

Headnote

Application for a decision to exempt a money services business (**MSB**) from the dealer registration and prospectus requirements in connection with certain distributions of and trades in over-the-counter (**OTC**) derivatives that are made by the filer with a “permitted counterparty” or an “eligible derivatives party” – “permitted counterparty” defined to mean “permitted client” as defined in Section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* – “eligible derivatives party” as defined in section 1.1 of National Instrument 93-101 *Derivatives: Business Conduct* (**NI 93-101**) – exemption sought as an interim response to current regulatory uncertainty associated with the regulation of OTC derivatives, pending the development by the Canadian Securities Administrators (the **CSA**) of a uniform framework for the regulation of OTC derivatives in all provinces and territories of Canada – Decision includes terms and conditions of relief that are based on the regulatory framework for derivatives firms set out in NI 93-101 and the proposed derivatives registration rule being developed by the CSA and a “sunset date” that is date that is the earlier of: (i) the date that is four years after the date of the Decision; (ii) 90 days after the date of registration of the filer under securities, commodity futures or derivatives legislation in Canada, and (iii) the coming into force in the jurisdiction of legislation or a rule that specifically governs dealer, adviser or other registration requirements applicable to market participants in connection with OTC derivative transactions.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c.S.5, as am., ss. 25(1), 53(1) and 74

National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, s. 1.1 (“permitted client”)

National Instrument 93-101 *Derivatives: Business Conduct* and Proposed National Instrument 93-102 *Derivatives: Registration* (“eligible derivatives party”, “commercial hedger” and “eligible commercial hedger”)

February 14, 2025

**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 MTFX INC.
(the Filer)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application (the **Application**) from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the Filer and its officers, directors and representatives be exempt from

- (a) the dealer registration requirement (the **Dealer Registration Relief**), and
- (b) the prospectus requirement (the **Prospectus Relief**),

in the Legislation in respect of distributions of or other trades in OTC Derivatives (as defined below) in connection with the Filer's foreign exchange risk management and payment services business (the **Filer's FX Business**) made by

- i. the Filer to or with a Permitted Counterparty (as defined below) or an Eligible Derivatives Party (as defined below), and
- ii. a Permitted Counterparty or an Eligible Derivatives Party to or with the Filer,

as the case may be, subject to the terms and conditions below (the **Requested Relief**).

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

1. the Ontario Securities Commission (the **OSC**) is the principal regulator for the Application; and
2. the Filer has provided notice that, in the case of the Dealer Registration Relief and, in the jurisdictions where required, the Prospectus Relief, section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in Newfoundland and Labrador, Northwest Territories, Nunavut, Prince Edward Island and Yukon (collectively, with Ontario, the **Applicable Jurisdictions**).

Interpretation

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

In this decision, the following terms have the following meanings:

Clearing Corporation has the meaning ascribed to that term in Appendix A to this decision;

Client means an Existing Client (as defined below) or a New Client (as defined below), as applicable;

Commercial Hedger has the meaning ascribed to that term in section 1.1 [*Definition of terms used throughout this Instrument*] of NI 93-101;

Eligible Commercial Hedger has the meaning ascribed to that term in section 1.1 [*Definition of terms used throughout this Instrument*] of NI 93-101;

Eligible Derivatives Party has the meaning ascribed to that term in section 1.1 [*Definition of terms used throughout this Instrument*] of NI 93-101;

Forward Contract has the meaning ascribed to that term in Appendix A to this decision;

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

NI 93-101 means National Instrument 93-101 *Derivatives: Business Conduct*;

OSA means the *Securities Act* (Ontario);

OTC Derivative has the meaning ascribed to that term in Appendix A to this decision;

Option has the meaning ascribed to that term in Appendix A to this decision;

Permitted Counterparty means a person or company that is a “permitted client”, as that term is defined in section 1.1 [*Definition of terms used throughout this Instrument*] of NI 31-103; and

Underlying Interest has the meaning ascribed to that term in Appendix A to this decision.

Representations

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

The Filer

1. The Filer is incorporated under the *Business Corporations Act* (Ontario).
2. The Filer is a privately held entity owned directly and indirectly by its four principals, Abdulaziz Harji, Shamim Harji, Hanif Harji and Arif Harji.

3. The Filer is engaged predominantly in the business of offering global payments and currency exchange services in the United States and Canada.
4. As part of the services offered, the Filer markets various financial products that allow businesses and, in some cases, individuals to hedge specific risks, including the risk of currency value fluctuations and to send and receive international payments. Such products include Forward Contracts.
5. The Filer is registered as a Money Services Business (**MSB**) under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada) (PCMLTFA)* and associated regulations. As an MSB, the Filer fully complies with anti-money laundering and anti-terrorist financing laws and regulations in Canada and, in particular, the Guidelines produced by the Financial Transactions and Reports Analysis Centre of Canada (**FINTRAC**).
6. The Filer is licensed as a MSB in the categories of currency exchange and fund transfer under the *Money-services Businesses Act (Quebec) (MSBA)*.
7. The Filer is not registered under the securities, commodity futures or derivatives legislation of any of the provinces or territories of Canada in any capacity.
8. The Filer is currently offering foreign exchange and payment services to businesses in Ontario, Quebec, British Columbia, Alberta, Manitoba, Saskatchewan, Nova Scotia, Newfoundland and Labrador, Prince Edward Island and New Brunswick.
9. In respect of the provinces outside of the Jurisdiction, Quebec, Newfoundland and Labrador and Prince Edward Island, the Filer relies on exemptions for trading in OTC Derivatives with “Qualified Parties” set out in the following instruments:

Alberta	ASC Blanket Order 91-507 <i>Over-the-Counter Trades in Derivatives</i>
British Columbia	Blanket Order 91-501 <i>Over-the-Counter Derivatives</i>
Manitoba	Blanket Order 91-501 <i>Over-the-Counter Trades in Derivatives</i>
New Brunswick	Local Rule 91-501 <i>Derivatives</i>
Nova Scotia	Blanket Order 91-501 <i>Over the Counter Trades in Derivatives</i>
Saskatchewan	General Order 91-908 <i>Over-the-Counter Derivatives</i>
10. In Quebec, the Filer relies on the exemption for trading in OTC Derivatives with “accredited counterparties” set out in section 7 of the *Derivatives Act (Quebec)*.
11. The Filer does not currently trade in OTC Derivatives with Clients in the Northwest Territories, Nunavut, and Yukon.

12. The Filer is seeking the Requested Relief in the Applicable Jurisdictions in connection with the Application because the OSC and the regulators in the other Applicable Jurisdictions have not adopted blanket orders or local rules comparable to the above instruments and there is no comparable exemption in the OSA or the securities legislation of the other Applicable Jurisdictions. Rather, the Filer understands that the OSC has historically considered applications for exemptive relief by firms seeking to trade OTC Derivatives on a case-by-case basis, pending the development of modernized derivatives business conduct and registration rules.
13. The Filer currently enters into OTC Derivatives with counterparties in the Jurisdiction, Newfoundland and Labrador and Prince Edward Island which meet certain internally specified criteria and can demonstrate conclusively that they are hedging actual or anticipated commercial risks associated with fluctuations in the exchange rate between currencies (**Existing Clients**).
14. The Filer has outstanding OTC Derivatives transactions with Existing Clients and which have expiry or maturity dates beyond the effective date of this Decision (**Existing Transactions**). The Filer seeks to continue Existing Transactions pursuant to the terms under which such Existing Transactions were undertaken and consistent with the applicable requirements of the Terms and Conditions of the Relief.
15. The Filer intends to enter into arrangements for OTC Derivatives transactions (**New Transactions**) with counterparties in the Applicable Jurisdictions with whom it does not currently have arrangements (**New Clients**) consistent with all the requirements of the Terms and Conditions of the Relief.
16. The Filer does not and will not offer OTC Derivatives linked to bitcoin, ether or anything commonly considered a crypto asset, digital or virtual currency, or other novel or emerging asset classes to its Clients in the Applicable Jurisdictions.
17. The Filer is applying for the Requested Relief on a without prejudice basis and in the interest of obtaining regulatory certainty as to their status in the Applicable Jurisdictions. Other than in connection with the subject matter of this Application in the Jurisdiction, Newfoundland and Labrador and Prince Edward Island, in respect of which the Filer makes no admission, the Filer is not in default of securities, commodity futures or derivatives legislation in any province or territory of Canada.

OSC staff position

18. OSC staff have advised the Filer that OTC Derivatives may, depending on the nature of the contract, the manner in which it is offered, the nature of the client, and the manner in which the underlying or reference asset is delivered or custodied, constitute or involve “securities” and “derivatives” for the purposes of Ontario securities law.
19. In support of this view, OSC staff have referred the Filer to the following guidance and caselaw by the OSC and the Canadian Securities Administrators (**CSA**):

- OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario (OSC Staff Notice 91-702)* and the cases cited therein, including *Pacific Coast Coin Exchange v. Ontario (Securities Commission)* and subsequent exemptive relief decisions that have granted exemptive relief to investment dealers based on the guidance in OSC Staff Notice 91-702;
- CSA Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets*;
- Commission and Court decisions involving online trading platforms and evidence of ownership of a commodity, including "warehouse receipts", for investment or speculative purposes;
- OSC guidance in the Companion Policy to OSC Rule 91-506 *Derivatives: Product Determination (OSC Rule 91-506)* on when a foreign exchange derivative may be considered to qualify for the "spot currency exclusion" in s. 2(1)(c) of OSC Rule 91-506; and
- Recent exemptive relief decisions involving MSBs, including *Re Cambridge Mercantile Corp.* dated August 8, 2023 (2023), 46 OSCB 6757.

20. OSC staff have also advised the Filer that as rules are developed and implemented by the CSA that are specifically tailored to over-the-counter derivatives, the Filer will be subject to those rules or instruments in respect of the Filer's trades in OTC Derivatives with Clients.

21. On April 19, 2018, the CSA published a Notice and Request for Comment on the Proposed National Instrument 93-102 *Derivatives: Registration (Proposed NI 93-102)*. On September 28, 2024, NI 93-101 took effect. NI 93-101 and Proposed NI 93-102 together are intended to implement a comprehensive regime for the regulation of persons or companies that are in the business of trading or advising on derivatives.

Proposed Conduct of OTC Derivative Transactions

22. Consistent with its Existing Transactions, the Filer proposes that New Transactions will be bilateral OTC Derivative transactions with counterparties located in the Applicable Jurisdictions that consist exclusively of persons or companies that are Permitted Counterparties and Eligible Derivatives Parties. The Filer understands that the Permitted Counterparties and Eligible Derivatives Parties would be entering into the OTC Derivative transactions for hedging purposes and not for speculative or investment purposes.

23. The Underlying Interest of the OTC Derivatives to be entered into between the Filer and a Permitted Counterparty or an Eligible Derivatives Party will consist of an actual or anticipated commercial or financial foreign currency asset or liability.

24. The Filer may provide early settlement limits and mark-to-market (MTM) limits before requiring margin or collateral, and may require a Client to deposit margin or collateral with the Filer in respect of its obligations in connection with an OTC Derivative transaction that is out of the money (OTM), as a means of managing the MTM risk that the Filer faces with Clients on OTM positions (where the MTM value of the OTC Derivative reflects a credit exposure to the Filer). A Client will be credit risk assessed to determine the maximum MTM exposure acceptable to the Filer. If the MTM exposure of a Client which is subject to margin

terms exceeds the acceptable MTM limit, they will be required to post additional collateral (or variation margin) to the Filer in order to maintain their position in the OTC Derivative.

25. Since Clients are not entering into OTC Derivatives transactions for speculative purposes, the Filer may stipulate a threshold amount in its contracts, which is the reference value of the MTM exposure of the OTC Derivative above which collateral has to be posted to the Filer. Higher credit risk Clients may additionally be required to post initial margin at the outset of an OTC Derivative transaction, as an extra cushion of support to protect the Filer against unexpected credit and operational risks. These risks can include problems such as operational error, large changes in MTM value of an OTC Derivative, as well as delays in receiving collateral.
26. The Filer seeks the Requested Relief as an interim solution, pending the development of a uniform framework for the regulation of OTC Derivative transactions in all provinces and territories of Canada.

Rationale for Requested Relief

27. Filer acknowledges that the definitions of the terms “security” and “derivative” in the OSA are broad and agrees that Clients could benefit from the protection of additional risk disclosure delivered in connection with the exemption order. Accordingly, the Filer is willing to electronically deliver or make available an information statement or other offering document to Clients in order to more fully explain the structure, features and risks of the Filer's OTC Derivatives, as more fully set out in Appendix B.
28. The Requested Relief would provide the Filer and its Clients additional certainty with respect to characterization of OTC Derivative transactions in Canada, by permitting these parties to enter into OTC Derivative transactions in reliance upon exemptions from the dealer registration and prospectus requirements of the securities legislation of the Jurisdiction and each Applicable Jurisdiction on the basis of certain terms and conditions that are set forth in Proposed NI 93-102.
29. If the Requested Relief is granted, the Filer will comply with the terms and conditions of the Requested Relief including the Risk Mitigation Terms and Conditions in Appendix B (collectively, the **Terms and Conditions of the Relief**).
30. The Filer acknowledges that the scope of the Requested Relief and the Terms and Conditions of the Relief may change as a result of developments in international and domestic capital markets or the Filer's activities, or as a result of any changes to the laws in the Applicable Jurisdictions affecting trading in derivatives, commodity futures contracts, commodity futures options or securities.

Books, Records and Reporting

31. The Filer acknowledges that it is or will become, as a result of the Decision, a “market participant” for the purposes of the OSA. For the purposes of the OSA, and as a market participant, the Filer is required by subsection 19(1) of the OSA to: (i) keep such books,

records and other documents as are necessary for the proper recording of its business transactions and financial affairs, and the transactions that it executes on behalf of others; and (ii) keep such books, records and documents as may otherwise be required under Ontario securities law.

32. For the purposes of its compliance with subsection 19(1) of the OSA, the Filer keeps, and will continue to keep, books and records that comply with the applicable recordkeeping requirements in NI 93-101.
33. In respect of the OTC Derivative transactions, the Filer complies with any applicable OTC Derivatives-specific trade reporting rules and instruments in effect in the provinces and territories of Canada, including the following:
 - (a) The derivatives trade reporting rules (including, OSC Rule 91-507 *Derivatives: Trade Reporting*);
 - (b) The fee rule (OSC Rule 13-502 *Fees*), specifically Part 6 “Derivatives Participation Fees”;
 - (c) The derivatives business conduct rule (National Instrument 93-101 *Derivatives: Business Conduct*);
 - (d) The mandatory clearing rule (National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives*); and
 - (e) The segregation and portability rule (National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions*).
34. The Filer does not and will not operate a “marketplace” as that term is defined in National Instrument 21-101 *Marketplace Operation* and in Ontario, subsection 1(1) of the OSA.

Proficiency

35. The Filer represents that the third-party derivatives training courses which are currently available (such as the Canadian Securities Institute's Derivatives Fundamentals Course) are not well-suited to the nature of the Filer’s FX Business. Such courses cover a wide variety of products and assets classes (including exchange-traded products), whereas the Filer’s business is limited to spot foreign exchange contracts and Forward Contracts, used solely for commercial hedging purposes. For clarity, the Filer does not offer Options.
36. In order to ensure that any newly-hired individual dealers of the Filer have the proficiency required to carry out the Filer’s FX Business, the Filer has developed an internal training program, focused on understanding the technical functions of the trading platform, the risks and obligations resulting from OTC Derivatives trading, the function of derivatives markets and the policies and procedures implemented by the Filer.

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 is that the Requested Relief is granted, provided that:

- (a) the Filer takes reasonable steps and documents such steps in writing to ensure that the Filer solicits and transacts in OTC Derivatives only with Clients in the Applicable Jurisdictions that are Permitted Counterparties or Eligible Derivatives Parties;
- (b) in the case of a Client that is (i) an Eligible Derivatives Party and (ii) an individual or an Eligible Commercial Hedger, the Filer obtains a written waiver from the Client as contemplated by section 8(2)(a) of NI 93-101;
- (c) in the case of a Client that is an individual and an Eligible Commercial Hedger, the Filer identifies and documents the nature of the Client's business and the related commercial risks that the Client is hedging as contemplated by section 8(2)(b) of NI 93-101;
- (d) the Filer conducts all OTC Derivatives transactions with Clients in compliance with NI 93-101 and the Terms and Conditions of the Relief;
- (e) the Filer remains in compliance with the requirements of the PCMLTFA, the MSBA and FINTRAC that apply to the Filer;
- (f) the Filer has furnished to the Principal Regulator the name and principal occupation of its officers and directors, together with the personal information form and authorization of indirect collection, use and disclosure of personal information provided for in Form 33-109F4 of National Instrument 33-109 *Registration Information* completed by any officer or director;
- (g) the Filer will not provide advice or make a recommendation to a Client or prospective Client in relation to securities or derivatives, other than in connection with the Filer's FX Business and in accordance with NI 93-101 and the Terms and Conditions of the Relief. For clarity, the Filer may provide general information through its website or other marketing materials about the merits of a foreign exchange transaction provided the general advice is fair, balanced and not misleading, and the Filer may provide Clients with risk management advice and recommendations incidental to its foreign exchange products in accordance with NI 93-101 and the Terms and Conditions of the Relief. The Filer will not operate a managed account as that term is defined in section 1.1 of NI 93-101;
- (h) the Filer shall promptly inform the Principal Regulator in writing of any material change affecting the Filer, being any change in the business, activities, operations or financial results or condition of the Filer that may reasonably be perceived by a Client to be material;

- (i) the Filer shall promptly inform the Principal Regulator in writing if a self-regulatory organization or any other regulatory authority or organization initiates proceedings or renders a judgment related to disciplinary matters against the Filer concerning the conduct of activities with respect to OTC Derivatives;
- (j) the Filer shall promptly inform the Principal Regulator in writing of the issuance of an order or decision by a court, a commission or other similar regulatory body in or outside of Canada that suspends or terminates the ability of the Filer to trade OTC Derivatives;
- (k) the Requested Relief shall immediately expire upon the earliest of
 - (i) four years from the date that this Decision is issued;
 - (ii) 90 days after the date of registration of the Filer under securities, commodity futures or derivatives legislation in any jurisdiction of Canada; and
 - (iii) the coming into force in the Jurisdiction of legislation or a rule that specifically governs dealers, advisers, or other registration requirements applicable to market participants in connection with OTC Derivative transactions

(the **Interim Period**).

In respect of the Requested Relief:

“Michelle Alexander”

Michelle Alexander
Manager, Trading and Markets
Ontario Securities Commission

OSC File # 2024/0170

APPENDIX A

Definitions

“**Clearing Corporation**” means an association or organization through which Options or futures contracts are cleared and settled.

“**Forward Contract**” means an agreement, not entered into or traded on or through an organized market, stock exchange or futures exchange and cleared by a Clearing Corporation, to do one or more of the following on terms or at a price established by or determinable by reference to the agreement and at or by a time established by or determinable by reference to the agreement:

- (a) make or take delivery of the Underlying Interest of the agreement; or
- (b) settle in cash instead of delivery.

“**Option**” means an agreement that provides the holder with the right, but not the obligation, to do one or more of the following on terms or at a price determinable by reference to the agreement at or by a time established by the agreement:

- (a) receive an amount of cash determinable by reference to a specified quantity of the Underlying Interest of the Option.
- (b) purchase a specified quantity of the Underlying Interest of the Option.
- (c) sell a specified quantity of the Underlying Interest of the Option.

“**OTC Derivative**” means one or more of, or any combination of, an Option, a Forward Contract, or any instrument of a type commonly considered to be a derivative, in which:

- (a) the agreement relating to, and the material economic terms of, the Option, Forward Contract, swap, or other instrument have been customized to the purposes of the parties to the agreement and the agreement is not part of a fungible class of agreements that are standardized as to their material economic terms;
- (b) the creditworthiness of a party having an obligation under the agreement would be a material consideration in entering into or determining the terms of the agreement; and
- (c) the agreement is not entered into or traded on or through an organized market, stock exchange or futures exchange.

“**Underlying Interest**” means, for a derivative, the commodity, interest rate, actual or anticipated commercial or financial foreign currency asset or liability, foreign exchange rate, security, economic indicator, index, basket, benchmark or other variable, or another derivative,

and, if applicable, any relationship between, or combination of, any of the foregoing, from or on which the market price, value or payment obligations of the derivative are derived or based.

APPENDIX B

Business Conduct and Risk Mitigation

Terms and Conditions

Part I – Business Conduct

1. NI 93-101 was published on September 28, 2023, and became effective on September 28, 2024. NI 93-101 establishes a market conduct regime that is tailored for over-the-counter (OTC) derivatives markets and is substantially harmonized within Canada.
2. NI 93-101 applies a two-tiered framework to regulate business conduct in the OTC derivatives markets in Canada, as follows:
 - (a) certain obligations apply in all cases when a derivatives firm is dealing with or advising a derivatives party, regardless of the level of sophistication or financial resources of the derivatives party; and
 - (b) certain additional obligations:
 - (i) apply if the derivatives firm is dealing with or advising a derivatives party that is not an eligible derivatives party (i.e., referred to in NI 93-101 as a non-eligible derivatives party); and
 - (ii) apply but may be waived if the derivatives firm is dealing with or advising a derivatives party that is an eligible derivatives party that is an individual or a specified commercial hedger.
3. The Filer acknowledges that it is subject to NI 93-101 and agrees to comply with any applicable obligations in the rule, including but not limited to:

- Section 9 – Fair dealing
- Section 10 – Conflicts of interest
- Section 11 – Know your derivatives party
- Section 12 – Handling complaints
- Section 13 – Tied selling
- Section 14 – Derivatives-party-specific needs and objectives
- Section 15 – Suitability
- Section 16 – Permitted referral arrangement
- Section 19 – Relationship disclosure information
- Section 20 – Pre-transaction disclosure
- Section 28 – Content and delivery of transaction information
- Section 29 – Derivatives party statements
- Section 36 – Form, accessibility and retention of records.

For clarity, certain of the requirements noted above shall not be applicable if the Filer is in compliance with Section 8 of NI 93-101.

Part II – Additional Obligations [*All Clients*]

Risk Disclosure Document

4. The Filer will, prior to a New Client's first OTC Derivatives Transaction with the Filer, and as part of the account-opening process, provide the New Client with a separate risk disclosure document that clearly explains, in plain language, the transaction and the risks associated with the transaction (the Risk Disclosure Document). The Filer will also provide the Risk Disclosure Document to all Existing Clients. The Risk Disclosure Document will include a plain language description of the structure, features and risks of the OTC Derivative, and the potential risks to the Client in the event of the bankruptcy or insolvency of the Filer.
5. The Risk Disclosure Document will clearly explain, in plain language, that the Filer is not registered under the securities, commodity futures or derivatives laws of any jurisdiction of Canada and that client assets are not protected under the Canadian Investor Protection Fund (CIPF), the U.S. Securities Investor Protection Corporation, or equivalent protections.
6. Prior to each New Client's first OTC Derivatives Transaction, the Filer will also obtain a written or electronic acknowledgement from such New Client confirming that such New Client has received, read and understood the Risk Disclosure Document. Such acknowledgment will be separate from and prominent among other acknowledgements provided by the New Client as part of the account-opening process.
7. For each Existing Client, the Filer will also obtain a written or electronic acknowledgement from such Existing Client confirming that such Existing Client has received, read and understood the Risk Disclosure Document.
8. Within two weeks of the Principal Regulator granting the Decision, the Filer will ensure
 - (a) that the Risk Disclosure Document to be provided to the Filer's Clients is updated to include a reference to and a copy of or link to this Decision; and
 - (b) a complete copy of the Risk Disclosure Document to be provided to the Filer's Clients is delivered to the Principal Regulator.
9. The Filer will include in the Risk Disclosure Document disclosure that clearly explains, in plain language, that the Filer is not a registered dealer in any jurisdiction in Canada and as such is not required to make available to Clients the services of an independent dispute resolution or mediation service such as the Ombudsman for Banking Services and Investments.

Proficiency

10. The Filer will ensure that each of its Dealers has the appropriate education, training, and experience that a reasonable person would consider necessary to perform the activity

competently, including understanding the structure, features, and risks of each OTC Derivative that the Dealer transacts.

Restriction on lending

11. In connection with the Filer's OTC Derivatives business, except as described in paragraphs 24 and 25, inclusive, of the Decision, the Filer will not lend money, extend credit or provide margin to a client.

Restriction on advising or managed accounts

12. The Filer is not registered to provide advice in relation to investments involving securities or derivatives. Accordingly, except as described below, the Filer will not advise a Client or prospective client about the merits of an investment in securities or derivatives or recommend or represent that an investment in securities or derivatives is a suitable investment for the Client or prospective client.
13. For clarity, the Filer may provide general information through its website or other marketing materials about the Filer's views as to the merits of a foreign exchange transaction or strategy provided such advice is fair, balanced and not misleading and the advice is not directed at or tailored to the needs of the particular person or company receiving the information, and the Filer may provide Clients with risk management advice and recommendations as to foreign exchange products or strategies for hedging purposes relative to the Client's specific circumstances and objectives.
14. The Filer will not operate a managed account as that term is defined in section 1.1 of NI 93-101.

Restriction on contracts linked to novel or emerging asset classes

15. The Filer will not offer OTC Derivatives linked to bitcoin, ether, cryptocurrencies or other novel or emerging asset classes, or options or other derivatives thereon, to Clients in the Applicable Jurisdictions without the prior written consent of the Principal Regulator in the Jurisdiction or the relevant regulator in the other Applicable Jurisdictions.

Custody of Client Collateral

16. The Filer will hold assets equal to the total value of a Client's Client Collateral in respect of a Client in an Applicable Jurisdiction:
 - (a) segregated from the Filer's own property,
 - (b) segregated from the Client Collateral of any other Client, and
 - (c) in the case of cash, in a designated account at a Canadian custodian (as defined in NI 31-103) or a Canadian financial institution.

The Filer will not use or invest any Client Collateral without the prior written consent of the Client, which may be granted by the Client on an omnibus basis in respect of all OTC Derivatives with the Filer. The Filer, rather than any Client, will bear any loss resulting from use or investment of Client Collateral.

Insurance

17. The Filer will comply with the requirements of section 12.3 of NI 31-103 and Appendix A [*Bonding and Insurance Clauses*] to NI 31-103 as if it were a registered dealer, except modified as follows:
 - A. Fidelity -- cover required
 - B. On Premises -- cover not required as no assets of material value are held on premises and no client assets are held on site
 - C. In transit -- cover not required as there will be no physical transit of cash and securities
 - D. Forgery or alterations -- cover required
 - E. Securities -- cover not required as risk not applicable to the Filer's business model.

Capital requirements

18. If, at any time, the excess working capital of the Filer, as calculated in accordance with Form 31-103F1 *Calculation of Excess Working Capital*, is less than zero, the Filer must notify the Principal Regulator as soon as possible.
19. The excess working capital of the Filer, as calculated in accordance with Form 31-103F1 *Calculation of Excess Working Capital*, must not be less than zero for 2 consecutive days.
20. For the purpose of completing Form 31-103F1 *Calculation of Excess Working Capital*, the minimum capital is the amount prescribed in section 12.1 of NI 31-103 for a registered dealer that is not also registered as an investment fund manager.
21. The Filer will establish, maintain and apply policies, procedures, controls and supervision sufficient to provide reasonable assurance that all of the following are satisfied:
 - (a) the Filer and each individual acting on its behalf in relation to transacting in an OTC Derivative complies with the Terms and Conditions of the Requested Relief;
 - (b) the risks relating to its OTC Derivatives trading activities are managed in accordance with the Filer's risk management policies and procedures;

- (c) each individual who performs an activity on behalf of the Filer relating to transacting in an OTC Derivative, prior to commencing the activity and on an ongoing basis,
 - (i) has the experience, education and training that a reasonable person would consider necessary to perform the activity competently,
 - (ii) without limiting subparagraph 21(c)(i), has the understanding of the structure, features and risks of each OTC Derivative that the individual transacts in, and
 - (iii) has conducted themselves with integrity.

Business continuity and disaster recovery

- 22. The Filer will establish, maintain and apply a written business continuity and disaster recovery plan that is reasonably designed to allow the Filer to minimize disruption and allow the Filer to continue its business operations.
- 23. The business continuity and disaster recovery plan must outline the procedures to be followed in the event of an emergency or other disruption of the Filer's normal business activities.
- 24. The Filer must conduct tests of its business continuity and disaster recovery plan on a reasonably frequent basis and not less than annually.

Risk Management Policies and Procedures

- 25. The Filer must establish, maintain, and apply a written framework that is reasonably designed to establish a system of controls and supervision to monitor and manage the risks associated with its OTC Derivatives-related activity.
- 26. The framework referred to in paragraph 25 must be approved by the Filer's board of directors, or individuals acting in a similar capacity for the firm. The risk management framework referred to in paragraph 25 must, at a minimum
 - (a) identify material risks to the Filer, including risks from affiliated entities and from specific OTC Derivatives or types of OTC Derivatives,
 - (b) establish risk tolerance limits,
 - (c) establish requirements for the Filer to appropriately manage risks, including establishing requirements related to appropriate margining standards for OTC Derivatives,
 - (d) provide for the periodic review of the Filer's risks and risk tolerance limits to ensure they reflect the Filer's OTC Derivatives related activity,
 - (e) permit senior management to monitor compliance with risk management requirements and risk tolerance limits in order to detect and address non-compliance,

- (f) provide for periodic reports to the Filer's senior management and its board of directors on the Filer's material risks, risk tolerance limits, compliance with risk management requirements, compliance with risk tolerance limits and recommendations for changing the risk management framework and risk tolerance limits, and
- (g) when there is a material change to the Filer's risk exposures or a material breach of a risk limit, require the Filer to on a timely basis, provide the Filer's board of directors, or individuals acting in a similar capacity for the Filer, with a report relating to those changes.

27. The Filer must conduct an independent review of its risk management framework on a reasonably frequent basis.

Agreement for process of determining the value of a derivative

28. The Filer must agree on and clearly document the processes for determining the value of each OTC Derivative.

Agreement for process relating to disputes

29.

(1) The Filer must enter into a written agreement with its counterparties (including Clients) that establishes procedures and processes to identify, record and monitor disputes relating to material terms or valuation and exchange of collateral between the Filer and its counterparties, and to resolve disputes relating to the material terms or valuation of an OTC Derivative in a timely manner.

(2) If a dispute referred to in subparagraph 29(1) has not been resolved within 60 days of the date when the Filer should, acting reasonably, become aware of the dispute, the Filer must report the dispute to the Principal Regulator.