltd.	Portfolio Manager, Investment Fund Manager	December 2, 2022

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## B.12 Other Information

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### B.12.1 Consents

#### B.12.1.1 Volt Lithium Corp. – 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 Business Corporations Act (Alberta).

##### 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, as am., s. 21(b).

**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  
VOLT LITHIUM CORP.  
(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 into the Province of Alberta 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 are listed and posted for trading on the TSX Venture Exchange (the “**Exchange**”) under the symbol “VLT”. The Applicant does not have any of its securities listed on any other exchange.
3. The Applicant is authorized to issue an unlimited number of common shares, of which 99,734,530 common shares were issued and outstanding as of April 20, 2023.
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 to continue as a corporation under the *Business Corporations Act* (Alberta), R.S.A. 2000, c. B-9 (the “**ABCA**”).
5. The Application for Continuance is being made (i) in light of the Applicant’s lithium brine operations in Alberta, (ii) because certain of the Applicant’s executives are located in Alberta, and (iii) for corporate and administrative reasons.

## B.12: Other Information

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6. The material rights, duties and obligations of a corporation governed by the ABCA are substantially similar to those of a corporation governed by the OBCA.
7. The Applicant's registered office is located at 217 Queen Street West, Suite 401, Toronto, Ontario, M5V 0R2 and its head office is located at 639 - 5<sup>th</sup> Avenue SW, Ste. 1925, Calgary, Alberta, T2P 0M9. Following the Continuance, the registered office will be located at Suite 3810, 888 – 3<sup>rd</sup> Street SW, Calgary, Alberta, T2P 5C5 and its head office will remain located at 639 - 5<sup>th</sup> Avenue SW, Ste. 1925, Calgary, Alberta, T2P 0M9.
8. The Applicant is a reporting issuer under the securities legislation of the provinces of British Columbia, Alberta and Ontario, and will remain a reporting issuer in these jurisdictions following the Continuance. The Applicant's principal regulator is the Alberta Securities Commission.
9. The Applicant is not in default of any of the provisions of the OBCA, the *Securities Act* (Ontario) (the "**Act**"), including the regulations or rules made thereunder, or the applicable securities legislation of any other jurisdiction in which it is a reporting issuer.
10. The Applicant is not subject to any proceeding under the OBCA, the Act or the applicable securities legislation of any other jurisdiction in which it is a reporting issuer.
11. The Applicant is not in default of any provision of the rules, regulations or policies of the Exchange.
12. The Applicant's management information circular (the "**Circular**") dated March 6, 2023 which was provided to all securityholders of the Applicant in connection with its special meeting of shareholders, held on April 20, 2023 (the "**Meeting**") described the proposed Continuance and disclosed the reasons for it and its implications. 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.
13. The Applicant's shareholders authorized the Continuance at the Meeting by a special resolution that was approved by 99.99% of the votes cast by the shareholders of the Applicant in person or represented by proxy. No shareholders exercised dissent rights pursuant to section 185 of the OBCA.
14. Subsection 21(b) of the Regulation requires the Application for Continuance to be accompanied by a consent from the Commission.

**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 ABCA.

**DATED** at Toronto on this 19th day of May, 2023.

"Lina Creta"  
Manager, Corporate Finance  
Ontario Securities Commission

OSC File #: 2023/0195

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