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

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

A copy of the Reasons and Decision dated May 6, 2025 is available at capitalmarketstribunal.ca.

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Ontario Securities Commission

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A.2.2 Oasis World Trading Inc. et al.

FOR IMMEDIATE RELEASE
May 12, 2025

OASIS WORLD TRADING INC.,
ZHEN (STEVEN) PANG, AND
RIKESH MODI,
File No. 2023-38

TORONTO – The previously scheduled day of May 13, 2025 will not be used for the merits hearing in the above-named matter. The merits hearing will continue on May 14, 15, 26, 28, 29 and June 2, 3, 4, 5, 6, 9, 10 and 11, 2025, at 10:00 a.m. on each day.

The hearing will be held at the offices of the Tribunal at 20 Queen Street West, 17th floor, Toronto.

Members of the public may observe the hearing by videoconference, by selecting the "View by Zoom" link on the Tribunal's hearing schedule, at capitalmarketstribunal.ca/en/hearing-schedule.

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Ontario Securities Commission

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A.4
Reasons and Decisions

A.4.1 Go-To Developments Holdings Inc. et al. – s. 127(1)

Citation: *Go-To Developments Holdings Inc (Re)*, 2025 ONCMT 8
Date: 2025-05-06
File No. 2022-8

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

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

Adjudicators:	M. Cecilia Williams (chair of the panel) Geoffrey D. Creighton Cathy Singer	
Hearing:	July 8, 9, 10, 11, 15, 16, 17, 19, 22, 23, 24, 25, 26, and December 10, 2024; final written submissions received December 13, 2024	
Appearances:	Erin Hoult Trevor Alcove Alvin Qian	For the Ontario Securities Commission
	Ian Aversa Jeremy Nemers Calvin Horsten	For Go-To Developments Holdings Inc., Go-To Spadina Adelaide Square Inc., Furtado Holdings Inc., for the Receiver, KSV Restructuring Inc.
	Melissa MacKewn Dana Carson Alexandra Grishanova Maxim Tchoudnovski Joshua Shneer	For Oscar Furtado

REASONS AND DECISION

1. OVERVIEW

[1] The Commission alleges that Go-To Developments Holdings Inc. (**GTDH**), Go-To Spadina Adelaide Square Inc. (**Adelaide GP**), Furtado Holdings Inc. (**Furtado Holdings**) (collectively, the **Corporate Respondents**), and their sole director and officer Oscar Furtado, defrauded investors in their capital raising for, and activities related to, limited partnerships for the purchase and development of real estate projects.

[2] The Commission also alleges that, through Furtado's control over the Corporate Respondents and related entities, the respondents traded securities without the necessary registration and made prohibited representations to investors. The Commission further alleges that Furtado made misleading statements to the Commission during its investigation of this misconduct and that Furtado authorized, permitted or acquiesced in the Corporate Respondents' alleged breaches of the *Securities Act* (the ***Act***)[1].

[3] For the reasons that follow, we find that the respondents did perpetrate a securities fraud in breach of the *Act* in five different ways. Three of those ways defrauded investors in the Go-To Spadina Adelaide Square LP (**Adelaide LP**). One defrauded investors in two other GTDH projects. The final one was a fraud on the Adelaide LP itself.

[1] RSO 1990, c S.5 (the ***Act***)

[4] We also find that Furtado made misleading statements to the Commission during its investigation. However, we dismiss the Commission's other allegations.

2. BACKGROUND

2.1 The respondents

[5] The Corporate Respondents are related Ontario corporations. GTDH is a real estate development company which operates through its corporate subsidiaries and project-specific limited partnerships (each, an **LP**). The Adelaide GP is a wholly-owned subsidiary of GTDH incorporated to serve as the general partner of the Adelaide LP. Furtado Holdings owns GTDH and is Furtado's personal and family holding company.

[6] For each of its nine real estate projects, GTDH set up a limited partnership and incorporated a subsidiary to serve as the general partner (**GP**). The Go-To LPs, Go-To GPs, and GTDH were used by Furtado to carry out GTDH's real-estate development business in southern Ontario.

[7] Furtado is the founder, sole director and officer, and directing mind of the Corporate Respondents. As CEO and president, Furtado was responsible for overseeing all aspects of the GTDH business. Furtado is a chartered accountant with over 30 years of experience, primarily at the Royal Bank of Canada before he left and eventually established his own business.

2.2 The Adelaide Project

[8] One of the projects undertaken by GTDH was the proposed acquisition and development of a land assembly of two properties in the heart of downtown Toronto, 355 Adelaide Street West and 46 Charlotte Street (collectively, the **Adelaide Properties**).

[9] The Adelaide LP was formed to pursue this project (the **Adelaide Project**), and the Adelaide GP was the general partner of this limited partnership. Beginning in the fall of 2018, Furtado and GTDH sought financing, partners and investors for the Adelaide Project. The Adelaide Properties were acquired by the Adelaide LP on April 5, 2019.

[10] Capital raising by the Adelaide LP continued periodically into 2020. However, between April 30, 2019 and December 10, 2020, the Commission obtained investigation orders related to Furtado's and GTDH's conduct and delivered summonses to produce documents.

[11] Furtado attended three compelled examinations by the Commission, the first of which was in September 2020.

[12] On December 6, 2021, the Commission brought an application in the Ontario Superior Court of Justice to have a receiver appointed over GTDH and several other GTDH entities including the other Corporate Respondents and the Adelaide LP. The Court appointed KSV Restructuring Inc. as the receiver over the Corporate Respondents and related entities on December 10, 2021. This receivership continues.

3. PRELIMINARY ISSUES

3.1 Late disclosure of documents

[13] On the second day of the hearing, the Commission objected to the admissibility of various documents on which the respondents sought to rely in the merits hearing. The basis of the objection was that they were not disclosed by Furtado until shortly before the hearing.

[14] The respondents submitted that the documents in question were only delivered to them by the Receiver on July 4, 2024, and they were promptly provided to the Commission. The Receiver noted that the respondents requested the documents only on July 3, 2024 and the Receiver provided them the next day. The respondents also submitted that the Commission had itself disclosed some documents late.

[15] Each party reserved their right to object to documents delivered late, as those documents were introduced into evidence during the merits hearing. We determined that we would deal with the admissibility and weight of any such documents when deciding any issue to which those documents might relate, based on the closing submissions and in the specific context for which their use was sought.

[16] As the hearing unfolded, neither party made any further objections to specific documents based on late delivery. Only four of the disputed documents became exhibits. Neither party addressed the issue in closing submissions.

[17] Ultimately, none of those four documents were material to any decision the panel made. Accordingly, we did not need to make any findings on their admissibility or weight.

3.2 Reasons for ruling on the admissibility of the Furtado affidavit

[18] When Furtado took the stand, the Commission objected to the admissibility of portions of his affidavit on the basis that those portions attempt to:

a. relitigate issues decided by the Court in the receivership proceedings;

b. introduce irrelevant facts from withdrawn motions; or

c. introduce hearsay opinion evidence from experts, particularly concerning medical matters addressed on adjournment motions.

[19] We allowed the affidavit to be filed as is. These are our reasons for doing so.

[20] Furtado submitted that the challenged portions of his affidavit were not included to relitigate any issue in the receivership proceeding, or prior determinations in this proceeding. Rather, he submitted, they were included to lay out the procedural history, for background and context. Furtado submitted that he makes no request for relief with respect to any of those earlier decisions.

[21] Furtado also submitted that in some respects the evidence was responsive to matters already canvassed in evidence by the Commission's own witnesses.

[22] The Commission replied that Furtado's submissions did not address its concern that Furtado refused to confirm that he would seek no findings based on what the Commission submits is irrelevant or inadmissible evidence.

[23] We had some sympathy for the Commission's concerns. The volume and detail of material provided in Furtado's affidavit in relation to the receivership, the procedural history, and evidence on adjournment motions, was particularly extensive. It contains material which is irrelevant to the issues we need to determine in relation to the Statement of Allegations.

[24] However, it is typical to summarize, both in evidence and in reasons, the procedural background and context for a proceeding.[2] It is also permissible to append exhibits which confirm information in associated paragraphs in the affidavit.

[25] The issues before us are framed and limited by the Statement of Allegations. Anything beyond that is irrelevant. We have kept this guiding principle in mind as we have reviewed the evidence, including Furtado's affidavit, and as we have determined the issues before us. We considered the impugned portions of the affidavit only for background and context, and as documentary confirmation of matters to which Furtado provided direct testimony, susceptible to cross-examination.

4. EVIDENCE

[26] The evidentiary portion of the merits hearing took place over 13 days and involved testimony from seven individuals. The Commission called six witnesses, including its investigator – a forensic accountant from the Enforcement division of the Commission – and five investor witnesses with various levels of involvement and sophistication. The respondents called Furtado as their only witness.

[27] The documentary record was voluminous. Both the Commission's investigator witness and Furtado provided evidence-in-chief by way of affidavit. With exhibits, the investigator's affidavit extended to 16 volumes. Furtado's affidavit appended over 175 additional exhibits.

[28] There are also several ongoing proceedings in the civil courts arising out of the circumstances surrounding the GTDH business, including the receivership of the Corporate Respondents and the other GTDH projects. Both the Commission and Furtado cautioned us that the other, and their respective witnesses, were attempting to secure findings in this proceeding which would assist them in the civil court cases.

[29] Mindful of the other proceedings, we have restricted our findings to only those necessary to dispose of the issues properly before us in the Statement of Allegations. Despite the volume of evidence, the salient facts related to those allegations, as we find them, can be summarized in relatively brief form. We have done so in respect of our findings for each allegation.

[2] *Conrad M Black et al,* 2015 ONSEC 4 at para 5; see also *Juniper Fund Management Corporation et al,* 2013 ONSC 17 at paras 2, 13-17

4.1 Credibility of witnesses

[30] In assessing the credibility of witnesses, the Tribunal has accepted the guidance that "the most satisfactory judicial test of truth lies in its harmony or lack of harmony with the preponderance of probabilities disclosed by the facts and circumstances in the conditions of the particular case."[3]

[31] We may accept some, all or none of a witness' evidence. We may find the evidence of a witness credible in some respects and not in others. Where there are sufficient instances of questionable evidence, we may, with appropriate caution, make an overall assessment of a witness' credibility and reliability.[4]

[32] Considering all the evidence, we concluded that Furtado lacked credibility on matters that related to his potential liability. When faced with contemporaneous documents that challenged the accuracy of his evidence, he often found someone else to blame for the discrepancy, suggested a strained interpretation, or professed a lack of recall.

[33] Given these frailties in Furtado's credibility, we gave more weight to the conclusions we could draw from the consistency of the substantial documentary record.

[34] We found the investor witnesses generally credible. We recognized, however, their self-interest in parallel civil proceedings, and approached their evidence in those areas with particular care.

[35] The Commission's investigator's evidence was credible, documented and dispassionate.

5. ISSUES & ANALYSIS

5.1 Introduction

[36] We now turn to our analysis of the substantive issues raised in this hearing.

[37] The following questions are before us:

a. Did the respondents defraud investors in the Adelaide and other Go-To LPs contrary to s. 126.1(1)(b) of the *Act*?

b. Did Furtado and GTDH engage in the business of trading securities without registration contrary to s. 25(1) of the *Act*?

c. Did Furtado, GTDH and the Adelaide GP make prohibited representations to investors contrary to s. 44(2) of the *Act*?

d. Did Furtado breach s. 122(1)(a) of the *Act* by making false and misleading statements to the Commission?

e. Did Furtado, as officer and director of the Corporate Respondents, breach s. 129.2 of the *Act* by authorizing, permitting or acquiescing in the Corporate Respondents' breaches of the *Act*?

f. Did the respondents engage in conduct that is contrary to the public interest?

[38] For the reasons below, we find that the respondents did defraud investors in the Adelaide LP and in two other Go-To LPs, Elfrida and Eagle Valley, contrary to s. 126.1 (1)(b) of the *Act*. We also find that Furtado breached s.122(1)(a) by making misleading statements to the Commission.

[39] However, we find that Furtado and GTDH did not engage in the business of trading securities without registration contrary to s. 25(1). Nor, we find, did they and the Adelaide GP make prohibited representations contrary to s. 44(2). We also dismiss the allegations under s. 129.2 with respect to authorizing corporate breaches, and the general "public interest" allegation.

5.2 Did the respondents defraud investors in the Adelaide and other Go-To LPs?

[40] The Commission alleges that Furtado committed fraud in five ways by:

a. failing to tell investors that he stood to benefit (or in respect of later investors, had benefited) from the Adelaide LP's purchase of the Adelaide Properties;

b. redeeming Anthony Marek's units contrary to representations made to other Adelaide LP investors;

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3 *Feng (Re)*, 2023 ONCMT 12 (***Feng***) at para 22, citing *Springer v Aird & Berlis LLP*, 2009 CanLII 15661 (ON SC) at para 14

4 *Meharchand (Re)*, 2018 ONSEC 51 (***Meharchand***) at para 52; *Feng* at para 23

c. acting contrary to representations made to investors in the Elfrida and Eagle Valley LPs by misusing their properties as security for obligations of the Adelaide GP and LP;

d. dishonestly soliciting a new $12 million investment from Marek in August-September 2019; and

e. personally benefiting from the Adelaide LP's acquisition of the Adelaide Properties, which amounts to a fraud on the Adelaide LP.

[41] For the reasons that follow, we find that Furtado did commit fraud in each of these five ways.

5.2.1 The test for fraud

[42] We begin our analysis by considering the test for fraud and what the evidence must demonstrate.

[43] The governing provision in the *Act,* s. 126.1(1)(b), provides:

> A person or company shall not, directly or indirectly, engage or participate in any act, practice or course of conduct relating to securities, derivatives or the underlying interest of a derivative that the person or company knows or reasonably ought to know,
>
> …
>
> (b) perpetrates a fraud on any person or company.

[44] That section brings within its reach two categories of actors:

a. those who perpetrate a securities-related fraud; and

b. others who participate, directly or indirectly, in securities-related conduct that they know or reasonably ought to know perpetrates a fraud.

[45] The first step is to determine whether one or more persons have perpetrated a fraud. The term "fraud" is not defined in the *Act*. Previous Tribunal decisions[5] have applied the framework found in the Supreme Court of Canada's decision in *R v Théroux.*[6] Those Tribunal cases set out these elements to prove a fraud:

a. the *actus reus*, or objective element, which consists of:

   i. an act of deceit, falsehood, or some other fraudulent means; and

   ii. deprivation caused by that act, which may come in the form of an actual loss, or the placing of the victim's pecuniary interests at risk; and

b. the *mens rea*, or subjective element, which consists of:

   i. subjective knowledge of the act referred to above; and

   ii. subjective knowledge that the act could have as a consequence the deprivation of another.

[46] The second step is to inquire whether the respondent has, as required in s. 126.1(1)(b), directly or indirectly participated in any act or conduct, related to securities, that they knew or ought reasonably to have known perpetrated a fraud.

[47] This second step is more straightforward where, as in this case, the respondent is the person who perpetrated the fraud under the *Théroux* framework in step one. In this case, we find that Furtado, as the directing mind of the Corporate Respondents, was the actor who perpetrated the fraud directly. Accordingly, in the second step, in this case, we only need to consider if the fraudulent conduct related to securities.

5.2.1.a Attribution to Corporate Respondents

[48] In this case there are four respondents: Furtado, and the three Corporate Respondents. There was no issue that Furtado is the sole directing mind of the Corporate Respondents. The allegations of fraud against the Corporate Respondents are based on attributing Furtado's acts to those entities.

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5 *First Global Data Ltd (Re),* 2022 ONCMT 25 at para 346; *Quadrexx et al (Re),* 2017 ONSEC 3 at para 19; *Bridging Finance Inc (Re),* 2024 ONCMT 23 at para 33 (***Bridging Merits***)

6 [1993] 2 SCR 5 (***Théroux***)

[49] After evidence was complete but before closing submissions, the Tribunal's *Bridging Merits* decision was released, as was the Supreme Court of Canada's decision in *Aquino v Bondfield Construction Co.*[7] These cases discussed situations where the actions of a directing mind might not be attributed to a corporation. *Bridging Merits* cited the "identification doctrine" from the Supreme Court of Canada case, *Canadian Dredge & Dock Co v The Queen.*[8] The Tribunal declined to find attribution in *Bridging Merits*, as gaps in the evidence created doubt about several factors: whether the actions of the directing mind were in fraud of the corporation (the "total fraud" exception), whether they were not for its benefit (the "no benefit" exception), and whether attribution would serve the public interest. The *Aquino* decision synthesized the prior law and established guiding principles for attribution. It concluded that attribution should be applied purposively, contextually and pragmatically.

[50] The Commission provided us with additional submissions on this issue. The respondents did not address it.

[51] The Commission submitted that *Aquino* superseded *Canadian Dredge,* and that the "total fraud" and "no benefit" exceptions which troubled the Tribunal in *Bridging Merits* should not be applicable to a s. 126.1 allegation in a s. 127 proceeding driven by public interest considerations. Alternatively, it submitted, those exceptions are not engaged on the facts before us.

[52] The circumstances in *Bridging Merits* were different from those before us. In that case, the corporation was a broader operating corporation rather than a holding company or similar entity. As a factual matter, in any event, neither the "total fraud" nor the "no benefit" exceptions would have any application in this case where the individual respondent is the directing mind of the Corporate Respondents. Furtado is the directing mind of the Corporate Respondents. There is no suggestion he acted in fraud of his own companies or that they received no benefit. To the extent we find Furtado's actions to be fraudulent, we find the Corporate Respondents to have engaged in the same fraud.

[53] We decline to determine whether the *Aquino* line of cases should apply to a s. 126.1 allegation in a s. 127 proceeding. Such a determination is not necessary in this case and has not been the subject of full argument.

5.2.1.b Is reliance required?

[54] Another issue which overlays the allegations of fraud is whether there is any difference between fraud by "deceit or falsehood", on the one hand, and by "other fraudulent means", on the other. The respondents submit there is. For fraud by deceit or falsehood, they submit, the evidence must establish that investors relied upon the misstatement, to their detriment. For this principle, the respondents cite the Ontario Court of Justice's decision in *Ontario Securities Commission v Katmarian.*[9]

[55] The Commission counters that reliance is not a necessary element of fraud by deceit or falsehood. It urges us not to follow *Katmarian,* as that case is under appeal and is inconsistent with governing Supreme Court of Canada and Ontario Court of Appeal authorities. In any event, the Commission submits that most if not all the alleged frauds can be characterized as "other fraudulent means".

[56] The Commission cites *R v Riesberry*,[10] which concerned an accused who had injected performance enhancing drugs into racehorses. In finding Riesberry liable, the Court rejected the contention that fraud required inducement or reliance. It focused on the causal connection.[11] In finding that there was a direct causal link between Riesberry's conduct and the risk of financial deprivation to the betting public, the Court held that "the absence of inducement or reliance is irrelevant."[12]

[57] *Riesberry* was a case of fraud by "other fraudulent means". Closer to the circumstances of this case, the Commission points to *R v Drabinsky*.[13] That case related to a misrepresentation in a balance sheet used in an initial public offering. Finding the accused liable, the Court approved the trial judge's observation that the inclusion of a balance sheet that is false is an act of deceit, falsehood and dishonesty. Since members of the public were entitled to rely on the statements before risking their funds, the deceit created potential risk to the public.[14] If the balance sheet was false, it was no defence that investors would only look to other statements.

[58] We agree that these cases demonstrate that reliance is not a necessary element of a finding of fraud, whether by deceit, falsehood, or other fraudulent means. This conclusion is consistent with the purposes of the *Act,* which provides protection to investors from unfair, improper or fraudulent practices. Neither s. 126.1(1)(b) of the *Act*, nor the framework for determining fraud set out by the Supreme Court in *Théroux,* suggest any distinction between frauds effected by deceit, falsehood or other fraudulent means.

7 2024 SCC 31 (***Aquino***)
8 1985 CanLII 32 (***Canadian Dredge***)
9 2024 ONCJ 151 (***Katmarian***)
10 2015 SCC 65 (***Riesberry***)
11 *Riesberry* at para 22
12 *Riesberry* at para 26
13 2015 SCC 65 (***Drabinsky***)
14 *Drabinsky* at paras 81-82

[59] With this framework to determine if a fraud occurred, we now turn to the five acts by Furtado which the Commission alleges constitute fraud.

5.2.2 Fraud analysis

5.2.2.a Non-disclosure of Furtado's expected benefit on the purchase

[60] The first allegation turns on what Furtado knew and intended, and told, or more to the point, did not tell, potential investors when they were considering their investments in the Adelaide LP.

[61] The Commission alleges that Furtado expected, intended and planned to profit from the purchase by the Adelaide LP of the Adelaide Properties. By failing to tell investors of his intent to profit (or by failing to tell later investors that he had benefited already), the Commission submits he perpetrated a fraud.

[62] We consider first the objective element of this allegation: did Furtado engage in deceit, falsehood, or other fraudulent means?

5.2.2.a.i Step one - objective element

[63] In the capitalization and operation of the Adelaide LP, from at least October 2018 onwards, Furtado worked closely with Alfredo Malanca. Malanca had a company called Goldmount Financial Corp. His spouse, Kasia Pikula, was a mortgage broker through her company Goldmount Capital Inc. Together they had a family holding company called AKM Holdings Inc. Malanca was also the representative or agent of a company called Adelaide Square Developments Inc.

[64] Prior to the Adelaide LP, Goldmount had arranged financings for GTDH projects and Furtado considered Malanca his "primary person" for debt financings.

[65] While there was conflicting evidence around timing and details, the preponderance of the documentary and oral evidence makes clear that, by October 2018, Malanca or a company he represented had agreements in hand to acquire the Adelaide Properties at an aggregate purchase price in the mid-$50 million range. Furtado knew this.

[66] The evidence also makes clear that Malanca and Furtado contemplated a purchase of the Adelaide Properties by the Adelaide LP for an aggregate purchase price in the mid-$70 million range. The parties took us through various communications and draft agreements throughout the relevant period, highlighting changes to amounts and parties and respective roles, and disputing who knew or said precisely what and when. What did not change, however, was that the basic structure in all cases involved a significant difference between what would be due to the existing owners of the Adelaide Properties from Malanca or a company he represented, and the price at which the Adelaide LP would acquire them. That difference was referred to by the parties before us, and was referred to at the time, in 2018 and early 2019, by Furtado and Malanca, as a "lift".

[67] In the fall of 2018, Hans Jain became involved in the discussions concerning the Adelaide Properties. Jain testified at the hearing. He is an experienced real estate developer. For a time, he assisted with the development of the Adelaide LP's project and guaranteed its mortgage debt. He also indirectly made a $2 million equity investment in the Adelaide LP. His dealings with the Adelaide LP and Furtado are the subject of separate civil proceedings.

[68] Throughout the period from no later than November 2018 onwards, Furtado and Malanca, and sometimes Jain, engaged in discussion of the "lift" that was built into the proposed acquisition of the Adelaide Properties. For example, on December 28, 2018, Furtado sent to Malanca an email with comments on the draft limited partnership agreement for the Adelaide LP. Among his comments he stated that:

> "Section A — Class A unit holders: $16.8 million comes from the equity investors (this includes the $6.1 million in lift we would allocate to them to re-invest in the LP). The net number of $10.7 million is the real cash they have to invest.
>
> Section A — Class B unit holders: $10.15 million comes from us (assuming all cash is reinvested from the flip).
>
> Section A — designed in such a way that if Hans invests, he knows about the lift. If the Bahrain guys invest, we can ask them to put the full 16.8 million into the deal (possibly)."

[69] These discussions of a "lift", which Furtado understood meant an immediate profit, had occurred and were continuing as investors were sought for the Adelaide LP. By December 28, 2018, the Adelaide LP had signed a purchase agreement with Adelaide Square Developments to purchase the Adelaide Properties for $74.25 million, with the amount then due from Adelaide Square Developments to the existing owners of the properties being approximately $58 million. By December 28, 2018, the anticipated "lift" had been quantified in the amount of approximately $16.25 million. Furtado was aware of this.

[70] When Furtado was questioned on cross-examination by the Commission on the meaning of his December 28 comments, Furtado indicated he could not recall what "the flip" in these comments referred to, nor did he recall who "us" was meant to designate. We find his evidence in this regard not credible, and that the notes in their context speak for themselves. The "flip" was the purchase of the properties by Adelaide Square Developments followed by their immediate transfer to the Adelaide LP at a higher price. Put another way, it was the payment to the original owners followed by the purchase by the Adelaide LP at prices which created an immediate profit, in other words a "lift".

[71] Likewise, in an email from Furtado to Malanca, the meaning of "us" clearly refers to Furtado and Malanca. Furtado was discussing how the profit from the "flip" would be shared.

[72] Furtado submitted that the scenarios in which he or GTDH shared in a "lift" were scenarios that never proceeded and that did not involve outside investors. They were a "back up" plan. We do not agree with this distinction. The purchase of the Adelaide Properties, as it finally occurred with the involvement of outside investors, included an assignment fee of $20.95 million paid to Adelaide Square Developments by Adelaide LP, representing the "lift" between the price paid by Adelaide Square Developments to the original owners and the price paid by the Adelaide LP to Adelaide Square Developments.

[73] To secure the closing, as we will describe below, Furtado and Malanca obtained a short-term investment from Marek, who viewed his investment in units of the Adelaide LP as a "day loan". Because Marek required immediate payout of his investment with a large fee on closing of the purchase, the assignment fee to be paid by Adelaide LP to Adelaide Square Developments was, in the first instance, directed to the payment of Marek. The assignment fee payment owing to Adelaide Square Developments was replaced by a demand loan from the Adelaide LP to Adelaide Square Developments (the **Demand Loan**).

[74] Within less than two weeks of the purchase, Adelaide Square Developments issued new shares to Furtado Holdings and AKM Holdings, and paid each of them approximately $388,000 in the form of dividends. By October 2019, Furtado had secured a further $12 million investment from Marek, as we will describe below, and caused the Adelaide LP to use it to pay out $12 million of the Adelaide Square Developments Demand Loan. Adelaide Square Developments then used that receipt to pay dividends, in the amount of $6 million each, to Furtado Holdings and AKM Holdings.

[75] Furtado's explanation, of why he was given shares of Adelaide Square Developments and why he received the dividends, changed over time. Ultimately it was, in essence, that Adelaide Square Developments had made a lot of money on the deal because of his efforts and it wanted to thank him for his contribution to ensuring the deal closed.

[76] We do not find that to be a credible explanation, considering the voluminous documentary record, and the evident sophistication of the parties involved. The existence of a "lift" on closing was an obvious element of the purchase of the Adelaide Properties. Furtado had been involved in continuous discussions of scenarios, all of which recognized this "lift" and how it would be shared or applied. No later than his notes of December 28, 2018, set out above, those scenarios contemplated that a GTDH or Furtado entity would have some claim on a portion of the "lift".

[77] Based on all the documents and testimony, we conclude that Furtado did expect, intend and plan to profit from the purchase by the Adelaide LP of the Adelaide Properties. In fact, after closing, he received almost $6.4 million from Adelaide Square Developments.

[78] Furtado at no time told any of the investors in the Adelaide LP (other than Jain) about the "lift", or of any intent that he had of sharing in it. This is so with respect to investors who purchased units both before and after Furtado Holdings had received dividends of almost $6.4 million.

[79] Did this non-disclosure, in the circumstances, perpetrate a fraud on the investors in the Adelaide LP? We find that it did.

[80] The information provided to investors was found in various investor packages, oral discussions with Furtado, and in the limited partnership agreement itself. Generally, the documents and oral representations:

a. touted the Adelaide Project, GDTH's existing projects and experience, and Furtado's experience, integrity and trustworthiness;

b. confirmed that the Adelaide GP, which Furtado controlled, was a fiduciary of the Adelaide LP and would act in its best interests; and

c. indicated that investors "got paid first".

[81] Non-disclosure can constitute "other fraudulent means" where a person, through their silence, hides fundamental and essential elements such as would mislead a reasonable person.[15]

[15] *Bradon Technologies Ltd (Re),* 2015 ONSEC 26 at para 159; *R v Émond*, 1997 CarswellQue 4688 (English translation) at paras 29-30, 34-37

[82] Furtado was a fiduciary of the Adelaide LP, the purchaser of the Adelaide Properties. However, he also expected, intended and planned to profit from the “lift” represented by the assignment fee paid by the Adelaide LP to Adelaide Square Developments on that purchase. Furtado was on both sides of the transaction. As a fiduciary of the LP, his failure to disclose this conflict of interest was objectively dishonest and hid a fundamental and essential element of the purchase transaction.

[83] The second aspect of the objective element of a fraud is that the victim’s pecuniary interests have been placed at risk. In this case, Furtado’s non-disclosure of the “lift” and his intent to share in it, and the fact that he was on both sides of the transaction, exposed investors to the risk that the purchase of the Adelaide Properties had not been, and would not be, pursued solely in the best interests of the Adelaide LP. This was a pecuniary risk for which they had not bargained.

5.2.2.a.ii Step one - subjective element

[84] Addressing briefly the subjective element of the fraud, we conclude that Furtado was aware of his failure to disclose the “lift” and his intent to share in it, and that the non-disclosure could place investors’ pecuniary interests at risk.

5.2.2.a.iii Step two – remaining elements of s. 126.1(1)(b)

[85] Finally, moving to step two of the analysis laid out above, there is no question that Furtado’s fraudulent conduct described above related to securities, in this case the sale of units of the Adelaide LP.

[86] We accordingly find that the Commission has established this first alleged fraud.

5.2.2.b Redemption of units contrary to representations to investors

[87] The Commission's second allegation is that the respondents committed fraud by redeeming the units of one investor, Anthony Marek, in contravention of representations made to investors.

[88] Marek came on the scene shortly before the closing of the purchase of the Adelaide Properties by the Adelaide LP. He is an experienced real estate developer. He made a substantial investment of $16.8 million for a brief period, demanding a fee of $2.7 million.

[89] Although Marek viewed his investment as a "day loan” to permit the closing, he purchased units in the Adelaide LP. He testified that Furtado told him that, "this is the way they have to show it on their books". He accordingly agreed and signed a subscription agreement for units.

[90] Furtado testified that he did not tell Marek this. We prefer Marek's evidence in this regard, as it is consistent with the documents. Specifically, the mortgage financing that had been arranged for the purchase of the Adelaide Properties required a certain amount of equity as a pre-condition to funding.

[91] In any event, there is no dispute that Furtado agreed to the subscription for units, accepted the subscription agreement from Marek, and then, after closing, authorized the redemption of the units by the Adelaide LP. To do so, he entered into the Demand Loan on behalf of the Adelaide LP with Adelaide Square Developments.

[92] The limited partnership agreement for the Adelaide LP, which governed the relationship between the investors and the Adelaide LP, had detailed provisions for the payment of distributions as a return of capital invested. The key element of those provisions, paraphrased by Furtado, was that "the investors got paid first."

[93] More specifically, s. 4.1 of the agreement provided for what the parties called a "waterfall" of payments, in order and priority. After a nominal payment to the general partner, the first distribution was to repay each unitholder, on a pro-rata basis, any capital contribution made by such unitholder. Furtado also told investors (other than Marek) that their investment was illiquid, and they could not get it out until the end of the project. Section 4.1 of the limited partnership agreement reiterates this point.

5.2.2.b.i Step one - objective element

[94] Turning to the objective element of the alleged fraud, we note that the redemption of Marek's units was a clear breach of the terms of s. 4.1 of the limited partnership agreement. It was contrary to the bargain that had been placed before investors, that all investors were in it together until the project came to fruition, at which point investors would be paid out on a pro-rata basis. This was a dishonest act which satisfies the first aspect of the objective element of a fraud.

[95] The capital structure of the Adelaide LP was also materially altered by the Adelaide LP entering into the Demand Loan and using most of the proceeds to pay Marek on redemption of his units, substituting debt for equity. This early, material payment to Marek placed the pecuniary interests of the other investors at risk. This satisfies the second aspect of the objective element of a fraud.

5.2.2.b.ii Step one - subjective element

[96] As to the subjective element of fraud, Furtado knew that the agreement provided for pro-rata distribution, and he knew that he had told investors that they would be paid first. He nevertheless authorized the redemption of Marek's units and their replacement by the Adelaide Square Developments Demand Loan. We find that he understood this would put the pecuniary interests of the investors other than Marek at risk. The subjective element is satisfied.

5.2.2.b.iii Step two – remaining elements of s. 126.1(1)(b)

[97] Turning to the second step in the analysis under s. 126.1(1)(b) of the *Act,* Furtado urges us to determine that this is not conduct which is "relating to securities", but rather is a simple matter of an alleged breach of contract, for which investors have contractual remedies that should be sought in the courts.

[98] We do not agree. Conduct may constitute fraud under s. 126.1 even though it may give rise to other remedies in other forums. The conduct in this case related to representations made and agreements entered with investors in relation to their purchase of securities, the limited partnership units. We find the conduct alleged is in relation to securities, within the meaning of s. 126.1, and accordingly that Furtado committed a fraud by the redemption of Marek's units.

5.2.2.c Misuse of assets of other partnerships by using their properties to secure obligations of the Adelaide GP and LP

[99] The Commission's third allegation of fraud relates to the use of the assets of two other limited partnerships created by GTDH, to secure obligations in respect of the Adelaide GP and LP.

[100] The Elfrida LP and Eagle Valley LP were limited partnerships created by GTDH to develop two other projects. Their structures were similar to the Adelaide LP in that GTDH created a subsidiary to be the general partner of each limited partnership. All the GTDH entities, including these general partners, were affiliates as they were all controlled by Furtado.

[101] The limited partnership agreements for each of the Elfrida LP and the Eagle Valley LP contained a specific covenant by the general partner that it shall not "cause the Partnership to guarantee the obligations or liability of, or make loans to, the General Partner or any Affiliate of the General Partner".

[102] The investment opportunity documents for each of the Elfrida LP and Eagle Valley LP also state in their "Summary of Key Considerations" section that, "The General Partner holds the property in trust for the Partnership".

[103] Despite these provisions, Furtado caused the Elfrida LP to agree to the registration of a charge for over $7 million on its property and agree to certain restrictions, to support an obligation in respect of the Adelaide Project.

[104] Furtado also caused the Eagle Valley LP to agree to the registration of a charge for over $13 million on its property, as collateral security for one of the Adelaide LP's mortgages.

[105] Furtado obtained no benefit for the Elfrida LP or the Eagle Valley LP in exchange for these provisions of security. Nor did he obtain investor approval from those LPs. They were not disclosed to investors in those LPs until late 2020, after Furtado was questioned about the charges by the Commission.

[106] The Commission submits that in appropriating the assets of the Elfrida LP and the Eagle Valley LP in an unauthorized manner, Furtado acted dishonestly in a manner that is a fraud by "other fraudulent means".

[107] Furtado submits, to the contrary, that what is alleged is no more than an unintentional breach of contract which does not engage the jurisdiction of the Tribunal. In any event, he submits, the charges were removed, with no damage occurring, once the Commission raised the issue. Finally, he submits, there was never any real risk of deprivation to the relevant unitholders in those partnerships, as the value of the Adelaide LP properties was sufficient to support payment of all the debts in question.

5.2.2.c.i Step one – objective element

[108] The investors in the Elfrida LP and the Eagle Valley LP were entitled to rely on the general partner's representations and agreements made in respect of their purchase of securities. Those representations included that the properties would be held in trust and not encumbered for the benefit of the general partner or any of its affiliates. The cross-collateralization caused by Furtado was an unauthorized use of those partnerships' properties, at odds with the bargain that was presented to investors when they purchased the units. It was a dishonest act that satisfies the first aspect of the objective element of a fraud.

[109] Turning to the second aspect of the objective element, whether investors' pecuniary interests were subjected to risk because of this conduct must be tested at the time of the conduct. Furtado was adamant in his testimony that there was

no real risk to investors in the Elfrida LP and the Eagle Valley LP because the value of the Adelaide LP's properties was sufficient to support the payment of all debt.

[110] Furtado's assessment of the risk, however, does not determine the issue. Properties subject to a charge in support of an affiliate of the general partner is precisely what the investors in the Elfrida LP and the Eagle Valley LP had not bargained for. They had bargained to receive property held in trust and unencumbered by the general partner or its affiliates. An encumbered property obviously carries a greater risk than one not encumbered. It involves a greater risk of deprivation if for any reason the chargee determines to enforce against the property.

5.2.2.c.ii Step one – subjective element

[111] As an experienced real estate developer, Furtado must have known the potential pecuniary risk of charges on the other LPs' properties, however he may have quantified (or dismissed) that risk. The second aspect of the objective element is satisfied.

5.2.2.c.iii Step two – remaining elements of s. 126.1(1)(b)

[112] As to the second step in the analysis, we have already noted above that conduct may constitute fraud under s. 126.1 as "relating to securities", even though it may give rise to other remedies in other forums. Here, Furtado's dishonest acts related to the rights and expectations of investors in limited partnership securities, based on the representations and documents provided by the general partner. We find this conduct by Furtado to be "relating to securities".

5.2.2.d Dishonestly soliciting a further $12 million investment from Marek

[113] The Commission alleges that Furtado undertook further dishonest acts in soliciting a new investment from Marek in August-September 2019. He did so, it submits, by making misrepresentations about the Adelaide LP's financial picture and failing to disclose important facts including his indirect personal interest in Adelaide Square Developments, the existence of the Adelaide Square Developments Demand Loan, and his expectation of receiving a $6 million dividend from the proceeds of Marek's investment.

[114] Furtado approached Marek in August 2019, to ask if Marek might be interested in making a further investment in the Adelaide LP. Furtado and Marek met in person for about an hour at Furtado's office on August 27, 2019. Marek invested a further $12 million by a subscription of units on September 26, 2019. Marek and Furtado agreed that those units would carry a target annualized return of 20% plus a further 10% of the profits after other limited partners were paid.

[115] At some point (precisely when was not agreed upon by the parties), Furtado gave Marek an updated information deck about the Adelaide Project (the **Updated Deck**). The Updated Deck was clearly wrong in some key respects. It stated that "Go-To Developments and its partners...have collectively invested $19.8 million of the total $27 million equity required". In that regard, on the same page in a table of "Sources and Uses" of capital, it showed Adelaide Square Developments as having contributed $16.8 million in equity. Both of these statements were incorrect. "Go-To Developments and its partners" had invested no equity. Adelaide Square Developments did not have any equity. Rather, it had the substantial outstanding Demand Loan, which was not disclosed. The Updated Deck materially understated the Adelaide LP's debt and overstated its equity.

[116] Marek's testimony is that he received the Updated Deck in the August 27 meeting. Furtado contests this, on the basis that he believes Marek left the meeting with no documents and only received the Updated Deck later by email. Furtado's evidence, however, changed over time between his compelled interviews, his affidavit, and his live testimony. We prefer Marek's evidence on this point and find that he did receive the Updated Deck before his $12 million investment.

[117] Marek testified that Furtado said nothing in the meeting about the page in the Updated Deck referred to above, that set out the erroneous equity, debt, and sources and uses of capital. His evidence, consistent with Furtado's in this respect, is that they just flipped through the deck. He was straightforward in saying that Furtado told him nothing about any of the items on that page. After the meeting, he testified that he "quickly reviewed" the document but asked no further questions. He confirmed he asked for no further financial information before making his investment.

[118] We are therefore faced with a situation where a disclosure document provided to an investor, Marek, prior to his decision to invest, contained material misstatements concerning the capital structure of the investment.

[119] It is equally clear from the evidence, however, that Marek did not rely on the misstatements before making his $12 million investment. He was focused on the return he would receive on his investment.

[120] We have explained above that reliance is not a necessary element of a finding of fraud, whether by deceit, falsehood, or other fraudulent means. This alleged fraud demonstrates the importance of this principle.

[121] Furtado attempted to explain away the misstatements, and to blame them on the third party who had been retained to prepare the Updated Deck. However, as President and CEO of GTDH, he had the power of final approval over all information decks provided to investors, and he provided the Updated Deck to Marek. He bears responsibility for its contents.

5.2.2.d.i Step one – objective element

[122] Returning to the framework for determining whether securities fraud occurred, we conclude that the first aspect of the objective element is satisfied by Furtado's dishonest act in providing the Updated Deck containing material misstatements to Marek as a potential investor. The second aspect of the objective element, the risk to the pecuniary interests of the investor, flows from the nature of the misstatements, which overstated equity and understated debt.

5.2.2.d.ii Step one – subjective element

[123] As to the subjective element, Furtado was aware of the true capital structure of the limited partnership, and was therefore aware that what was in the Updated Deck was a misstatement. We find, therefore, that he must have appreciated the pecuniary risk that could flow from that misstatement.

5.2.2.d.iii Step two – remaining elements of s. 126.1(1)(b)

[124] Finally, the second element of s. 126.1(1)(b), that Furtado's fraudulent conduct is in relation to securities, is satisfied by the fact that the conduct was in relation to the sale of units in the Adelaide LP. Accordingly, this allegation is established, and we find that Furtado perpetrated a fraud in the solicitation of Marek's $12 million investment in September 2019.

5.2.2.e Fraud on the Adelaide LP itself

[125] The Commission alleges that Furtado's acts, undertaken to obtain a personal benefit from the Adelaide LP's acquisition of the Adelaide Properties, were a fraud on the Adelaide LP itself.

[126] Of the four frauds we have determined above, only one impacts the Adelaide LP itself. It is the early redemption of Marek's initial units and its replacement with a Demand Loan.

[127] From the perspective of the Adelaide LP, the early redemption of Marek's initial investment, and its replacement with a Demand Loan from Adelaide Square Developments, had the effect of replacing a material amount of its equity with debt. To the extent we have found that this perpetrated a fraud on the investors in the Adelaide LP, we find it also was a fraud on the limited partnership itself.

5.3 Did Furtado and GTDH engage in the business of trading in securities without being registered?

[128] Registration is one of the cornerstones of the regulatory framework of the *Act*. It is a key gate-keeping mechanism that protects investors and the capital markets by imposing obligations of proficiency, integrity, and solvency on those who seek to be in the business of trading in securities.[16]

[129] The *Act* requires those engaged in the "business" of trading to be registered.[17] The conduct must be determined to be trading in securities, and the trading must rise to the level of someone being in the business of trading in securities. This is generally referred to as "the business trigger".

[130] The Commission alleges that Furtado and GTDH traded in securities of the various GTDH limited partnerships, and that their capital raising conduct activated the business trigger, which required them to be registered to trade. Furtado and GTDH do not take issue with the Commission's allegation that they were trading in securities, but submit that their trading did not cross the line between permissible capital raising, and the registrable business of trading.[18] We have concluded that Furtado and GTDH did not engage in the business of trading, for the following reasons.

[131] Between March 2016 and June 2020 (a period of more than four years), Furtado and GTDH raised over $80 million from about 85 investors. The capital was invested in 10 separate limited partnerships. Each partnership held a different property (with one exception, where two partnerships existed for a single property). The Adelaide LP was the last partnership to start raising money and was by far the largest of the 10 partnerships.

[132] In all cases, the units were sold on a prospectus-exempt basis, relying on the accredited investor or similar exemptions. The Commission has not alleged that any of the sales required a prospectus.

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16 *Hogg* at para 187; *Limelight Entertainment Inc et al*, 2008 ONSEC 4 at paras 135-136; *Meharchand* at para 107

17 *Act*, s 25(1)

18 *Money Gate Mortgage Investment Corporation (Re),* 2019 ONSEC 40 (***Money Gate***) at para 143, citing *Blue Gold Holdings Ltd et al,* 2016 ONSEC 24 at para 20

[133] The Commission cites and relies upon Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**Companion Policy**) as setting out criteria to assist in determining if the business trigger has been met. The criteria include:

a. engaging in activities similar to a registrant;

b. intermediating trades or acting as a market maker;

c. carrying on the activity with repetition, regularity or continuity;

d. being, or expecting to be, remunerated or compensated for the activity; and

e. directly or indirectly soliciting securities transactions.

[134] The Companion Policy is not law. However, the Tribunal has consistently adopted its criteria as helpful in determining whether a business trigger has been met. Equally, though, the Tribunal has cautioned that "these factors are useful, but ultimately [the Tribunal] must take a holistic view to determine whether [the impugned party] was acting like a [party] in the business of trading securities or was seeking to raise capital for the advancement of an underlying business."[19]

[135] This quote refers to a concept which has influenced the Tribunal's determination on the business trigger in several cases. The presence of an underlying business for which capital is being raised is a factor which weighs against a finding of a "business of trading".[20] However, it is not determinative.[21]

[136] The Companion Policy itself reflects this tension, as it notes that issuers with an active non-securities business (or a bona fide business plan for one), who trade in their own securities, are generally not considered to be in the business of trading if they meet certain criteria. The criteria are the obverse of the ones set out above, which tend to demonstrate that the business trigger is met. Yet those criteria are themselves also noted in the Companion Policy to be subject to exceptions.

[137] The Companion Policy also refers specifically to issuers in the "start-up stage", who will be considered to have an "active non-securities business" if they are raising capital to start a non-securities business.

[138] The Commission submits that we should consider all the GTDH projects together in our analysis of the business trigger, as Furtado was the directing mind of them all, and solicited investments for all of them with repetition, regularity and continuity. It encourages us to view all the capital raising for the projects as a single ongoing business, not something in the start-up stage for each project. The Commission submits that the registration requirement should apply to such "serial sponsors and sellers" of securities, when viewed through the investor protection lens of the *Act.*

[139] Furtado and GTDH submit, to the contrary, that each of the limited partnerships represented a separate business, financing a different project, and there was no reason to ignore the separate legal personality of the different partnerships. The fundraising efforts of each limited partnership, they submit, should be viewed on their own. Furtado's activity is explicable as GTDH was the shareholder of each of the general partners of the partnerships, and he was the directing mind of GTDH. When viewed as stand-alone partnerships, they submit, each limited partnership was raising funds primarily in its start-up phase.

[140] It is common ground that in each case, the purpose of soliciting investments was to provide the relevant partnership with funds to purchase a developable property and then fund pre-construction 'soft costs' (such as planning and zoning). Each investor received a separate subscription agreement and the relevant limited partnership agreement, and almost all received an informational document about the particular partnership seeking funds.

[141] Ultimately, in our view, whether one views the GTDH family of projects as a single business, or as separate businesses, does not materially change the analysis. Either way, each capital raising was for a defined underlying business in respect of a particular property development.

[142] The Commission notes that, among Furtado's responsibilities under his employment agreement with GTDH, he was expected to meet and communicate with potential investors in relation to the purchase of LP units. Furtado did meet with virtually all investors before they invested, to walk through the relevant project and documents. The Commission also notes that GTDH received administration fees from the limited partnerships, including for managing tasks related to unitholders. Further, GTDH also had a VP of Investor Relations and Special Projects whose responsibilities included achieving annual targets for new funding from accredited investors.

[143] While all this is true, in respect of Furtado there was no evidence to suggest that his activity related to soliciting investments consumed more than a modest fraction of his time, nor that he was compensated based on the quantum

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19 *Threegold Resources Inc (Re),* 2021 ONSEC 30 (***Threegold***) at para 40

20 *Threegold* at paras 41-58; *Stinson (Re),* 2023 ONCMT 26 (***Stinson***) at para 53

21 *Paramount Equity Financial Corporation (Re),* 2022 ONSEC 7 (***Paramount***) at para 46; *Money Gate* at para 143

raised. Furtado testified, and we accept, that he wore many hats for GTDH, including identifying development opportunities, formulating acquisition and development strategies, securing mortgage financing, managing zoning and planning processes with municipalities, retaining architects, engineers and planners, and sometimes additional responsibilities if a project entered the construction phase.

[144] While GTDH did receive administration fees from the partnerships, there was no evidence to support an assertion that it was any more, or less, than one would expect for the administration of property development projects. Nor was there any evidence as to whether any component of any fee attributable to investor relations was typical or not.

[145] With respect to the VP of Investor Relations and Special Projects, we had in evidence only the employment contract for that person and no witnesses spoke to the responsibilities or scope of the role. We note that the contract sets out numerous responsibilities including leading all communications and information technology functions.

[146] While the Commission's factual assertions are correct, in context and considered together they are consistent with GTDH and Furtado acting primarily as a real estate developer, rather than being in the business of trading securities. None of the investor witnesses suggested that they viewed Furtado or GTDH as being in the business of trading securities. All of them said, in one way or another, that GTDH was a real estate development business.

[147] It is useful to contrast two recent decisions of the Tribunal, *Paramount* and *Stinson.* In *Paramount,* the respondents offered units in pooled mortgage investment funds and direct mortgage investments on a continuous basis. The Tribunal cautioned that, just because an issuer carries on a core or other business, it does not preclude a conclusion that the issuer is engaged in the business of trading in securities.[22] The Tribunal focused on other factors such as the amount of management time spent on soliciting investors, the regularity and continuity of sales of securities, and the expectation of those engaged in the trading activity to be compensated for it. The Tribunal concluded that the business trigger test had been met.

[148] In *Stinson,* on the other hand, the respondents were pursuing a strategy to acquire, renovate, convert and operate a hotel and condominium project. Despite an agreed statement of facts that purported to admit to a breach of the registration section, the Tribunal determined that the Commission had not established that the respondents had met the business trigger test. It found that the respondents did not cross the line from capital raising for a specific underlying business, to engaging in the business of trading in securities.[23]

[149] In our view, the position of Furtado and GTDH is more analogous to that of the respondents in *Stinson* than those in *Paramount.* Though GTDH had nine separate projects, each was the subject of a separate capital raising. The focus of Furtado and GTDH was to raise capital for those businesses. We find the respondents were not in the business of trading in securities.

5.4 Did the respondents make false or misleading statements to investors about the use of invested funds?

[150] Subsection 44(2) of the *Act* supports the registration requirement by prohibiting false or misleading statements that a reasonable investor would consider relevant to deciding whether to enter or maintain a trading relationship.

[151] The Commission conceded, consistent with the Tribunal's decision in *Solar Income Fund,* that if there were no requirement for the respondents to be registered under s. 25(1), then they could not be liable under s. 44(2).[24] We have concluded that the respondents were not required to be registered. Accordingly, we need not consider this allegation.

5.5 Did Furtado mislead the Commission during the investigation?

[152] The Commission alleges that Furtado made misleading statements to the Commission during its investigation into the respondents' conduct.

[153] Subsection 122(1)(a) of the *Act* makes it an offence to make a statement to a person appointed to make an investigation under the *Act* that, in a material respect, is misleading or untrue, including by omission.

[154] The statements relied upon by the Commission were made by Furtado in his three compelled interviews, pursuant to a summons under the *Act.* The Commission must therefore prove the remaining element, that one or more of these statements were misleading or untrue.

[155] In deciding whether a misstatement rises to the level in s. 122(1)(a), we must give meaning to the term "in a material respect". As the Tribunal has found in the past, we should give those words meaning consistent with the remedial nature

22 *Paramount* at para 46
23 *Stinson* at para 52
24 *Solar Income Fund Inc (Re),* 2022 ONSEC 2 at para 66

of the section, but we should also distinguish between, on the one hand, misstatements that are evasive or designed to obfuscate, and on the other hand, inadvertent errors that are the product of confusion or poor recollection.[25]

[156] The Commission in its Statement of Allegations alleges that Furtado misled the Commission about:

a. the payments and benefits received by Furtado Holdings, specifically Furtado's testimony across his three examinations about the $388,087.33 received from Adelaide Square Developments in April 2019 and the $6 million dividend paid by Adelaide Square Developments in October 2019, and

b. his relationship with Adelaide Square Developments and Malanca, specifically that Furtado initially claimed his discussions with Adelaide Square Developments were with its sole registered director, Angelo Pucci, but later saying he dealt with Malanca as his primary contact.

[157] In the hearing and in its closing submissions, the Commission expanded its allegations to include arguably misleading or incomplete written answers given by Furtado to a summons for documents delivered between his second and third examinations, concerning correspondence with Malanca.

[158] Furtado objected to this expansion of the allegation, noting that nothing in the Statement of Allegations alleges misleading in respect of responses to summonses for documentary disclosure. This allegation was not referred to in the Commission's opening statement and was raised for the first time in the cross-examination of Furtado during the hearing.

[159] The Commission submitted this allegation was captured by the phrase "regarding his relationships and dealings with [Adelaide Square Developments] and [Malanca]". Yet the only particularized allegation on that matter in the Statement of Allegations is related to the question of whom Furtado said he had discussions with, Pucci or Malanca.

[160] We allowed the Commission to pursue questioning and introduce documents in relation to what later became this allegation. However, we have determined that in light of the limited assertions in the Statement of Allegations and the absence of any notice of this particular allegation, we will consider only those allegations of misleading statements made in Furtado's examinations.

[161] We deal first with the second allegation, that Furtado misled the Commission about who Furtado said was his primary contact for Adelaide Square Developments. On the second examination, he said it was Pucci. On the third examination, he said it was Malanca. Furtado attempted to explain this in his affidavit as his understanding that Pucci was the principal of Adelaide Square Developments, but that Malanca was an agent and acted with authority for Adelaide Square Developments. We do not find his explanation persuasive, but in our view this inconsistency is not "misleading in a material respect" in the circumstances, given the documentary record the Commission had in hand. The Commission has not established this second allegation, and we decline to find a breach of s.122(1)(a) by Furtado in this regard.

[162] We now consider the first allegation that Furtado misled the Commission about the payments and benefits he received from Adelaide Square Developments.

[163] In his first examination, Furtado was asked about both the approximately $388,000 and the $6 million payments from Adelaide Square Developments. In each case, he was presented with a funds transfer into the Furtado Holdings bank account and asked what it was for. In both cases, he answered that he did not recall offhand.

[164] In his second and third examinations, these payments were revisited and Furtado gave more expansive answers. In the second examination, he explained that the reason for receiving the $388,000 payment was in compensation for his having assumed the risk of an $800,000 non-refundable deposit on the 355 Adelaide property, pursuant to an oral agreement with Pucci. In his third examination, however, he revised this evidence to say there was a written agreement, signed by Pucci, which by that time had been provided to the Commission. He said the payment was treated as a dividend at his request.

[165] With respect to the $6 million dividend in October 2019, in his second examination he said the payment was provided as a "thank you" from Adelaide Square Developments in recognition of all his efforts on the Adelaide LP property purchase, in presenting solutions each time the transaction was in jeopardy. In his third examination, he said that the conversation about the dividend happened in the summer of 2019 during a lunch he had in Woodbridge with Malanca and Pucci.

[166] It is clearly the case that his testimony evolved through the three examinations. It further evolved when he testified in the hearing. In his affidavit for the hearing, Furtado testified that it was Malanca who suggested that Furtado receive shares of Adelaide Square Developments, so the $388,000 payment could be received as a dividend. He also testified at the hearing that it was Malanca who told him that he was going to receive the $6 million dividend, at a luncheon in Toronto in late September 2019, where Pucci was not present. This testimony differs from what he said in the examinations.

[25] *Rosborough (Re),* 2022 ONCMT 11 at para 91

[167] Although there were differences in details, the basic assertions about why Furtado was receiving the dividend payments were the same in the second and third examinations: that the $388,000 was to compensate Furtado for having borne the risk of a non-refundable deposit, and that the $6 million dividend was an unexpected “thank you” for Furtado based on his efforts to close the deal when it was in jeopardy.

[168] In the Statement of Allegations, the Commission asserts that this testimony in his examinations was false and misleading. It asserts this is because in fact, Furtado expected, intended and planned to receive a personal benefit as a result of the acquisition by the Adelaide LP of the Adelaide Properties. The Commission submits that he expected to receive the $388,000 and the $6 million, which ultimately took the form of dividends from Adelaide Square Developments on shares issued to Furtado shortly after the closing of the purchase of the Adelaide Properties.

[169] As noted, we must determine if the inconsistencies were "misleading or untrue” “in a material respect”, and, if so, whether they were evasive or designed to obfuscate, or rather inadvertent errors that were the product of confusion or poor recollection.

[170] We note that on the key elements of this testimony we have rejected Furtado’s evidence that the payments were unexpected, in our determination that he did expect, intend and plan to receive personal benefits as a result of the purchase of the Adelaide Properties.

[171] This is precisely the testimony alleged in the Statement of Allegations to have been false and misleading, for precisely the reason alleged. It is not an attempt, after the fact, to find a breach of s.122(1)(a) based on a simple rejection by the Tribunal of a respondent’s testimony at the hearing.

[172] The reasons that Furtado received shares, and then substantial dividends, from Adelaide Square Developments, were material issues in this proceeding from the outset. We find that his testimony on this subject in his examinations was misleading or untrue, and was so in a material respect in relation to the issues joined in this proceeding. Were they, however, evasive or designed to obfuscate, or were they inadvertent errors that were the product of confusion or poor recollection?

[173] As an explanation for these inconsistencies, Furtado gave testimony, both in his affidavit and in his oral evidence, as to his health and mental state at the time of his examinations. In particular:

a. he had anxiety associated with testifying unmasked with his counsel beside him during the COVID-19 pandemic as he is immuno-compromised;

b. at that time he was seeing doctors for undiagnosed constant pain in his head; and

c. he has mental health challenges with memory, anxiety, sleep problems, and concentration issues which caused him to need to review documents multiple times to retain information.

[174] We note that this evidence was direct evidence in his affidavit and oral testimony, and we had the benefit of observing him in person throughout the hearing. In light of our ruling above concerning the admissibility of Furtado’s affidavit, we note that we have disregarded expert testimony about his health that was proffered on adjournment motions.

[175] As we have found above, Furtado’s examination testimony on these topics was misleading or untrue in a material respect. While there is no doubt Furtado suffered health challenges throughout the examinations and the merits hearing, those challenges cannot excuse the specific and repeated explanations he gave for the receipt of the payments, which we have found are not sustainable. We find they were evasive or designed to obfuscate.

[176] We accordingly find that the Commission has established its allegation that Furtado breached s.122(1)(a) by making statements to the Commission as to the reasons he received dividends from Adelaide Square Developments, that were misleading or untrue in a material respect.

5.6 Did Furtado authorize, permit or acquiesce in the Corporate Respondents’ non-compliance with Ontario securities law?

[177] The Commission alleges that Furtado, as the directing mind of the Corporate Respondents, is liable for their non-compliance with the *Act*. Pursuant to s. 129.2 of the *Act*, a director or officer is deemed to be liable for a breach of securities law by a company where the director or officer authorized, permitted or acquiesced in the company’s non-compliance with the *Act*.

[178] Recent Tribunal decisions have concluded that where an individual has been found directly liable for a breach of the *Act*, it is not necessary to consider whether the individual should also be deemed liable under s. 129.2. The *Hogg* case contains a recent summary of the reasons for this conclusion.[26]

[179] Furtado controls all the Corporate Respondents and is their sole directing mind. We have found him directly liable for breaches of the *Act.* As a result, we decline to deem him to be also liable under s. 129.2 for the same breaches by the Corporate Respondents.

5.7 Did the respondents engage in conduct contrary to the public interest?

[180] The Commission alleges that the respondents engaged in activity contrary to the public interest by engaging in the misconduct outlined above.

[181] The Commission did not provide any particulars in its written or oral submissions to support this allegation, and it was not advanced in the Statement of Allegations. The Tribunal has previously determined that where it has found a respondent's conduct to have breached Ontario securities law, it will not also conclude that the conduct was contrary to the public interest without there being additional facts and submissions to support that allegation.[27] We therefore decline to make a finding that the respondents engaged in conduct contrary to the public interest.

6. CONCLUSION

[182] For the reasons above, we find that the Commission has established that the respondents perpetrated fraud in the five ways we have described above. We also find that the Commission has established that Furtado breached s.122(1)(a) by giving misleading statements. However, we find that the remaining allegations have not been established and we dismiss them.

[183] We therefore require that the parties contact the Registrar by 4:30 p.m. on May 26, 2025, to arrange an attendance, to schedule a hearing regarding sanctions and costs, and the delivery of materials in advance of that hearing. The attendance is to take place on a mutually convenient date that is fixed by the Governance & Tribunal Secretariat, and that is no later than June 16, 2025.

[184] If the parties are unable to present a mutually convenient date to the Registrar, each party may submit to the Registrar, for consideration by a panel of the Tribunal, a one-page written submission regarding a date for the attendance. Any such submission shall be submitted by 4:30 p.m. on May 26, 2025.

Dated at Toronto this 6th day of May, 2025

"M. Cecilia Williams"

"Geoffrey D. Creighton"

"Cathy Singer"

[26] *Hogg (Re),* 2024 ONCMT 15 at paras 215-230
[27] *Valentine (Re),* 2024 ONCMT 11 at paras 119-121; *Kraft (Re),* 2023 ONCMT 36 at para 336; *Kitmitto (Re),* 2022 ONCMT 12 at paras 174-179

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B. Ontario Securities Commission

B.1
Notices

B.1.1 CSA Notice Regarding Coordinated Blanket Order – Coordinated Blanket Order 45-935 Exemptions from Certain Conditions of the Listed Issuer Financing Exemption

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA NOTICE REGARDING COORDINATED BLANKET ORDER

COORDINATED BLANKET ORDER 45-935
EXEMPTIONS FROM CERTAIN CONDITIONS OF THE LISTED ISSUER FINANCING EXEMPTION

May 14, 2025

Introduction

The Canadian Securities Administrators (the **CSA** or **we**) are publishing substantively harmonized relief from certain conditions of the listed issuer financing exemption (the **exemption**) in Part 5A of National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**). Every member of the CSA is implementing the relief through a local blanket order entitled Coordinated Blanket Order 45-935 *Exemptions from Certain Conditions of the Listed Issuer Financing Exemption* (the **blanket order**).

Background

We are committed to ensuring that Canada's regulatory environment adapts to the evolving needs of businesses, investors and other market participants. For businesses to thrive in Canada, the regulatory environment must be balanced, tailored and responsive to the evolving marketplace without compromising investor protection.

The exemption was adopted in November 2022 to provide a more efficient method of capital raising for reporting issuers that have securities listed on an exchange recognized by a securities regulatory authority in a jurisdiction of Canada and that have filed all timely and periodic disclosure documents required under Canadian securities legislation. The blanket order provides relief from certain conditions of the exemption to further facilitate capital raising by listed reporting issuers.

Description of blanket order

Description

Under the exemption, listed reporting issuers are limited to raising the greater of $5 000 000 and 10% of the issuer's aggregate market value to a maximum of $10 000 000 in a 12-month period, subject to a 50% dilution limit. The blanket order provides relief from these conditions by allowing listed reporting issuers to raise the greater of $25 000 000 and 20% of the aggregate market value of the issuer's listed securities to a maximum of $50 000 000 in a 12-month period, subject to different provisions related to the 50% dilution limit.

The blanket order provides that for the purposes of the 50% dilution limit:

- the timing for calculating the outstanding securities is (i) the date of the news release announcing the offering if an issuer has not relied on the exemption or the blanket order in the last 12 months or (ii) the date of the news release announcing the first offering completed in reliance on the exemption or the blanket order in the last 12 months; and
- issuers can exclude securities issuable on exercise of warrants from the calculation if they are not convertible within 60 days of closing of the offering.

In addition, under the blanket order, the distribution cannot:

- result in a new control person, or
- result in a person or company acquiring ownership of, or exercising control or direction over, securities that would result in the person or company being entitled to elect a majority of directors.

Rationale

Since its adoption, the exemption has been used by over 270 issuers, collectively raising over $1 billion. Market participants have provided positive feedback on the exemption but noted that the capital raising limits have been restricting use of the exemption. Increasing the capital raising limits, while adding more conditions on who an issuer can distribute securities to, will allow listed reporting issuers to raise significantly more capital without impacting investor protection.

The changes in the blanket order related to the timing of the 50% dilution limit address a condition of the exemption that requires the calculation to be based on the issuer's outstanding securities 12 months before the offering. Further, under the blanket order, only warrants convertible within 60 days of the closing need to be included in the 50% dilution calculation. This relief expands the number of warrants an issuer may be able to issue, as under the exemption all securities on conversion of warrants need to be included in the dilution calculation.

CSA Staff Notice 45-330 (Revised) *Frequently Asked Questions about the Listed Issuer Financing Exemption*

We are concurrently publishing CSA Staff Notice (Revised) *Frequently Asked Questions about the Listed Issuer Financing Exemption* to add clarity and provide more guidance on the exemption and how it will work with the blanket order.

Local adaption and term of blanket order

Although the outcome is intended to be the same in all CSA jurisdictions, the language of the blanket order issued by each province or territory may not be identical because each jurisdiction's blanket order must fit within the authority provided in local securities legislation.

The blanket order will come into effect on May 15, 2025. In certain jurisdictions, the blanket order includes an expiry date based on the term limits for blanket orders in the jurisdiction.[1]

Questions

Please refer your questions to any of the following:

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[1] For example, in Ontario, the term of the blanket order is 18 months and will expire on November 15, 2026.

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B.1.2 CSA Staff Notice 45-330 (Revised) – Frequently Asked Questions About the Listed Issuer Financing Exemption

CSA/ACVM Canadian Securities Administrators Autorités canadiennes en valeurs mobilières

CSA STAFF NOTICE 45-330 (REVISED)

FREQUENTLY ASKED QUESTIONS ABOUT THE LISTED ISSUER FINANCING EXEMPTION

First published June 1, 2023 and revised on May 14, 2025

Introduction

The purpose of this notice is to answer some of the frequently asked questions (**FAQs**) on the listed issuer financing exemption under Part 5A of National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**) adopted by all securities regulatory authorities in Canada in November 2022 (the **exemption**). Subject to certain conditions, the exemption allows reporting issuers that have securities listed on an exchange recognized by a securities regulatory authority in a jurisdiction of Canada to raise the greater of $5 000 000 and 10% of the issuer's market capitalization to a maximum of total dollar amount of $10 000 000 in a 12-month period by distributing securities to investors.

On May 14, 2025, each of the Canadian Securities Administrators (**CSA**) jurisdictions published Coordinated Blanket Order 45-935 *Exemptions from Certain Conditions of the Listed Issuer Financing Exemption* (the **blanket order**), which provided exemptions to increase the amount that can be raised under the exemption. If an issuer uses the blanket order, it may raise the greater of $25 000 000 and 20% of the aggregate market value of the issuer's listed securities to a maximum of $50 000 000 in a 12-month period. If an issuer uses the blanket order, it would also be subject to different provisions related to the 50% dilution limit.

The blanket order does not create a separate prospectus exemption; rather, it provides relief from certain conditions of the exemption by setting out alternative terms and conditions that must instead be met.

The list of FAQs below is not exhaustive, but it includes key issues and questions market participants have posed to us and our preliminary observations on offerings using the exemption to date. Staff of the participating jurisdictions may update these FAQs from time to time as necessary.

Frequently asked questions

Qualification to use the exemption:

1. Can an issuer use the exemption if they are in default of securities legislation requirements?

No. While an issuer is in default of securities legislation requirements, the issuer does not satisfy the condition in paragraph 5A.2(e) of NI 45-106. This restriction on using the exemption applies to issuers that are on a list of defaulting issuers in a Canadian jurisdiction, to issuers that have been advised by staff to re-file non-compliant disclosure documents as part of a prospectus or continuous disclosure review, and to other issuers that are otherwise in default of their requirements under securities legislation.

Once an issuer has addressed all defaults to the satisfaction of staff, the issuer can use the exemption provided it satisfies the other conditions of the exemption.

2. Can an issuer that is a reporting issuer but does not have listed equity securities currently trading on a Canadian exchange use the exemption?

No. An issuer must satisfy the condition in paragraph 5A.2(b) of NI 45-106 and have listed equity securities at the time of distribution. Paragraph 5A.1(1) defines "listed equity security" to mean equity securities of an issuer listed for trading on an exchange.

Therefore, an exchange listing must be completed prior to using the exemption and cannot be concurrent with or following the closing of an offering using the exemption. The conditions require the issuer to take actions that would be considered as acts in furtherance of a trade, for which the issuer would also need an exemption, including soliciting purchasers by issuing a news release and filing the offering document. If the issuer does not have listed equity securities at the time of those actions, it would not be able to use the exemption for those activities.

From an investor protection perspective, having listed equity securities ensures the investor can easily monitor the market price, fluctuations, and trading volumes. This is likely to be important information for investors when making an informed investment decision.

The Available Funds requirement:

3. What does it mean that the issuer must reasonably expect that it will have available funds to meet its business objectives and liquidity requirements for a period of 12 months following the distribution and how can an issuer ensure it complies with this condition?

The exemption is not available in situations where an issuer lacks sufficient funds to continue operations and achieve its objectives. If an issuer does not reasonably expect to have available funds for a period of 12 months following the distribution, the issuer cannot use the exemption.

There are several factors an issuer should consider in determining whether it has sufficient funds. First, it should consider the costs of its business objectives for the next 12 months. Note that Item 7 *Business objectives and milestones* of Form 45-106F19 *Listed Issuer Financing Document* requires the issuer to state the business objectives that it expects to accomplish using the available funds, including the costs related to each significant event that must occur for the business objectives to be met. In addition, the issuer should consider its cash flow from operations. Absent changes in key assumptions, future operating cash flow is likely to be similar to cash flow from operations in the issuer's most recent financial period. There will likely be other factors unique to each issuer's situation that the issuer should consider in making a determination of sufficiency of funds.

In most cases, the issuer will need to set a minimum offering amount to meet the 12-month funds sufficiency requirement. The minimum offering amount under the exemption must not be less than the issuer's estimate of the funds required to continue its operations and achieve its business objectives for the next 12 months, considering offering costs, the issuer's working capital or deficiency, projected operating cash flow, and any committed sources of additional funding.

When completing Item 8 *Available Funds* of Form 45-106F19, the issuer should consider the following:

- offering costs include selling commissions, fees, and any other offering costs
- working capital or deficiency is the issuer's current assets less its current liabilities
- additional funding must be committed to be considered, for example a concurrent bought deal private placement or an available credit facility

In Item 9 *Use of Available Funds* of Form 45-106F19, the issuer is required to provide a breakdown of how it will use the available funds. This will include the purposes necessary to meet its business objectives and liquidity requirements for the next 12 months.

If the available funds identified in Item 8 are not sufficient to cover all of the issuer's business objectives and liquidity requirements for a period of 12 months, the issuer will need to either increase the minimum offering amount or otherwise ensure sufficient funding is in place before using the exemption.

We remind issuers that if a completed Form 45-106F19 contains a misrepresentation, purchasers of securities under the exemption have either a right to rescind their purchase of the securities or a right to damages against the issuer and, in certain jurisdictions, a right to damages from the officers that signed the offering document and the issuer's directors.

4. Can an issuer close an offering under the exemption in multiple tranches?

Yes. An issuer could close an offering under the exemption in multiple tranches, subject to the maximum amount that can be raised in a 12-month period. While an issuer can close an offering in multiple tranches, if the issuer needs to raise a minimum offering amount to meet the 12-month funds sufficiency requirement, it must raise that minimum amount in the first tranche closing. In addition, the issuer must close the last tranche no later than the 45th day after issuing and filing the news release announcing the offering.

Types of securities that may be issued under the exemption:

5. Can an issuer use the exemption to distribute flow-through shares?

Flow-through shares are not a separate class of security; rather, calling a security "flow-through" denotes the tax benefits of the security. Therefore, provided the flow-through shares are "listed equity securities" and that all other conditions of the exemption are met, our view is that an issuer could use the exemption to distribute flow-through shares.

6. Can an issuer use the exemption to distribute charitable flow-through shares?

A charitable flow-through structure involves the distribution of flow-through securities to the donor who receives the flow-through tax benefits and donates the securities to a charity who immediately resells the securities to the end purchaser. As we understand these trades occur instantaneously, the series of trades would be viewed as a series of transactions incidental to a distribution and all treated as a single ongoing distribution, as referenced in section 3.12(8) of Companion Policy 45-106CP *Prospectus Exemptions* (45-106CP). Therefore, if all conditions of the exemption are met, the exemption appears to be available. Since this

is a distribution by the issuer to the end purchaser, the end purchaser must be named in the report of exempt distribution and have all statutory rights under the exemption.

7. Can an issuer use the exemption to distribute broker's warrants?

An issuer is only able to issue a listed equity security or a unit consisting of a listed equity security and a warrant to acquire a listed equity security. As broker's warrants would not typically be a listed equity security, the exemption would not be available for their distribution.

We caution market participants about potential backdoor underwriting concerns if a dealer acquired securities under the exemption. Please refer to both the last paragraph of subsection 3.12(8) and section 1.7 of 45-106CP.

8. Can an issuer use the exemption to issue securities for debt?

Our view is that the exemption is not available for the issuance of securities for debt. One of the conditions of the exemption is that the issuer cannot solicit an offer to purchase before issuing and filing a news release announcing the offering and filing a completed offering document (Form 45-106F19). In our view, the issuer will not be able to satisfy that condition if it already has bona fide debt outstanding with the intended "purchaser".

Types of offerings using the exemption:

9. Can the exemption be used for a bought deal offering?

In our view, bought deal offerings using the exemption raise the following potential concerns:

- who is considered to be the purchaser, and would the purchaser receive all the rights under the exemption, including direction on how to access the offering document and the statutory rights of action in the event the offering document or the issuer's periodic and timely disclosure documents contain a misrepresentation;
- what occurs if the underwriter has to purchase any securities not taken up by purchasers;
- that underwriters may solicit potential purchasers prior to the issuer issuing and filing the news release and filing its completed offering document, nullifying the availability of the exemption.

If a bought deal is conducted in such a way that the actual purchaser has all the rights contemplated under the exemption and will be named in the report of exempt distribution, our view is that the exemption could be available. In such cases, the series of trades made to the actual purchaser would be viewed as a series of transactions incidental to a distribution and all treated as a single ongoing distribution, as referenced in section 3.12(8) of 45-106CP. However, if the underwriter were to end up having to purchase any left-over securities, our expectation is that distribution would be under section 2.33 of NI 45-106 (see section 1.7 of 45-106CP).

In addition, the issuer and underwriter would have to make sure that any marketing of the offering complies with the conditions of the exemption so that no solicitations occur prior to the issuance and filing of the news release and filing of the completed offering document.

10. Can an issuer use the exemption concurrently with other prospectus exemptions?

Yes. There is nothing preventing the issuer from combining offerings under the exemption with offerings under the accredited investor exemption or other prospectus exemptions. However, those other exemptions carry a hold period, while this exemption does not.

11. Can an issuer use the exemption in Quebec concurrently with a prospectus in other provinces?

No. As this appears to be a way of structuring a transaction solely to avoid the requirement to translate the prospectus and continuous disclosure documents, staff of the Autorité des marchés financiers advise that it is unacceptable. This approach would also result in Quebec subscribers having fewer rights than the subscribers purchasing under the prospectus.

Unless the issuer is already a reporting issuer in Quebec, and therefore required to comply with the linguistic obligations of that province under Part 3 of NI 51-102 *Continuous Disclosure Obligations*, to use the exemption in Quebec, under paragraph 5A.2(n) of NI 45-106, only Form 45-106F19 and the news release required under paragraph 5A.2(k) need to be filed in French, not the continuous disclosure documents that the issuer has filed on SEDAR+.

12. How do the exemption and the blanket order interact?

An issuer can continue to use the exemption alone or it can use the exemption together with the blanket order. However, if an issuer wants to use any provision of the blanket order (for instance, the increased capital raising limit or the provisions related to

the 50% dilution limit), then all of the conditions of the blanket order will apply. Therefore, the issuer will be subject to the conditions that provide that the distribution cannot:

- result in a new control person, or
- result in a person or company acquiring ownership of, or exercising control or direction over, securities that would result in the person or company being entitled to elect a majority of directors.

When completing Form 45-106F1 *Report of Exempt Distribution* for the distribution, issuers must select "NI 45-106 5A.2 [Listed issuer financing exemption]" under the "Rule, section and subsection number" column of Schedule 1 and in item 7f of the SEDAR+ online form regardless of whether the issuer relies on the exemption alone or the exemption together with the blanket order.

Other practice questions:

13. Does an issuer need to include the common shares that are issuable on exercise of warrants when calculating the 50% dilution limit?

Yes. It is a condition of the exemption that the distribution will not result in an increase of more than 50% of the issuer's outstanding listed equity securities. Since the distribution of common shares on exercise of warrants may result from the distribution, those underlying common shares must be included when calculating the limit.

If the issuer relies solely on the exemption, the issuer is required to include, when calculating the limit, all common shares issuable on exercise of its outstanding warrants. However, if the issuer relies on the exemption together with the blanket order, the issuer is only required to include, when calculating the limit, common shares that are issuable on exercise of warrants if the warrants are convertible within 60 days of the closing date of the distribution.

14. Is the value of the common shares issuable on exercise of warrants included in the calculation of the "total dollar amount of the distribution" maximum allowed to be raised within 12 months?

No. Unlike the 50% dilution limit referenced above, the condition limiting the total dollar amount of the distribution refers only to the total dollar amount of the *initial* distribution. As the listed common shares issuable on exercise of the warrants are not part of the initial distribution, they are not required to be included in the calculation of the total dollar amount of the distribution.

15. Does the issuer have to prepare a subscription agreement?

No. The exemption does not require a subscription agreement or a risk acknowledgement to be signed by the purchaser. Generally, offerings under prospectus exemptions do not require a subscription agreement but many issuers want one to provide protection for themselves. Subscription agreements also contain other protections for issuers, so the issuer may consider using one for their own benefit.

16. What date must the issuer refer to in the certificate of the offering document?

Item 15 of Form 45-106F19 requires the following statement in bold with the bracketed information completed:

"This offering document, together with any document filed under Canadian securities legislation on or after *[insert the date which is the earlier of the date that is 12 months before the date of this offering document and the date that the issuer's most recent audited annual financial statements were filed]*, contains disclosure of all material facts about the securities being distributed and does not contain a misrepresentation."

The requirement is that this certification must refer back to the date that is the earlier of 12 months before the date of the offering document and the date the most recent audited financial statements were filed. For most issuers, this will be a date 12 months before the date of the offering document. Staff have found that many issuers incorrectly use the date of the offering document itself instead of this earlier date. In these situations, we require the issuer to amended and restate its offering document to include the correct date.

Questions

If you have any questions about these FAQs or the exemption or blanket order generally, please contact any of the following CSA staff:

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B.2
Orders

B.2.1 American Eagle Gold Corp. – s. 6.1 of NI 62-104

Headnote

Section 6.1 of NI 62-104 Issuer bid – relief from requirements applicable to issuer bids in Part 2 of NI 62-104 – issuer proposes to repurchase a specified number of its shares from one of its shareholders for a per share purchase price equal to the lower of a 25% discount to the market price of those shares (determined in accordance with NI 62-104) on (i) the date the agreement was entered into, and (ii) the closing date for the transaction – the selling shareholder is not a related party of the issuer – issuer's board has unanimously determined that the repurchase is in the best interests of the issuer and its shareholders (other than the selling shareholders), is on reasonable terms, will not adversely affect the issuer's financial position, and will not cause the market for the issuer's shares to be materially less liquid than the market that existed at the time the repurchase was agreed to share repurchase is exempt from the requirements applicable to issuer bids in Part 2 of NI 62-104, subject to conditions.

Statutes Cited

National Instrument 62-104 Take-Over Bids and Issuer Bids, Part 2 and s. 6.1.

IN THE MATTER OF
THE *SECURITIES ACT*,
R.S.O. 1990, c.S.5,
AS AMENDED

AND

IN THE MATTER OF
AMERICAN EAGLE GOLD CORP.

ORDER
(Section 6.1 of National Instrument 62-104)

UPON the application (the "**Application**") of American Eagle Gold Corp. (the "**Filer**") to the Ontario Securities Commission (the "**Commission**") for an order pursuant to section 6.1 of National Instrument 62-104 *Take-Over Bids and Issuer Bids* ("**NI 62-104**") exempting the Filer from the requirements applicable to issuer bids in Part 2 of NI 62-104 (the "**Issuer Bid Requirements**") in respect of the proposed purchase by the Filer of 500,000 common shares of the Filer (the "**Subject Shares**") from Precious Earth Resources Inc. ("**Precious**", and such purchase the "**Share Repurchase**");

AND UPON considering the Application and the recommendation of staff of the Commission;

AND UPON the Filer having represented to the Commission that:

1. The Filer is a corporation existing under the *Business Corporations Act* (Ontario) and is in good standing.

2. The Filer's head office is located at Suite 1102, 141 Adelaide Street West, Toronto, Ontario, M5H 3L5.

3. The Filer is a reporting issuer in the provinces of Ontario, Alberta and British Columbia and is not in default of any requirements of securities legislation in the jurisdictions in which it is a reporting issuer.

4. The Filer's authorized share capital consists of an unlimited number of common shares (the "**American Eagle Shares**"). As of April 28, 2025, there were 172,071,287 American Eagle Shares issued and outstanding.

5. The American Eagle Shares are listed on the TSX Venture Exchange ("**TSXV**") under the symbol "AE".

6. The Filer is a mining corporation primarily focused on exploring its NAK copper-gold porphyry project in west-central British Columbia, Canada.

7. The Filer held, indirectly through its wholly-owned subsidiary Kraip Energy Limited ("**Kraip**"), a 100% interest in a mineral property referred to as Kuta Ridge in Papua New Guinea until the Filer sold Kraip in July 2020. The Filer retained a 3% net smelter returns ("**NSR**") royalty (the "**Royalty**") on the Kuta Ridge Property following the sale of Kraip.

8. The Royalty is governed by an agreement dated July 22, 2020 between Pacific Precious Inc., the predecessor entity of the Filer, and Kraip (the "**Royalty Agreement**"). Pursuant to the terms of the Royalty Agreement, Kraip has the right to purchase two-thirds of the Royalty at any time before the start of commercial production for $500,000 for every 0.5% component thereof, leaving the Filer with a minimum 1% NSR (the "**Buy-Back Right**").

9. Precious is the successor entity to Kraip and owns Kuta Ridge.

10. Precious is a corporation validly existing under the laws of Canada. The head office of Precious is located in Toronto, Ontario. Precious is not a reporting issuer in any jurisdiction.

11. Precious has beneficial ownership of, or control or direction over, 5,492,490 American Eagle Shares, representing approximately 3.2% of the issued and outstanding American Eagle Shares.

12. Following initial discussions with Precious in August 2024 and subsequent discussion in February 2025, the Filer identified a potential opportunity to realize immediate value from the Royalty for the Filer's shareholders. The Filer has recognized the Royalty as an asset with only nominal value on its financials statements since its audited annual financial statements for the years ended December 31, 2021 and 2020 and the Filer's views regarding the value of the Royalty have not changed.

13. On February 18, 2025, the Filer and Precious entered into a royalty buy-down agreement (the "**Agreement**") pursuant to which (the "**Exchange Transaction**"):

    (a) the Filer agreed to transfer 2% of the Royalty to Precious in exchange for the Subject Shares; and

    (b) the Filer and Precious agreed to amend the Royalty Agreement to reflect that the Filer's Royalty has been reduced from a 3% NSR to a 1% NSR, and that Precious retains no further Buy-Back Right whatsoever.

14. The Agreement contemplated that the Exchange Transaction would occur no later than February 28, 2025, upon receipt of, and conditional upon, this order. The Filer and Precious have agreed to extend the outside date for the closing of the Exchange Transaction until such time as the Share Repurchase can be completed upon the terms of this order.

15. The Agreement was the result of arm's length negotiations between the Filer and Precious.

16. Precious: (a) is not a "related party" of the Filer (as such term is defined in Multilateral Instrument 61-101 *Protection of Minority Security Holders in Special Transactions* ("**MI 61-101**"); (b) is not in possession of material non-public information in respect of the Filer; and (c) does not have any representation on the Filer's board of directors (the "**Board**").

17. All of the members of the Board are independent (within the meaning of MI 61-101) in respect of the Exchange Transaction.

18. The Board has unanimously determined, acting in good faith, that:

    (a) the Agreement, Exchange Transaction, and Share Repurchase are in the best interests of the Filer and its shareholders (other than Precious and its affiliates);

    (b) the terms of the Agreement, Exchange Transaction, and Share Repurchase are fair and reasonable, even if the terms of the Royalty Agreement and Buy-Back Right contemplated that the repurchase of a 2% NSR would occur on the basis of consideration of $2,000,000 cash;

    (c) the value of the 2% NSR is not greater than the economic value represented by the Subject Shares;

    (d) there is no requirement, corporate or otherwise, to obtain shareholder approval for the Share Repurchase or the Exchange Transaction;

    (e) the Share Repurchase will not materially affect control of the Filer;

    (f) the Exchange Transaction will not adversely affect the financial position of the Filer and, upon completion, will increase the value of the equity ownership positions of the Filer's other securityholders; and

    (g) it is reasonable to conclude that, following the completion of the Share Repurchase there will be a market for holders of American Eagle Shares that is not materially less liquid than the market that existed at the time the Agreement was entered into.

19. The Subject Shares represent approximately 0.29% of the issued and outstanding American Eagle Shares.

20. The Subject Shares are being returned to the Filer for cancellation at a deemed purchase price equal to the lower of a 25% discount to the market price (as determined in accordance with NI 62-104) on (a) the date the Agreement was entered into, and (b) the closing date for the Exchange Transaction.

21. The Share Repurchase will constitute an "issuer bid" for the purposes of NI 62-104, to which the Issuer Bid Requirements would apply. The Share Repurchase cannot be made in reliance upon any of the exemptions from the Issuer Bid Requirements contained in Part 4 of NI 62-104.

22. All of the Subject Shares are held in the Province of Ontario.

23. The Share Repurchase is an integral part of the Exchange Transaction and Precious is not receiving any cash in exchange for the Subject Shares or in connection with the Exchange Transaction.

24. The purpose of the Share Repurchase is not to give preferential treatment to Precious or to provide a method for the Filer to purchase the Subject Shares, but rather to facilitate the sale of 2% of the

Royalty and realize the value of such asset for the benefit of the Filer and its shareholders.

25. As a result of the fact that no holders of American Eagle Shares other than Precious is a party to the Agreement, it is impossible for the Filer to offer to acquire American Eagle Shares from all shareholders on the same terms and conditions as those contemplated by the Agreement.

26. Holders of American Eagle Shares who are not offered the opportunity to sell their American Eagle Shares under the Exchange Transaction are otherwise entitled to sell their American Eagle Shares into the market for cash proceeds.

27. The Exchange Transaction is conditional on receipt of this order. The Filer has determined that no other regulatory or third party approvals and/or consents are required in respect of the Exchange Transaction.

28. Following the completion of the Exchange Transaction, Precious will have beneficial ownership of, or control or direction over, 4,992,490 American Eagle Shares.

29. Other than the Subject Shares, the Filer has no plans to repurchase any American Eagle Shares, including from Precious or any of its associates.

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

IT IS ORDERED pursuant to section 6.1 of NI 62-104 that the Filer be exempt from the Issuer Bid Requirements in connection with the Share Repurchase, provided that

(a) the Filer issues and files a news release on SEDAR+ at least five (5) business days prior to the closing of the Exchange Transaction that discloses that the Filer has been granted exemptive relief from the Issuer Bid Requirements for the Share Repurchase;

(b) as at the time of the closing of the Share Repurchase, the Board remains of the view that the Share Repurchase and Exchange Transaction are in the best interests of the Filer and its shareholders, and that the terms of each of them are fair and reasonable;

(c) all approvals and/or consents required in respect of the Exchange Transaction, have been obtained and not revoked; and

(d) there are no approvals required in respect of the Exchange Transaction (including the Share Repurchase) that must be obtained at a meeting of securityholders of the Filer.

DATED at Toronto, Ontario this 6th day of May, 2025.

"David Mendicino"
Manager, Corporate Finance Division
Ontario Securities Commission

B.2.2 Marathon Oil Corporation

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – issuer deemed to be no longer a reporting issuer under securities legislation – issuer is wholly-owned subsidiary of U.S.-based parent, with widely held debt securities outstanding – issuer meets some elements of modified procedure, but does not meet criteria of filing disclosure under U.S. securities laws and being listed on a U.S. exchange – issuer carried out consent solicitation of note holders that included amending the indentures to provide that no disclosure would be given to note holders – previous and subsequent to the amendments the note indentures did not require the issuer to maintain reporting issuer status – note holders had opportunity to exit by way of cash tender offers and exchange offers.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s.1(10)(a)(ii).
National Policy 11-206 Process for Cease to be a Reporting Issuer Applications.

Citation: *Re Marathon Oil Corporation*, 2025 ABASC 45

April 29, 2025

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

AND

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

AND

IN THE MATTER OF
MARATHON OIL CORPORATION
(the Filer)

ORDER

Background

The securities regulatory authority or regulator in each of the Jurisdictions (the **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) that the Filer has ceased to be a reporting issuer in all jurisdictions of Canada in which it is a reporting issuer (the **Order Sought**).

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

(a) the Alberta Securities Commission is the principal regulator for this application;

(b) the Filer has provided notice that section 4C.5(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia and Newfoundland and Labrador; and

(c) this order is the order of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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 laws of the State of Delaware, with its head office located in Houston, Texas.

2. The Filer is a reporting issuer under the securities laws of Alberta, British Columbia, Manitoba, Ontario, Québec, Saskatchewan New Brunswick, Newfoundland and Labrador and Nova Scotia (collectively, the **Reporting Jurisdictions**), and is seeking the Order Sought in each Reporting Jurisdiction. The Filer became a reporting issuer in each of the Reporting Jurisdictions in October 2007 as a result of the issuance by the Filer of common shares to shareholders of Western Oil Sands Inc. (**Western**), which was then a reporting issuer in the Reporting Jurisdictions, in exchange for all of the common shares of Western, pursuant to a plan of arrangement under the *Business Corporations Act* (Alberta).

3. The Filer is not in default of securities legislation in any jurisdiction.

4. The Filer is not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*.

5. The Filer has no business interests, employees, assets or premises in Canada.

6. On November 22, 2024, ConocoPhillips completed the acquisition of the Filer (the **Merger**) pursuant to an agreement and plan of merger dated as of May 28, 2024. Upon the completion of the Merger, the stock of the Filer was delisted from the New York Stock Exchange (the **NYSE Delisting**).

7. As a result of the Merger, all of the Filer's issued and outstanding common shares are held by ConocoPhillips. The only other outstanding securities issued by the Filer are the Notes (as

defined below). The Notes are not convertible or exchangeable into any other voting or equity securities of the Filer. The Notes entitle holders to the payment of principal and interest only, and do not entitle the holders to participate in the distribution of the assets of the Filer upon a liquidation or winding up.

8. The Notes have not been listed for trading on any exchange.

9. The Notes trade in the over-the-counter market in the United States, which is the usual means by which investment grade debt securities publicly or privately offered in the United States that are not listed on an exchange are traded.

10. In connection with the completion of the Merger, the Filer filed a Form 15 with the SEC on December 2, 2024 to terminate the registration of its securities (including the Notes) under the 1934 Act, and to suspend the Filer's reporting obligations under section 13 and section 15(d) of the 1934 Act (the **Deregistration**).

11. As a result of the NYSE Delisting and the Deregistration, the Filer is not subject to any statutory or regulatory (including any stock exchange) continuous disclosure reporting obligations, other than those arising from the Filer being a reporting issuer in the Reporting Jurisdictions.

12. Prior to the NYSE Delisting and the Deregistration, the Filer was an "SEC foreign issuer" under National Instrument 71-102 *Continuous Disclosure and Other Exemptions Relating to Foreign Issuers*, allowing it to satisfy continuous disclosure obligations under the securities laws of the Reporting Jurisdictions by filing the documents that it filed with the SEC.

13. On December 30, 2024, the Filer completed a successful solicitation (the **Consent Solicitation**) of holders of Notes for their consent to adopt certain amendments (the **Amendments**) to each of the indentures governing the Notes (collectively, the **Note Indentures**). Noteholders representing approximately 88% of the aggregate principal amount of each series of the Notes consented to the Amendments, thereby exceeding the noteholder consent threshold of 50% required to make the Amendments.

14. In conjunction with the Consent Solicitation, ConocoPhillips Company (**CPCo**), a wholly-owned subsidiary of ConocoPhillips, also completed the following:

    (a) cash tender offers for the Notes then outstanding (the **Cash Tender Offers**), pursuant to which CPCo purchased US$2,700,000,000 of the aggregate principal amount of the Notes;

    (b) exchange offers for the Notes then outstanding (the **Exchange Offers**), pursuant to which CPCo issued US$900,000,000 aggregate principal amount of new notes that were fully and unconditionally guaranteed by ConocoPhillips.

15. The Filer currently has, following the completion of the Cash Tender Offers and the Exchange Offers, six series of notes outstanding in an aggregate principal amount of US$451,867,000 (collectively, the **Notes**).

16. Ownership of the Notes is held in book-entry form through Cede & Co., a nominee for The Depository Trust Company (**DTC**), which is the sole registered holder of each series of Notes.

17. In order to ascertain the number of beneficial holders of Notes and their geographical location, the Filer has made inquiry through Broadridge Financial Solutions, Inc. (**Broadridge**). Broadridge reviewed the positions in the book-entry system maintained by DTC, and canvassed such participants as to the beneficial holders of Notes. As a result of this process, Broadridge was able to provide data on the number of beneficial holders and their geographical location for approximately 87.73% of the outstanding aggregate principal amount of Notes (the **Surveyed Notes**). Broadridge has advised the Filer that due to: (1) inter-participant lending; (2) the potential for some Notes to be in the midst of trade settlement; (3) some beneficial holders electing not to be identified; and (4) approximately 2% of the aggregate principal amount of Notes being held through DTC participants who do not subscribe to the services of Broadridge, identifying the number and location of the beneficial holders of 100% of the Notes is not possible. Since the results of such investigation count beneficial holders by each series of Notes separately and some beneficial holders of Notes may own Notes of more than one series, the total number of beneficial holders may be lower than the number described below. Based on such investigation, for the Surveyed Notes, as of February 12, 2025.

    (a) there are 13 beneficial holders located in Canada (representing approximately 0.14% of total beneficial holders worldwide), and

    (b) the 13 beneficial holders hold approximately US$484,000 aggregate principal amount of the Notes (representing approximately 0.11% of the aggregate principal amount of the Notes outstanding).

18. The Filer is not eligible to use the simplified procedure set out in section 19 of National Policy 11-206 *Process for Cease to be a Reporting Issuer Applications* (**NP 11-206**), as the Filer does not

meet the requirement of having fewer than 51 securityholders in total worldwide.

19. Regarding the modified procedure set out in section 20 of NP 11-206, the Filer notes the following:

    (a) The Filer does not meet paragraph (1)(a), because as a result of the Deregistration and the NYSE Delisting, the Filer no longer files continuous disclosure reports under U.S. securities laws, and is no longer listed on a U.S. exchange;

    (b) The Filer is of the view that it meets paragraph (1)(b);

    (c) The Filer makes the representation contemplated in (1)(c), below.

20. The Notes were issued by the Filer primarily in the United States pursuant to offerings made under registration statements filed with the SEC. No Notes were issued to purchasers resident in Canada.

21. As part of the Consent Solicitation conducted in conjunction with the Cash Tender Offers and the Exchange Offers, the Filer disclosed to holders of Notes that it intended to file a Form 15 with the SEC to effect the Deregistration.

22. The Note Indentures do not, and did not prior to the Consent Solicitation, require the Filer to maintain its status as a reporting issuer in any jurisdiction of Canada.

23. As a result of the Amendments, among other things, the Note Indentures no longer contain any obligation by the Filer to furnish any disclosure to the holders of the Notes.

24. The Filer has no intention to redeem any of the Notes prior to their maturity.

25. In the 12 months before making the application for this decision, the Filer has not taken any steps that indicate there is a market for its securities in Canada, including conducting a prospectus offering in Canada, establishing or maintaining a listing on an exchange in Canada or having its securities traded on a marketplace or any other facility in Canada for bringing together buyers and sellers where trading data is publicly reported.

26. The Filer has no intention to seek public financing by way of an offering of its securities in Canada.

Decision

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

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

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

OSC File #: 2025/0173

B.2.3 Ontario Securities Commission – Coordinated Blanket Order 45-935

ONTARIO SECURITIES COMMISSION

COORDINATED BLANKET ORDER 45-935

Citation: Exemptions from Certain Conditions of the Listed Issuer Financing Exemption

Date: May 14, 2025

Definitions

1. Terms defined in the *Securities Act* (Ontario) (the **Act**), National Instrument 14-101 *Definitions* and National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**) have the same meaning if used in this Order.

2. In this Order:

"**Form 45-106F19**" means Form 45-106F19 *Listed Issuer Financing Document*;

"**exemption**" means the prospectus exemption described in Part 5A of NI 45-106; and

"**prior LIFE offering**" means a prior offering in reliance on the exemption, on the exemption together with this Order, or on the exemption together with an order of another regulator or securities regulatory authority that is substantially similar to this Order.

Background

3. The Commission is satisfied that it is appropriate to provide relief from certain conditions of the exemption to facilitate capital raising by listed reporting issuers.

Order

4. The Commission, considering that to do so would not be prejudicial to the public interest, orders under subsection 143.11(2) of the Act that an issuer relying on the exemption is exempt from the requirements in paragraphs 5A.2(g) and (h) of NI 45-106 and the third bullet under section 3 of Form 45-106F19, provided that:

(a) on the date of the issuance of the news release referred to in paragraph 5A.2(k) of NI 45-106, the total dollar amount of the distribution, combined with the dollar amount of all other prior LIFE offerings during the 12 months immediately preceding the date of the news release, will not, assuming completion of the distribution, exceed the greater of the following:

(i) $25 000 000;

(ii) if the issuer

(A) has not closed a prior LIFE offering within the 12-month period immediately preceding the date of the news release referred to in paragraph 5A.2(k) of NI 45-106, 20% of the aggregate market value of the issuer's listed securities on the date of the news release announcing the offering, to a maximum of $50 000 000;

(B) has closed a prior LIFE offering within the 12-month period immediately preceding the date of the news release referred to in paragraph 5A.2(k) of NI 45-106, 20% of the aggregate market value of the issuer's listed securities on the date of the news release announcing the first prior LIFE offering in that 12-month period, to a maximum of $50 000 000;

(b) if the issuer has not closed a prior LIFE offering within the 12-month period immediately preceding the date of the news release referred to in paragraph 5A.2(k) of NI 45-106, the distribution, including securities issuable on conversion of warrants if the warrants are convertible within 60 days of closing of the distribution, will not result in an increase of more than 50% of the issuer's outstanding listed equity securities as of the date of the news release;

(c) if the issuer has closed a prior LIFE offering within the 12-month period immediately preceding the date of the news release referred to in paragraph 5A.2(k) of NI 45-106, the distribution, including securities issuable on conversion of warrants if the warrants are convertible within 60 days of closing of the distribution, combined with all other prior LIFE offerings during the 12-month period, will not result in an increase of more than 50% of the

issuer's outstanding listed equity securities as of the date of the news release announcing the first prior LIFE offering within this period;

(d) the distribution does not result in a new control person;

(e) the distribution does not result in a person or company acquiring beneficial ownership of, or exercising control or direction over, such number of the issuer's listed equity securities that would result in such person or company being entitled to elect a majority of the directors of the issuer;

(f) instead of the statement required by the third bullet under section 3 of Form 45-106F19, the issuer includes in the completed Form 45-106F19 the following statements on the cover page in bold:

- **[Name of issuer] is relying on the exemptions in Coordinated Blanket Order 45-935 *Exemptions from Certain Conditions of the Listed Issuer Financing Exemption* (the Order) and is qualified to distribute securities in reliance on the exemptions included in the Order.**
- **The total dollar amount of this offering, in combination with the dollar amount of all other offerings made under the listed issuer financing exemption and under the Order in the 12 months immediately preceding the date of the news release announcing this offering, will not exceed [Insert the greater of $25 000 000 and the amount that is equal to 20% of the aggregate market value of the issuer's listed securities as calculated in accordance with the Order, to a maximum of $50 000 000]**.

Effective Date and Term

5. This Order comes into effect on May 15, 2025, and will cease to be effective on November 15, 2026, unless extended by the Commission.

For the Commission

"D. Grant Vingoe"
Chief Executive Officer
Ontario Securities Commission

B.2.4 Westphalia Dev. Corp.

Headnote

National Policy 11-206 Process for Cease to be a Reporting Issuer Applications – The issuer ceased to be a reporting issuer under securities legislation.

Applicable Legislative Provisions

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

Citation: *Re Westphalia Dev. Corp.*, 2025 ABASC 43

April 25, 2025

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

AND

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

AND

IN THE MATTER OF
WESTPHALIA DEV. CORP.
(the Filer)

ORDER

Background

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

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

(a) the Alberta Securities Commission is the principal regulator for this application;

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

(c) this order is the order of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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 not an OTC reporting issuer under Multilateral Instrument 51-105 *Issuers Quoted in the U.S. Over-the-Counter Markets*;

2. the outstanding securities of the Filer, including debt securities, are beneficially owned, directly or indirectly, by fewer than 15 securityholders in each of the jurisdictions of Canada and fewer than 51 securityholders in total worldwide;

3. 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;

4. 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; and

5. the Filer is not in default of securities legislation in any jurisdiction.

Order

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

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

"Timothy Robson"
Manager - Corporate Finance
Alberta Securities Commission

OSC File #: 2025/0206

B.2.5 Transpacific Resources Inc. – s. 144

Headnote

National Policy 12-202 Revocation of Certain Cease Trade Orders – Application by an issuer for a revocation of a cease trade order issued by the Commission in 2004 – cease trade order issued because the issuer failed to file certain continuous disclosure documents required by Ontario securities law – The issuer has filed with the Commission all continuous disclosure that it is required to file under Ontario securities law, except for the outstanding filings – cease trade order revoked.

Statutes Cited

Securities Act, R.S.O. 1990, c. S.5, as am.
National Policy 12-202 Revocation of Certain Cease Trade Orders.

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

AND

IN THE MATTER OF
TRANSPACIFIC RESOURCES INC.

ORDER
(Section 144 of the Act)

WHEREAS the securities of Transpacific Resources Inc. (the **Issuer**) are subject to a cease trade order issued by the Director of the Ontario Securities Commission (the **Commission**) dated August 3, 2004, pursuant to paragraph 2 of subsection 127(1) of the Act (the **Ontario Cease Trade Order**), directing that all trading in the securities of the Issuer cease until the Ontario Cease Trade Order is revoked by the Director;

AND WHEREAS the Ontario Cease Trade Order was made on the basis that the Issuer was in default of certain filing requirements under Ontario securities law as described in the Ontario Cease Trade Order and below;

AND WHEREAS the Issuer has applied to the Commission for a full revocation of the Ontario Cease Trade Order pursuant to section 144 of the Act;

AND WHEREAS the Issuer has represented to the Commission that:

1. The Issuer was incorporated under the laws of Ontario on September 23, 1957, and is now a corporation existing under the *Business Corporations Act* (Ontario) (the **OBCA**).

2. The Issuer's registered head office and principal place of business is located at 21272 Denfield Road, London, Ontario, N6H 5L2.

3. The Issuer is a reporting issuer under the securities legislation of the provinces of Ontario, British Columbia and Alberta (collectively, the **Reporting Jurisdictions**). The Issuer is not a reporting issuer in any other jurisdiction in Canada. The Issuer's principal regulator is the Commission.

4. The Issuer's authorized share capital consists of an unlimited number of common shares (the **Common Shares**). The Issuer currently has 262,003,985 Common Shares issued and outstanding.

5. Other than the issued and outstanding Common Shares, the Issuer has no other securities, including debt securities or options, issued and outstanding.

6. No securities of the Issuer are traded in Canada or any other 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.

7. Previously, the Issuer was listed on the TSX Venture Exchange (the **TSXV**), under the trading symbol YTQ. The Common Shares were delisted from trading on the TSXV on June 20, 2003.

8. The Ontario Cease Trade Order was issued as a result of the Issuer's failure to file audited annual financial statements for the year ended December 31, 2003 (the **Unfiled Documents**).

9. The Issuer's failure to file the Unfiled Documents was a result of the Issuer's financial difficulties at the time. The Issuer has not been in operation since that time until late in the fourth quarter of the financial year ended December 31, 2023. Since the commencement of the financial year ended December 31, 2024, the Issuer has been a mineral exploration company focused on the mineral exploration of properties in Northern Ontario and Quebec, Canada.

10. In addition to the Ontario Cease Trade Order, the Issuer's securities are also subject to a cease trade order issued by the British Columbia Securities Commission (the **BCSC**) dated September 20, 2004 (the **BC Cease Trade Order**) and a cease trade order issued by the Alberta Securities Commission (the **ASC**) dated February 25, 2005 (the **Alberta Cease Trade Order** and, collectively with the Ontario Cease Trade Order and the BC Cease Trade Order, the **Cease Trade Orders**). The Issuer has concurrently applied to the BCSC for a full revocation of the BC Cease Trade Order and to the ASC for a full revocation of the Alberta Cease Trade Order.

11. After the issuance of the Ontario Cease Trade Order, the Issuer subsequently failed to file other continuous disclosure documents in the Reporting Jurisdictions within the prescribed time frame in accordance with the requirements of applicable securities laws, including the following:

    (i) all audited annual financial statements for the years ended December 31, 2004 to December 31, 2024;

    (ii) all unaudited interim financial statements for the interim periods ended March 31, 2004 to September 30, 2024;

    (iii) after the applicable requirement for all reporting issuers came into force on March 30, 2004, accompanying management's discussion and analysis (**MD&A**) for the years ended December 31, 2004 to December 31, 2024 and for the interim periods ended June 30, 2004 to September 30, 2024;

    (iv) after the applicable requirement came into force on March 30, 2004, related CEO and CFO certificates required by National Instrument 52-109 – *Certification of Disclosure in Issuer's Annual and Interim Filings* (or its predecessor) (**NI 52-109 Certificates**) for the years ended December 31, 2004 to December 31, 2024 and for the interim periods ended June 30, 2004 to September 30, 2024;

    (v) after the requirement for a stand-alone statement of executive compensation in section 11.6 of National Instrument 51-102 – *Continuous Disclosure Obligations* (**NI 51-102**) came into force on December 31, 2008, disclosure required by either Form 51-102F6 – *Statement of Executive Compensation* (**Form 51-102F6**) or (after June 30, 2015) Form 51-102F6V – *Statement of Executive Compensation – Venture Issuers* (**Form 51-102F6V**) for the years ended December 31, 2008 to December 31, 2023;

    (vi) after the applicable requirement came into force on March 30, 2004, the audit committee disclosure required by Form 52-110F2 – *Disclosure by Venture Issuers* (**Form 52-110F2**), for the years ended December 31, 2004 to December 31, 2024; and

    (vii) after the applicable requirement came into force on June 30, 2005, the corporate governance disclosure required by Form 58-101F2 – *Corporate Governance Disclosure (Venture Issuers)* (**Form 58-101F2**), for the years ended December 31, 2005 to December 31, 2024,

    (collectively with the Unfiled Documents, the **Unfiled Continuous Disclosure**).

12. However, in connection with the application for the revocation of the Cease Trade Orders, the Issuer has now filed the following continuous disclosure documents on the System for Electronic Data Analysis and Retrieval + (**SEDAR+**):

    (i) audited annual financial statements, accompanying MD&A and related NI 52-109 Certificates for the years ended December 31, 2024 and 2023;

    (ii) the executive compensation disclosure required by Form 51-102F6V for the years ended December 31, 2024 and 2023;

    (iii) the audit committee disclosure required by Form 52-110F2 for the years ended December 31, 2024 and 2023 (this disclosure was included in the annual MD&A); and

    (iv) the corporate governance disclosure required by Form 58-101F2 for the years ended December 31, 2024 and 2023 (this disclosure was included in the annual MD&A).

13. The Issuer has not filed the following documents on SEDAR+:

    (i) audited annual financial statements for the years ended December 31, 2003 to December 31, 2022;

    (ii) unaudited interim financial statements for the interim periods ended March 31, 2004 to September 30, 2024;

(iii) after the applicable requirement for all reporting issuers came into force on March 30, 2004, accompany MD&A for the years ended December 31, 2004 to December 31, 2022 and for the interim periods ended June 30, 2004 to September 30, 2024;

(iv) after the applicable requirement came into force on March 30, 2004, related NI 52-109 Certificates for the years ended December 31, 2004 to December 31, 2022 and for the interim periods ended June 30, 2004 to September 30, 2024;

(v) after the requirement for a stand-alone statement of executive compensation in section 11.6 of NI 51-102 came into force on December 31, 2008, the disclosure required by either Form 51-102F6 or (after June 30, 2015) Form 51-102F6V for the years ended December 31, 2008 to December 31, 2022;

(vi) after the applicable requirement came into force on March 30, 2004, the audit committee disclosure required by Form 52-110F2, for the years ended December 31, 2004 to December 31, 2022; and

(vii) after the applicable requirement came into force on June 30, 2005, the corporate governance disclosure required by Form 58-101F2, for the years ended December 31, 2005 to December 31, 2022,

(collectively, the **Outstanding Filings**). The Issuer has requested that the Commission exercise its discretion, in accordance with sections 6 and 7 of National Policy 12-202 – *Revocation of Certain Cease Trade Orders* (**NP 12-202**), to elect not to require the Issuer to file the Outstanding Filings.

14. The Issuer's existing articles for purposes of the OBCA consist of the certificate and restated articles of incorporation dated June 29, 1984. The Issuer's existing by-laws for purposes of the OBCA consist of by-law no. 105 dated June 1, 1984. Copies of these documents have been filed on SEDAR+.

15. The Issuer has filed with the Commission and in the other Reporting Jurisdictions all continuous disclosure that it is required to file under Ontario securities law and other applicable securities law, except for the Outstanding Filings and any other continuous disclosure that the Commission elected not to require as contemplated under sections 6 and 7 of NP 12-202.

16. The Issuer is not in default of securities legislation of Ontario or any other applicable jurisdiction, except for (i) the circumstances of the Cease Trade Orders, and (ii) failure to file the Outstanding Filings. In particular, the Issuer is not in default of its obligations under the Cease Trade Orders.

17. As of the date hereof, the Issuer has paid all outstanding activity, participation and late filing fees that are required to be paid to the Commission, the BCSC and the ASC, and has filed all forms associated with such payments.

18. As of the date hereof, the Issuer's profile on SEDAR+ and the Issuer's profile supplement on the System for Electronic Disclosure by Insiders are current and accurate.

19. Effective October 14, 2009, Frances Clay was appointed as a director of the Issuer. Effective December 1, 2023, Robert Dillman was appointed as a director of the Issuer. Effective December 6, 2023, Jim Renaud was appointed as a director of the Issuer. Effective September 6, 2024, Marty Huber was appointed as a director of the Issuer. Previous directors of the Issuer, Michael Clay, Herbert Shier, and Ivan Truant, resigned effective December 15, 2005, October 14, 2009, and June 25, 2021, respectively. Michael Clay resigned as President effective December 15, 2005. The current CEO of the Issuer is Jim Renaud (effective November 14, 2024), the current CFO of the Issuer is Erik Martin (effective January 20, 2025), and the current Corporate Secretary of the Issuer is Robert Dillman (effective November 14, 2024).

20. Since the issuance of the Ontario Cease Trade Order, there have been no material changes in the business, operations or affairs of the Issuer except for the changes of executive officers and directors of the Issuer described in paragraph 19 or as otherwise disclosed by the Issuer in its filings on SEDAR+.

21. Other than the Cease Trade Orders, the Issuer has not previously been subject to a cease trade order issued by any securities regulatory authority.

22. The Issuer has given the Commission, the BCSC and the ASC a written undertaking that the Issuer will hold an annual meeting of shareholders within three months after the date on which the Cease Trade Orders are revoked.

23. Upon the revocation of the Cease Trade Orders, the Issuer will issue a news release announcing the revocation of the Cease Trade Orders and concurrently file the news release and a related material change report on SEDAR+.

AND UPON considering the application and the recommendation of the staff of the Commission;

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

IT IS ORDERED pursuant to section 144 of the Act that the Ontario Cease Trade Order is revoked.

DATED at Toronto this 12th day of May, 2025.

"Lina Creta"
Manager, Corporate Finance
Ontario Securities Commission

OSC File #: 2025/0096

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B.3
Reasons and Decisions

B.3.1 TriSummit Utilities Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Application for relief from the restriction on the issuance of convertible securities pursuant to the qualification criteria of Section 2.3 of National Instrument 44-101 Short Form Prospectus Distributions and Section 2.3 of National Instrument 44-102 Shelf Distributions – Unlisted Filer seeking to issue preferred shares or debt securities which are convertible into other securities of the Filer – Securities issuable upon conversion would possess a designated rating as defined in National Instrument 44-101 Short Form Prospectus Distributions and Section 2.3 of National Instrument 44-102 Shelf Distributions – Relief granted subject to conditions.

Applicable Legislative Provisions

National Instrument 44-101 Short Form Prospectus Distributions, s. 2.3.
National Instrument 44-102 Shelf Distributions, s. 2.3.

Citation: *Re TriSummit Utilities Inc.*, 2025 ABASC 42

April 24, 2025

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

AND

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

AND

IN THE MATTER OF
TRISUMMIT UTILITIES INC.
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (each a **Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**) exempting the Filer from the restriction of the qualification criteria set forth in each of Section 2.3 of National Instrument 44-101 Short Form Prospectus Distributions (**NI 44-101**) and Section 2.3 of National Instrument 44-102 Shelf Distributions (**NI 44-102**) to distributions of non-convertible securities (the **Exemption Sought**).

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

(a) the Alberta Securities Commission is the principal regulator for this application;

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick, Prince Edward Island, Nova Scotia, Newfoundland and Labrador, Yukon, Northwest Territories and Nunavut; and

(c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 and NI 44-101 have the same meanings if used in this decision, unless otherwise defined herein.

Representations

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

1. The Filer is a corporation organized under the *Canada Business Corporations Act* (the **CBCA**).

2. The head and registered office of the Filer is located in Calgary, Alberta.

3. The Filer's authorized share capital consists of an unlimited number of common shares (the **Common Shares**) and such number of preferred shares issuable in series at any time as have aggregate voting rights either directly or on conversion or exchange that in the aggregate represent less than 50 percent of the voting rights attaching to the then issued and outstanding Common Shares (the **Preferred Shares**).

4. As of April 7, 2025, there were 30,000,000 Common Shares and no Preferred Shares issued and outstanding.

5. Pursuant to five distributions, an aggregate of $950 million aggregate principal amount of medium-term notes (the **Notes**) were issued by the Filer under public medium-term note programs, and remain outstanding.

6. The Filer is a reporting issuer and a venture issuer in each of the provinces and territories of Canada (the **Reporting Jurisdictions**). The Filer has no equity securities listed and posted for trading on a short form eligible exchange.

7. On April 3, 2025, the Filer filed and obtained a receipt from the securities regulatory authority or regulator in each of the Reporting Jurisdictions for a short form base shelf prospectus (the **Base Shelf Prospectus**) providing for the distribution from time to time of Preferred Shares and debt securities of the Filer.

8. The Filer was qualified to file the Base Shelf Prospectus based on the alternative qualification criteria in Section 2.3 of NI 44-101. The Filer does not satisfy the qualification criteria of Section 2.2 of NI 44-101 and Section 2.2 of NI 44-102 because the Filer has no equity securities listed and posted for trading on a short form eligible exchange.

9. On November 13, 2024, DBRS Limited affirmed the Filer's corporate rating and Notes rating of BBB (high) with a Stable trend. On January 10, 2025: (i) Fitch Ratings Inc. commenced rating the Filer with an issuer default rating of BBB and a senior unsecured debt rating of BBB+ with a Stable outlook; and (ii) S&P Global Ratings commenced rating the Filer with an issuer credit rating of BBB with a Stable Outlook. Accordingly, the Filer and the Notes have a designated rating.

10. The Filer proposes to issue convertible securities (the **Proposed Convertible Securities**) under the Base Shelf Prospectus that would be convertible into other securities of the Filer (the **Proposed Underlying Securities**).

11. Absent the Exemption Sought, the Filer is not permitted to distribute the Proposed Convertible Securities pursuant to the Base Shelf Prospectus because the alternative qualification criteria in Section 2.3 of NI 44-101 do not permit the distribution of convertible securities.

12. The Proposed Convertible Securities will have a designated rating on a provisional basis and the Filer will satisfy the other ratings requirements as set out in Section 2.3(e) of NI 44-101 and Section 2.3 of NI 44-102 (the **Designated Ratings Requirements**). The Proposed Underlying Securities, if issued directly (rather than upon conversion), would also satisfy the Designated Ratings Requirements.

13. The Filer is not in default of any requirements under the securities legislation of any Reporting Jurisdiction.

14. The Filer is not in default of any of the periodic and timely disclosure requirements under National Instrument 51-102 *Continuous Disclosure Obligations*.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted provided that at the time of distribution of the Proposed Convertible Securities:

(a) the Proposed Convertible Securities to be distributed:

(i) have received a designated rating on a provisional basis;

(ii) are not the subject of an announcement by a designated rating organization or its DRO affiliate, of which the Filer is or ought reasonably to be aware, that the designated rating given by the organization may be down-graded to a rating category that would not be a designated rating; and

(iii) have not received a provisional or final rating lower than a designated rating from any designated rating organization or its DRO affiliate; and

(b) the Filer has reasonable grounds for believing that the Proposed Underlying Securities, if distributed at the time of distribution of the related Proposed Convertible Securities, would satisfy the criteria in (a)(i) through (a)(iii) immediately above.

“Timothy Robson”
Manager, Legal
Corporate Finance
Alberta Securities Commission

OSC File #: 2025/0202

B.3.2 iCapital Network Canada Ltd. and The Top Funds

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief from conflict-of-interest investment restrictions in paragraphs 111(2)(b) and (c) and subsection 111(4) of the Securities Act (Ontario) to permit pooled funds to invest in related underlying investment vehicles that are not reporting issuers and that are managed by a third-party asset manager, subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(2)(c), 111(4), and 113.

May 7, 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
ICAPITAL NETWORK CANADA LTD.
(the Filer)

AND

THE TOP FUNDS
(as defined below)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of each of the Filer and any affiliate of the Filer acting as investment fund manager, and on behalf of North Haven Private Income Fund A iCapital Canada Access Trust, a mutual fund trust established under the laws of the Province of Ontario (the "**Existing Top Fund**") and one or more other mutual funds, which is or will be similar in nature to the Existing Top Fund and is, or will be, managed by the Filer or an affiliate of the Filer (the "**Other Top Funds**" and, together with the Existing Top Fund, the "**Top Funds**") for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") exempting each of the Top Funds from the restrictions in the Legislation which prohibit:

(a) an investment fund from knowingly making an investment in a person or company in which the investment fund, alone or together with one or more related investment funds, is a substantial security holder;

(b) an investment fund from knowingly making an investment in an issuer in which

(i) any officer or director of the investment fund, its management company or distribution company or an associate of any of them, or

(ii) any person or company who is a substantial security holder of the investment fund, its management company or its distribution company;

has a significant interest; and

(c) an investment fund, its management company or its distribution company from knowingly holding an investment described in paragraph (a) or (b) above;

(collectively, the "**Exemption Sought**"),

to permit the Existing Top Fund to invest, directly or indirectly, substantially all of its assets in securities of North Haven Private Income Fund A LLC, a Delaware limited liability company that has elected to be regulated as a "business development company" under the U.S. Investment Company Act of 1940 and in which the Filer or one of its affiliates may have a significant interest (the "**Existing Underlying Investment**") and to permit each of the Other Top Funds to invest, directly or indirectly, substantially all or a portion of its assets in securities of any underlying fund in which the Filer or one of its affiliates may have a significant interest, that will have non-traditional investment strategies as in the case of the Existing Underlying Investment (the "**Other Underlying Investments**" and, together with the Existing Underlying Investment, the "**Underlying Investments**").

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

(a) the Ontario Securities Commission is the principal regulator for this application; and

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* ("**MI 11-102**") is intended to be relied upon in each of Alberta, British Columbia, Manitoba, Newfoundland and Labrador and Quebec, in which the Filer is registered under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (together with Ontario, the "**Jurisdictions**").

Interpretation

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

Representations

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

The Filer

1. The Filer is a corporation incorporated under the laws of Canada with its head office located in Toronto, Ontario.

2. The Filer is registered as an exempt market dealer in all of the provinces and territories of Canada, a portfolio manager ("**PM**") in each of Ontario, Québec, British Columbia, Alberta, Manitoba and Newfoundland and Labrador and as an investment fund manager ("**IFM**") in each of Ontario, Québec and Newfoundland and Labrador.

3. The Filer is the IFM and the PM of the Existing Top Fund and the Filer or an affiliate of the Filer is, or will be, the IFM and PM of the Other Top Funds. The representations set out in this decision will apply to the same extent to such Other Top Funds.

4. The Filer or an affiliate of the Filer may hold a significant interest in one or more of the Underlying Investments.

5. The Filer is not in default of securities legislation in any jurisdiction of Canada.

The Top Funds

6. The Existing Top Fund is a trust established under the laws of Ontario, and each Other Top Fund is, or will be, organized as a trust, limited partnership or other form of entity under the laws of Ontario or another jurisdiction of Canada.

7. Each of the Top Funds is, or will be, a "mutual fund" under the Legislation.

8. Units of, or an interest in, each of the Top Funds is, or will be, offered only on a private placement basis pursuant to available exemptions from the prospectus requirements under Canadian securities legislation.

9. None of the Top Funds are, or will be, reporting issuers in any jurisdiction of Canada.

10. The Existing Top Fund intends to invest, directly or indirectly, substantially all of its assets in securities of the Existing Underlying Investment. Each of the Other Top Funds may also wish to invest, directly or indirectly, substantially all or a portion of its assets in securities of Underlying Investments, provided the investment is consistent with the applicable Other Top Fund's investment objectives and strategies.

11. Each Top Fund qualifies, or will qualify, to invest in securities of an Underlying Investment pursuant to applicable exemptions from the prospectus requirement under National Instrument 45-106 *Prospectus Exemptions* ("**NI 45-106**") and/or the Legislation.

12. Neither the Existing Top Fund nor any of the existing Other Top Funds is in default of securities legislation in any jurisdiction of Canada.

The Underlying Investments

13. The Existing Underlying Investment is a limited liability company established under the laws of Delaware, and each Other Underlying Investment is, or will be, structured as either a limited partnership, trust, corporation or other domestic or foreign entity under the laws of a province or territory of Canada or a foreign jurisdiction.

14. Securities of an Underlying Investment are, or will be, distributed to a Top Fund, and each Underlying Investment is, or will be, distributed to investors in Canada, solely pursuant to exemptions from the prospectus requirements in accordance with NI 45-106 and the Legislation and may be sold by way of prospectus or private placement in other jurisdictions.

15. The Existing Underlying Investment may be treated as an "investment fund" under the Legislation. Certain Other Underlying Investments are not or will not be "investment funds" under the Legislation and certain Other Underlying Investments are, or will be, "investment funds" under the Legislation.

16. The Existing Underlying Investment has an offering memorandum which is provided to investors in the Existing Top Fund and each Other Underlying Investment has or will have a prospectus, offering memorandum or similar document which has been or will be provided to investors in the applicable Other Top Fund.

17. Each of the Underlying Investments will produce their respective audited financial statements on an annual basis, in accordance with applicable generally accepted accounting principles, and with a qualified auditing firm as the auditor of those financial statements. The Filer will have access to audited financial statements prepared in respect of the Underlying Investment made by the Top Fund.

18. The investment objective of the Existing Underlying Investment is to achieve attractive risk-adjusted returns via current income and, to a lesser extent, capital appreciation by investing primarily in directly originated senior secured term loans issued by U.S. middle market companies in which private equity sponsors have a controlling equity stake in the portfolio company.

19. The investment objective and strategies of each Other Underlying Investment are expected to be focused on generating gains and possibly income from investments in private assets, including private equity, real estate, private credit, hedge funds, infrastructure and other similar asset classes.

20. None of the Top Funds will actively participate in the business or operations of an Underlying Investment.

21. MS Capital Partners Adviser Inc., a U.S. Securities and Exchange Commission registered investment advisor and a wholly owned subsidiary of Morgan Stanley is the investment fund manager and portfolio adviser of the Existing Underlying Investment. The manager and adviser of each Other Underlying Investment is, or will be, a third-party asset manager. Each Underlying Investment will calculate a net asset value that is used for the purposes of determining the purchase and redemption price of the securities of the Underlying Investment.

22. None of the Underlying Investments are, or will be, reporting issuers in any jurisdiction of Canada.

Investments by Top Funds in the Underlying Investments

23. An investment by a Top Fund in an Underlying Investment will only be made if the Underlying Investment is compatible with the investment objectives and investment strategy of the Top Fund.

24. The Filer believes that an investment by any Top Fund in an Underlying Investment will provide such Top Fund with an efficient and cost-effective manner of pursuing portfolio, asset class, and strategy diversification. Each such Top Fund will also gain access to the investment expertise of the adviser of the Underlying Investment and the Underlying Investment's investment strategy, which would otherwise not be available to the Top Fund or to the investors in the Top Fund.

25. Investments by each Top Fund in an Underlying Investment will be effected at an objective price. The Filer's policies and procedures provide that an objective price, for this purpose, will be the net asset value per security of the applicable class or series of the Underlying Investment.

26. Each of the Underlying Investments is, or will be, valued and redeemable at least as frequently as, and contemporaneously with, the applicable Top Fund. The Existing Underlying Investment is valued and redeemable quarterly, and is subject to a redemption limit of 5% of the outstanding units (calculated either by the number of units or the aggregate net asset value) as of such quarter end. The Other Underlying Investments may be potentially subject to redemption limitations, including lock-up periods, early redemption penalties and other restrictions on redemptions in a given period of time.

27. The net asset value of the Existing Top Fund will be calculated by an independent fund administrator that has been appointed by the investment fund manager of the Existing Top Fund. Because the Existing Top Fund invests substantially all of its assets in the Existing Underlying Investment, changes in the net asset value of the Existing Top Fund are almost entirely based upon the most recently available net asset value of the Existing Underlying Investment. The net asset value of the Existing Underlying Investment is calculated monthly as the value of the total assets of the Existing Underlying Investment, less all of its liabilities, including accrued fees and expenses, each determined as of the relevant valuation date. The investment fund manager of the Existing Underlying Investment may also engage independent external valuation advisors to provide positive assurance or other forms of valuation support for the Existing Underlying Investment's valuations. The net asset value of the Existing Underlying Investment will be determined by a third-party that is independent of the Filer.

28. Each of the Other Top Funds invests or will invest, directly or indirectly, in securities of Underlying Investments, provided the investment is consistent with the applicable Other Top Fund's investment objectives and strategies. As a result, the net asset value of each of the Other Top Funds will almost entirely be based upon the most recently available net asset value of the corresponding Underlying Investment, which will be determined in accordance with the prospectus, offering memorandum or similar document of the applicable Underlying Investment which will be provided to the investors. In each case, the net asset value of the Underlying Investments will be will be determined by a third-party that is independent of the Filer.

29. The Filer or an affiliate of the Filer will manage the liquidity of each Top Fund having regard to the redemption features of the Underlying Investment to ensure that it can meet redemption requests from investors of the applicable Top Fund. The Filer expects that the liquidity management will be achieved through the use of structuring and terms, which may include establishing cash reserves, establishing a basket of liquid investments, setting off subscription proceeds against redemptions and/or utilizing credit facilities. The approach taken will depend on, among other things, the liquidity profile of the Underlying Investment and the anticipated needs of the applicable Top Fund.

30. An investment by any Top Fund in an Underlying Investment will only be made if such investment represents the business judgment of a responsible person uninfluenced by considerations other than the best interests of the applicable Top Fund.

Generally

31. The amount invested from time to time in any Underlying Investment by a Top Fund may exceed 20% of the outstanding voting securities of the Underlying Investment. As a result, a Top Fund could be deemed to be a "substantial security holder" of an Underlying Investment within the meaning of section 110 of the Legislation, contrary to paragraph 111(2)(b) of the Legislation.

32. An officer or director of the Filer or of an affiliate of the Filer may have a "significant interest" in any Underlying Investment and/or a person or company who is a substantial security holder of any Top Fund, the Filer or an affiliate of the Filer may have a "significant interest" in an Underlying Investment within the meaning of section 110 of the Legislation, which under paragraph 111(2)(c) of the Legislation, would prohibit the applicable Top Funds from investing in those Underlying Investments.

33. Since the Existing Underlying Investment is not an "investment fund" as defined in the Legislation, the Existing Top Fund is unable to rely on the exemption from the investment restrictions of section 111 of the Legislation that is provided under subsection 2.5.1(2) of NI 81-102 for non-reporting issuer investments funds that purchase or hold securities of another non-reporting issuer investment fund (the "**Codified Exemption**"). Since an Other Underlying Investment in which an Other Top Fund invests may not, in each case, be an "investment fund" as defined in the Legislation, the applicable Other Top Fund is unable to, in each case, rely on the Codified Exemption. In addition, in cases where the Other Underlying Investment is an "investment fund", the applicable Other Top Fund's investment in securities of an Other Underlying Investment may not satisfy every condition of the Codified Exemption.

34. No redemption fees or sales charges would be payable by any Top Fund with respect to purchases or redemptions of securities of an Underlying Investment, unless that Top Fund redeems its securities of the Underlying Investment during a lock-up period, in which case an early redemption fee may be payable by that Top Fund.

35. In respect of an investment by any Top Fund in an Underlying Investment, no management fees or incentive fees will be payable by the applicable Top Fund that, to a reasonable person, would duplicate a fee payable by an Underlying Investment for the same service.

36. The offering memorandum of each Top Fund will be provided to prospective investors in such Top Fund prior to the time of investment, and will disclose:

(i) that the Top Fund will or may invest, directly or indirectly, substantially all or a portion of its assets in securities of an Underlying Investment and the expected percentage of the Top Fund's assets that may be invested in the Underlying Investment;

(ii) the fees, expenses and any performance or special incentive distributions payable by the Underlying Investment in which a Top Fund invests;

(iii) the process or criteria used to select the Underlying Investment, if applicable;

(iv) that the Filer, an affiliate of Filer or a substantial security holder of the Filer may have a significant interest in an Underlying Investment, and the potential conflicts of interest which may arise from such relationships; and

(v) for each officer, director and/or substantial security holder of the Filer or its affiliate, or of any Top Fund, that has a significant interest in an Underlying Investment, and for, the officers and directors and substantial security holders who together in aggregate hold a significant interest in an Underlying Investment, the approximate amount of the significant interest they hold, on an aggregate basis, expressed as a percentage of the Underlying Investment's net asset value, and the potential conflicts of interest which may arise from such relationship.

37. Each Top Fund's investment in an Underlying Investment is disclosed, or will be disclosed, to investors in that Top Fund's offering memorandum and, where applicable, in the periodic reports and financial statements.

38. The Filer believes that a meaningful allocation to private equity, private credit, real estate, infrastructure, hedge funds and other alternative investments provides each of the Top Fund investors with unique diversification opportunities and represents an appropriate investment tool for the Top Funds in achieving that diversification.

39. Securities of the Underlying Investments are not qualified investments for tax-free savings accounts ("**TFSAs**"), and trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans, deferred profit sharing plans registered disability savings plans and other similar plans, each a defined term under the *Income Tax Act* (Canada) (collectively, the "**Tax Deferred Plans**").

40. The Existing Top Fund is formed as a trust for the purpose of accessing a broader base of investors, and if it qualifies as a "mutual fund trust" for Canadian tax purposes, including TFSAs, Tax Deferred Plans and other investors that may not be able to, nor wish to, invest directly in the Existing Underlying Investment. Each Other Top Fund is, or will be, formed as a trust, a limited partnership or other form of entity for the purpose of accessing a broader base of investors, and if it qualifes as a "mutual fund trust" for Canadian tax purposes, including TFSAs, Tax Deferred Plans and other investors that may not be able to, nor wish to, invest directly in the Underlying Investments.

41. Absent the Exemption Sought, a Top Fund would be precluded from purchasing and holding securities of an Underlying Investment due to the investment restrictions contained in the Legislation.

Decision

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

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

(a) the securities of each of the Top Funds and each of the Underlying Investments are distributed in Canada solely to accredited investors pursuant to exemptions from the prospectus requirements in accordance with NI 45-106;

(b) any direct or indirect investment by a Top Fund in an Underlying Investment is compatible with the fundamental investment objectives of that Top Fund;

(c) at the time of the purchase by any Top Fund, directly or indirectly, of securities of an Underlying Investment, the Underlying Investment holds no more than 10% of its net asset value in securities of other investment funds, unless the Underlying Investment:

(i) is a "clone fund" (as defined in NI 81-102); or

(ii) purchases or holds securities:

(A) of a "money market fund" (as defined in NI 81-102); or

(B) that are "index participation units" (as defined in NI 81-102) issued by an investment fund;

(d) no management fees or incentive fees will be payable by that Top Fund that, to a reasonable person, would duplicate a fee payable by an Underlying Investment for the same service;

(e) no sales or redemption fees will be payable as part of the investment by any Top Fund in the securities of an Underlying Investment, unless that Top Fund redeems its securities of the Underlying Investment during a lock-up period, in which case an early redemption fee may be payable by that Top Fund;

(f) the securities of any Underlying Investment held by the corresponding Top Fund will not be voted at any meeting of the security holders of that Underlying Investment, except that the applicable Top Fund may arrange for the securities of the Underlying Investment it holds to be voted by the beneficial holders of securities of that Top Fund;

(g) each Top Fund's investment in an Underlying Investment is disclosed, or will be disclosed, to investors in that Top Fund's offering memorandum and, where applicable, in the periodic reports and financial statements;

(h) at the time of investment by any Top Fund in an Underlying Investment, the aggregate amount of assets directed to the third-party investment fund manager of that Underlying Investment, across all underlying investments of such third-party investment fund manager, will not represent more than 20% of the total assets under management of such third-party investment fund manager as part of its overall asset management business;

(i) each Underlying Investment will produce audited financial statements on an annual basis, in accordance with applicable generally accepted accounting principles, and with a qualified auditing firm as the auditor of those financial statements;

(j) each Underlying Investment has, or will have, an investment manager that, in each case, meets the due diligence criteria established by the Filer for third party investment fund managers;

(k) the offering memorandum of each Top Fund will be provided to prospective investors in such Top Fund prior to the time of investment, and will disclose:

(i) that the Top Fund will or may invest, directly or indirectly, substantially all or a portion of its assets in securities of an Underlying Investment and the expected percentage of the Top Fund's assets that may be invested in the Underlying Investment;

(ii) the fees, expenses and any performance or special incentive distributions payable by the Underlying Investment in which a Top Fund invests;

(iii) the process or criteria used to select the Underlying Investment, if applicable;

(iv) that the Top Fund, alone or together with other Top Funds, may be a substantial security holder of an Underlying Investment, and that the Filer, an affiliate of Filer or a substantial security holder of the Filer may have a significant interest in an Underlying Investment, and the potential conflicts of interest which may arise from such relationships; and

(v) for each officer, director and/or substantial security holder of the Filer or its affiliate, or of any Top Fund, that has a significant interest in an Underlying Investment, and for, the officers and directors and substantial security holders who together in aggregate hold a significant interest in an Underlying Investment, the approximate amount of the significant interest they hold, on an aggregate basis, expressed as a percentage of the Underlying Investment's net asset value, and the potential conflicts of interest which may arise from such relationship;

(vi) that investors in the Top Fund are entitled to receive from the Filer, on request and free of charge, a copy of the offering memorandum or other similar disclosure document of the Underlying Investment; and

(vii) unless the financial statements of the Underlying Investment are subject to a restriction on disclosure that prohibits the Filer from providing such financial statements to the investors, that investors are entitled to receive from the Filer, on request and free of charge, the annual financial statements of the Underlying Investment in which the Top Fund invests its assets.

(l) where an investment is made by any Top Fund in an Underlying Investment, the records of portfolio transactions maintained by that Top Fund will include the name of the applicable Underlying Investment, as the case may be, being a related person in which an investment is made;

(m) the Top Funds will, directly or indirectly, invest in, and redeem, Underlying Investments at an objective price, which, for this purpose, will be the net asset value per security of the applicable class or series of the applicable Underlying Investment. For greater certainty, the net asset value of each Underlying Investment is based on the valuation of the applicable portfolio assets to which the Underlying Investment has exposure, independently determined by an arm's length third party;

(n) a Top Fund will invest in an Other Underlying Investment only where it is structured in similar ways to the Existing Underlying Investment, including that the manager and adviser of the Other Underlying Investment is a third-party asset manager.

"Darren McKall"
Manager, Investment Management Division
Ontario Securities Commission

Application File #: 2024/0107
SEDAR+ File #: 6092747

B.3.3 Foris DAX CAN ULC (c.o.b. as Crypto.com) et al.

Headnote

Application for time-limited relief from prospectus requirement, suitability requirement, trade reporting requirements and marketplace rules – suitability relief to allow the Filer to distribute Crypto Contracts and operate a platform that facilitates the buying, selling, staking and holding of crypto assets – relief granted subject to certain conditions set out in the decision, including fair access, transparency, market integrity, investment limits, account appropriateness, disclosure and reporting requirements – relief is time-limited – relief granted based on the particular facts and circumstances of the application with the objective of fostering capital raising by innovative businesses in Canada – decision should not be viewed as precedent for other filers in the jurisdictions of Canada.

Statute cited

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

Instrument, Rule or Policy cited

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 21-101 Marketplace Operation, s. 15.1.
National Instrument 23-101 Trading Rules, s. 12.1.
National Instrument 23-103 Electronic Trading and Direct Electronic Access to Marketplaces, s. 10.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 13.3.
OSC Rule 91-507 Trade Repositories and Derivatives Data Reporting, Part 3.

May 8, 2025

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

AND

ALBERTA,
BRITISH COLUMBIA,
MANITOBA,
NEW BRUNSWICK,
NEWFOUNDLAND AND LABRADOR,
NORTHWEST TERRITORIES,
NOVA SCOTIA,
NUNAVUT,
PRINCE EDWARD ISLAND,
QUÉBEC,
SASKATCHEWAN,
AND
YUKON

AND

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

AND

IN THE MATTER OF
FORIS DAX CAN ULC
(C.O.B. AS CRYPTO.COM)
(the Filer)

AND

IN THE MATTER OF
FORIS DAX LIMITED
(FDL)

AND

IN THE MATTER OF
FORIS HOLDINGS US, INC.
(the Parent Company)

DECISION

Background

As set out in Joint CSA/IIROC Staff Notice 21-329 *Guidance for Crypto-Asset Trading Platforms: Compliance with Regulatory Requirements* (**Staff Notice 21-329**) and CSA Staff Notice 21-327 *Guidance on the Application of Securities Legislation to Entities Facilitating the Trading of Crypto Assets* (**Staff Notice 21-327**), securities legislation applies to crypto asset trading platforms (**CTPs**) that facilitate or propose to facilitate the trading of instruments or contracts involving crypto assets because the user's contractual right to the crypto asset may itself constitute a security and/or a derivative (**Crypto Contract**).

To foster innovation and respond to novel circumstances, the Canadian Securities Administrators (**CSA**) have considered an interim, time limited registration that would allow CTPs to operate within a regulated environment, with regulatory requirements tailored to the CTP's operations. The overall goal of the regulatory framework is to ensure there is a balance between the need to be flexible and facilitate innovation in the Canadian capital markets, while upholding the regulatory mandate of promoting investor protection and fair and efficient capital markets.

The Filer operates a platform in Canada through which the Filer's clients may enter into Crypto Contracts with the Filer to buy, sell, stake, hold, deposit and withdraw Crypto Assets (as defined below). The Filer filed an application for registration as a restricted dealer in each province and territory of Canada. Foris DAX, Inc., an affiliate of the Filer previously operated the platform in Canada and provided a pre-registration undertaking to the CSA dated August 3, 2022 (**PRU**). The operations of the platform will be transferred to the Filer on or before May 8, 2025.

While registered as a restricted dealer, the Filer intends to apply for registration as an investment dealer and seek membership with the Canadian Investment Regulatory Organization (**CIRO**) and approval to operate an alternative trading system (**ATS**). This decision (the **Decision**) has been tailored for the specific facts and circumstances of the Filer, and the securities regulatory authority or regulator in the Applicable Jurisdictions (as defined below) will not consider this Decision as constituting a precedent for other filers.

Relief Requested

The securities regulatory authority or regulator in the Jurisdiction has received an application from the Filer for a decision under the securities legislation of the Jurisdiction (the **Legislation**) exempting the Filer from:

(a) the prospectus requirement under the Legislation in respect of the Filer entering into Crypto Contracts with clients (**Clients**, and each, a **Client**) to buy, hold, stake and sell Crypto Assets (the **Prospectus Relief**); and

(b) the requirement in section 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) that, before it opens an account, takes an investment action for a Client or makes a recommendation or exercises discretion to take investment action, to determine on a reasonable basis that the action is suitable for the Client (the **Suitability Relief**).

The securities regulatory authority or regulator in the Jurisdiction and each of the other provinces and territories of Canada (the **Coordinated Review Decision Makers**) have received, as applicable, an application from the Filer for a decision under the securities legislation of those jurisdictions exempting the Filer from:

(a) certain reporting requirements under the Local Trade Reporting Rules (as defined in Appendix A) (the **Trade Reporting Relief**); and

(b) except in British Columbia, New Brunswick, Nova Scotia and Saskatchewan, the Marketplace Rules (as defined in Appendix A) (the **Marketplace Relief, and,** together with the Prospectus Relief, the Suitability Relief and the Trade Reporting Relief, the **Requested Relief**).

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

(a) the Ontario Securities Commission is the principal regulator for this application (the **Principal Regulator**);

(b) in respect of the Prospectus Relief and Suitability Relief, the Filer has provided notice that, in the jurisdictions where required, subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (the **Non-Principal Jurisdictions**, and, together with the Jurisdiction, the **Applicable Jurisdictions**);

(c) the Decision is the decision of the Principal Regulator; and

(d) in respect of the Trade Reporting Relief and the Marketplace Relief, the Decision evidences the decision of each applicable Coordinated Review Decision Maker.

Interpretation

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

For the purposes of this Decision, the following terms have the following meaning:

(a) Acceptable Third-party Custodian means an entity that:

(i) is one of the following:

A. a Canadian custodian (as defined in NI 31-103) or Canadian financial institution;

B. a custodian qualified to act as a custodian or sub-custodian for assets held in Canada pursuant to section 6.2 [*Entities Qualified to Act as Custodian or Sub-Custodian for Assets Held in Canada*] of National Instrument 81-102 *Investment Funds*;

C. a custodian that meets the definition of an "acceptable securities location" in accordance with the Investment Dealer and Partially Consolidated Rules and Form 1 of CIRO;

D. a foreign custodian (as defined in NI 31-103) for which the Filer has obtained the prior written consent from the Principal Regulator and the regulator or securities regulatory authority of the Applicable Jurisdiction(s); or

E. an entity that does not meet the criteria for a qualified custodian (as defined in NI 31-103) and for which the Filer has obtained the prior written consent from the Principal Regulator and the regulator or securities regulatory authority of the Applicable Jurisdiction(s);

(ii) is functionally independent of the Filer within the meaning of NI 31-103;

(iii) has obtained audited financial statements within the last twelve months, which

A. are audited by a person or company that is authorized to sign an auditor's report under the laws of a jurisdiction of Canada or a foreign jurisdiction and that meets the professional standards of that jurisdiction,

B. are accompanied by an auditor's report that expresses an unqualified opinion, and

C. unless otherwise agreed to by the Principal Regulator, discloses on its statement of financial position or in the notes of the audited financial statements the amount of liabilities that it owes to its clients for holding their assets, and the amount of assets held by the custodian to meet its obligations to those custody clients, broken down by asset[1]; and

(iv) has obtained a Systems and Organization Controls (**SOC**) 2 Type 1 or SOC 2 Type 2 report within the last twelve months, or has obtained a comparable report recognized by a similar accreditation board satisfactory to the Principal Regulator and the regulator or securities regulatory authority of the Applicable Jurisdiction(s).

[1] Similar in concept to that described in SEC Accounting Bulletin No. 121 regarding the accounting for obligations to safeguard crypto assets an entity holds for platform users.

(b) **Act** means the *Securities Act* (Ontario).

(c) **Crypto Asset** means anything commonly considered a crypto asset, digital or virtual currency, or digital or virtual token.

(d) **Crypto Asset Statement** means the statement described in representation 30(b)(v).

(e) **Crypto.com Custody** means Foris DAX Trust Company, LLC.

(f) **Dealer Platform** means the service through which Clients can buy or sell Crypto Assets from or to the Filer and includes the "Crypto.com App" iOS and Android applications that provide access to the Dealer platform.

(g) **IOSCO** means the International Organization of Securities Commissions.

(h) **Liquidity Provider** means a Crypto Asset trading platform or marketplace or other entity that the Filer uses to fulfill its obligations under Crypto Contracts.

(i) **Orderbook** means the service by which Clients can, through the Filer, place maker and taker orders to buy or sell Crypto Assets on Crypto.com's central limit order book for Crypto Assets available at https://crypto.com/ca, or such other website as may be used to host and provide access to the service, and includes the iOS and Android applications that provide access to the Orderbook service.[2]

(j) **Permitted Client** has the same meaning ascribed to that term in NI 31-103.

(k) **Proprietary Token** means a Crypto Asset that is not a Value-Referenced Crypto Asset and for which the person or company or an affiliate of the person or company acted as the issuer (and mints or burns the Crypto Asset) or a promoter.

(l) **Registered CTP** means a CTP that is registered as a restricted dealer under securities legislation in one or more Applicable Jurisdictions.

(m) **Risk Statement** means the disclosure of risks described in representation 30(b).

(n) **Specified Crypto Asset** means Bitcoin, Bitcoin Cash, Ether, Litecoin, or a Value-Referenced Crypto Asset that complies with condition EE.

(o) **Specified Foreign Jurisdiction** means any of the following: Australia, Brazil, any member country of the European Union, Hong Kong, Japan, Republic of Korea, New Zealand, Singapore, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America, and any other jurisdiction that the Principal Regulator may advise.

(p) **Staking** means the act of committing or locking Crypto Assets in smart contracts to permit the owner or the owner's agent to act as a Validator for a particular proof-of-stake consensus algorithm blockchain.

(q) **Staking Services** means the services conducted by the Filer at the request of Clients in order to enable the Staking of Crypto Assets that are held for the benefit of Clients.

(r) **Validator** means, in connection with a particular proof-of-stake consensus algorithm blockchain, an entity that operates one or more nodes that meet protocol requirements for a Crypto Asset and participates in the consensus by broadcasting votes and committing new blocks to the blockchain.

(s) **Value-Referenced Crypto Asset** means a Crypto Asset that is designed to maintain a stable value over time by referencing the value of a fiat currency or any other value or right, or combination thereof.

(t) **Website** means, collectively, the website https://crypto.com/ca or such other website or websites as may be used to host and provide access to the Platform (as defined below) from time to time, as context dictates.

In this Decision, a person or company is an **affiliate** of another person or company if:

1. one of them is, directly or indirectly, a subsidiary of the other, or

2. each of them is controlled, directly or indirectly, by the same person.

[2] The Filer refers to the Orderbook service on its Platform as the "Crypto.com Advanced Trading" service.

Representations

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

The Filer

1. The Filer is an unlimited liability corporation incorporated under the laws of the Province of Alberta, with its head office in Tyler, Texas, U.S.A.

2. The Filer is an affiliate of FDL, a Cayman Island incorporated company, and an indirect subsidiary of the Parent Company. The Parent Company is a holding company incorporated pursuant to the laws of Delaware and does not directly provide any products or services. The Filer, FDL, and the Parent Company are part of the global Crypto.com enterprise (collectively, **Crypto.com**) which, owns and operates an electronic trading platform for Crypto Assets that includes an array of services and products, offered in various countries (the **Crypto.com Global Platform**).

3. The Filer operates under the business name of "Crypto.com Canada" and "Crypto.com". The companies comprising the "Crypto.com" brand were initially founded in 2016 in Hong Kong.

4. The Filer is registered as a Money Services Business (**MSB**) with the Financial Transactions and Reports Analysis Centre of Canada (**FINTRAC**) and complies with the applicable anti-money laundering requirements under applicable legislation and the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and its regulations (**Canadian AML/ATF Law**).

5. The Filer is not and will not be a reporting issuer in any jurisdiction. The Filer and FDL do not and will not have any of its securities listed or quoted on an exchange or marketplace in any jurisdiction inside or outside of Canada.

6. The Filer's and FDL's personnel consist of financial professionals, software engineers, compliance professionals and client support representatives who each have experience operating in a regulated environment such as a MSB and expertise in blockchain technology. All personnel have passed criminal records checks and sanctions checks and new personnel will have to pass criminal records and sanctions checks.

7. The Filer and FDL are not in default of securities legislation of any of the Applicable Jurisdictions, other than in respect of the subject matter to which this Decision relates.

The Platform

8. The Filer offers two separate services for the trading of Crypto Contracts based on Crypto Assets that enables Clients to buy, sell, stake, hold, deposit and withdraw Crypto Assets: (1) Dealer Platform and (2) Orderbook. Each service is accessible through a separate proprietary web application and mobile application (collectively, the **Platform**).

9. Any person or company resident in Canada that wishes to use the Crypto.com Global Platform, including the Orderbook, must do so through the Platform offered by the Filer. FDL is the operator of Crypto.com's central limit order book.

10. To use the Platform, each Client must open an account (**Client Account**) using the Dealer Platform or the Orderbook. Client Accounts are governed by terms and conditions (the **Terms and Conditions**) that are accepted by Clients at the time of account opening. The rights and obligations of the Filer and each Client are set out in the Terms and Conditions, which govern all activities in Client Accounts, including with respect to all Crypto Assets purchased on, or transferred to, the Platform.

11. The Filer's trading of Crypto Contracts is consistent with activities described in Staff Notice 21-327, which constitutes the trading of securities and/or derivatives.

12. The Filer does not have any authority to act on a discretionary basis on behalf of Clients and will not manage any discretionary accounts.

13. The Filer is not a member firm of the Canadian Investor Protection Fund (**CIPF**) and the Crypto Assets that are held by the Filer (directly or by one or more of the Filer's custodians) do not qualify for CIPF coverage. The Risk Statement includes disclosure that there is no CIPF coverage for the Crypto Assets and Clients must acknowledge that they have received, read and understood the Risk Statement before opening an account with the Filer.

14. The Filer currently operates the Platform and offers trading access to Clients residing in each Applicable Jurisdiction.

Crypto Assets Made Available Through the Platform

15. The Filer has established and applies policies and procedures to review Crypto Assets and determine whether to allow Clients on the Platform to enter into Crypto Contracts to buy, sell, stake or hold the Crypto Assets on the Platform in

accordance with the know-your-product (**KYP**) provisions of NI 31-103 (the **KYP Policy**). Such review includes, but is not limited to, reviewing publicly available information concerning:

(a) the creation, governance, usage, and design of the Crypto Asset, including the source code, governance and issuance documents, security and roadmap for growth in the developer community and if applicable, the background of the developer(s) that created the Crypto Asset;

(b) the supply, demand, maturity, utility, and liquidity of the Crypto Asset;

(c) material technical risks associated with the Crypto Asset, including any source code defects, security breaches and other threats concerning the Crypto Asset and its supporting blockchain (such as the susceptibility to hacking and impact of forking), or the practices and protocols that apply to them; and

(d) legal and regulatory risks associated with the Crypto Asset, including any pending, potential or prior civil actions, regulatory proceedings, criminal or enforcement actions, or other proceedings relating to the issuance, distribution or use of the Crypto Asset.

16. The Filer only offers and only allows Clients the ability to enter into Crypto Contracts based on Crypto Assets that (a) are not each themselves a security and/or a derivative, or (b) are Value-Referenced Crypto Assets, in accordance with condition EE of this Decision.

17. The Filer does not allow Clients to enter into a Crypto Contract to buy, sell or stake Crypto Assets unless the Filer has taken steps to:

(a) assess the relevant aspects of the Crypto Asset pursuant to the KYP Policy and, as described in representation 15 to determine whether it is appropriate for its Clients;

(b) approve the Crypto Asset and the applicable Crypto Contract to buy, sell and stake such Crypto Asset, to be made available to Clients; and

(c) monitor the Crypto Asset for significant changes and review its approval under (b) where a significant change occurs as described in representation 20.

18. The Filer is not engaged, and will not engage without the prior written consent of the Principal Regulator, in trades that are part of or designed to facilitate the design, creation, issuance or distribution of Crypto Assets by the developer(s) of the Crypto Asset, its issuer, or affiliates or associates of such persons.

19. As set out in the Filer's KYP Policy, the Filer determines whether a Crypto Asset available to be traded through a Crypto Contract is a security and/or derivative and is being offered in compliance with securities and derivatives laws, which include but are not limited to:

(a) consideration of statements made by any regulators or securities regulatory authorities of the Applicable Jurisdictions, other regulators in IOSCO member jurisdictions, or the regulator with the most significant connection to a Crypto Asset about whether the Crypto Asset, or generally about whether the type of Crypto Asset, is a security and/or derivative; and

(b) if the Filer determines it to be necessary, obtaining legal advice as to whether the Crypto Asset is a security and/or derivative under securities legislation of the Applicable Jurisdictions.

20. The Filer monitors ongoing developments related to Crypto Assets available on its Platform that may cause a Crypto Asset's status as a security and/or derivative or the assessment conducted by the Filer pursuant to its KYP Policy and as described in representations 15 to 19 to change.

21. The Filer acknowledges that any determination made by the Filer as set out in representations 15 to 19 does not prejudice the ability of any of the regulators or securities regulatory authorities of a province or territory of Canada to determine that a Crypto Asset is a security and/or derivative.

22. The Filer has established and applies policies and procedures to promptly halt the purchase of any Crypto Asset available on the Platform and to allow Clients to transfer or liquidate in an orderly manner their positions in Crypto Contracts with underlying Crypto Assets that the Filer ceases to make available on the Platform.

Account Opening

23. To access the Platform, each Client must open a Client Account using the Dealer Platform or the Orderbook. Clients are required to open separate Client Accounts to access each the Dealer Platform and the Orderbook, and may elect to sign

up for both services or for one service only. If a Client wishes to sign up for both services, the Client will need to undergo the account opening process separately for each Client Account.

24. The Filer has established and will maintain and apply eligibility criteria for the onboarding of all Clients. All Clients must successfully complete the Filer's know your client process to satisfy the requirements under Canadian AML/ATF laws that are applicable to FINTRAC-registered MSBs. Each Client who is an individual, and each individual who is authorized to give instructions for a Client that is a legal entity, must be: (a) a Canadian citizen or permanent resident; and (b) 18 years or older.

25. The Filer does not provide recommendations or advice to Clients or conduct a trade-by- trade suitability determination for Clients, but will perform product assessments pursuant to the KYP Policy and, for Clients other than Permitted Clients and Registered CTPs, account appropriateness assessments taking into account the following factors (the **Account Appropriateness Factors**):

    (a) the Client's experience and knowledge in investing in Crypto Assets;

    (b) the Client's financial circumstances;

    (c) the Client's risk tolerance; and

    (d) the Crypto Assets, which are approved to be made available to a Client by entering into Crypto Contracts on the Platform.

26. The Filer has adopted and will apply policies and procedures to conduct an assessment to establish appropriate limits on the losses that a Client that is not a Permitted Clients or a Registered CTP can incur and what limits will apply to such Client based on the Account Appropriateness Factors (the **Client Limit**), and what steps the Filer will take when the Client approaches or exceeds their Client Limit. This assessment of the Client Limit takes into consideration the Account Appropriateness Factors. After completion of the assessment, the Filer will implement controls to monitor and apply the Client Limits.

27. The Account Appropriateness Factors will be used by the Filer to evaluate whether entering into Crypto Contracts with the Filer is appropriate for a prospective Client, other than a Permitted Client or a Registered CTP.

28. After completion of the account appropriateness assessment, a prospective Client that is not a Permitted Client or a Registered CTP will receive appropriate messaging about using the Platform to enter into Crypto Contracts, which, in the circumstances where the Filer has evaluated that doing so is not appropriate for the prospective Client, will include prominent messaging to the prospective Client that this is the case and that the Client will not be permitted to open an account for the purposes of entering into Crypto Contracts.

29. Additionally, the Filer will monitor the accounts after opening to identify activity inconsistent with the Client's account, KYP Policy and account appropriateness assessment. If warranted, the Client may receive further messaging about the Platform and the Crypto Assets, specific risk warnings and/or receive direct outreach from the Filer about their activity. The Filer will monitor compliance with the Client Limits established in representation 26. If warranted, the Client will receive a warning when their account is approaching its Client Limit, which will include information on steps the Client may take to prevent the Client from incurring further losses.

30. As part of the account opening process, the Filer will provide a prospective Client with:

    (a) the Terms and Conditions, which includes the terms and conditions of opening and operating a Client Account on the Platform, and

    (b) a separate Risk Statement that clearly explains the following in plain language:

        (i) the Crypto Contracts;

        (ii) the risks associated with the Crypto Contracts;

        (iii) a prominent statement that no securities regulatory authority or regulator in Canada has assessed or endorsed the Crypto Contracts or any of the Crypto Assets made available through the Platform;

        (iv) the due diligence performed by the Filer before making a Crypto Asset available through the Platform, including the due diligence taken by the Filer to assess whether the Crypto Asset is a security and/or a derivative under the securities and derivatives legislation of each of the jurisdictions of Canada and the securities and derivatives laws of the foreign jurisdiction with which the Crypto Asset has the most significant connection, and the risks if the Filer has incorrectly determined that the Crypto Asset is not a security and/or derivative;

(v) that the Filer has prepared a plain language description of each Crypto Asset and of the risks of Crypto Assets made available through the Platform, with instructions as to where on the Platform or Website the Client may obtain the descriptions (each, a **Crypto Asset Statement**);

(vi) the Filer's policies for halting, suspending, and withdrawing a Crypto Asset from trading on the Platform, including criteria that would be considered by the Filer, options available to Clients holding such a Crypto Asset, any notification periods, and any risks to Clients;

(vii) the location and the manner in which Crypto Assets are held for the Client, and the risks and benefits to the Client of the Crypto Assets being held in that location and in that manner, including the impact of insolvency of the Filer or the Acceptable Third-party Custodian;

(viii) the manner in which the Crypto Assets are accessible by the Filer, and the risks and benefits to the Client arising from the Filer having access to the Crypto Assets in that manner;

(ix) the Filer is not a member of CIPF and the Crypto Contracts and Crypto Assets held by the Filer (directly or indirectly through third parties) will not qualify for CIPF protection;

(x) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Risk Statement or a Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision; and

(xi) the date on which the information was last updated.

31. In order for a prospective Client to open and operate a Client Account with the Filer, the Filer will deliver the Risk Statement to the prospective Client and obtain an electronic acknowledgment from the prospective Client confirming that the prospective Client has received, read, and understood the Risk Statement. Such acknowledgment will be prominent and will be provided by the prospective Client as part of the account opening process.

32. A copy of the Terms and Conditions and the Risk Statement acknowledged by a Client will be made available to the Client in the same place as the Client's other statements on the Platform, including on the Website.

33. The Filer has policies and procedures for updating the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts, Crypto Assets generally, or a specific Crypto Asset, or the staking of Crypto Assets generally or of a Stakeable Crypto Asset (as defined in representation 105) as the case may be. In the event the Risk Statement or the Crypto Asset Statement is updated, existing Clients of the Filer will be promptly notified and provided with specific links to the updated document(s).

34. For Clients with pre-existing accounts with the Filer at the date of this Decision, the Filer will deliver to the Client the updated Terms and Conditions and the Risk Statement and will require the Client to provide an electronic acknowledgement of having received, read, and understood the Terms and Conditions and the Risk Statement at the earlier of (a) before placing their next trade or deposit of Crypto Assets on the Platform and (b) the next time they log in to their account with the Filer.

35. Before a Client enters into a Crypto Contract to buy a Crypto Asset on the Platform, the Filer will provide the Client with details concerning the proposed transaction and an instruction to read the Crypto Asset Statement relating to such Crypto Asset, which will include a link to the Crypto Asset Statement on the Website or App.

36. Each Crypto Asset Statement includes:

(a) a prominent statement that no securities regulatory authority or regulator in Canada has assessed or endorsed the Crypto Contracts or any Crypto Assets made available through the Platform;

(b) a description of the Crypto Asset, including the background of the creation of the Crypto Asset and the background of the developer(s) that created the Crypto Asset, if applicable;

(c) a description of the due diligence performed by the Filer with respect to the Crypto Asset;

(d) any risks specific to the Crypto Asset;

(e) a direction to the Client to review the Risk Statement for additional discussion of general risks associated with the Crypto Contracts and Crypto Assets made available through the Platform;

(f) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision; and

(g) the date on which the information was last updated.

37. The Filer also prepares and makes available to its Clients, on an ongoing basis and in response to emerging issues in Crypto Assets, educational materials and other informational updates about trading on the Platform and the ongoing development of Crypto Assets and Crypto Asset trading markets.

Platform Operations

38. The Platform is a venue where approved Clients can enter into Crypto Contracts for supported Crypto Assets, and the Orderbook may, in some Canadian jurisdictions, constitute the operation of a marketplace under applicable securities legislation.

39. All transactions entered into by Clients to buy, sell or stake Crypto Assets are placed with the Filer through the Dealer Platform or the Orderbook.

40. Clients are able to submit buy and sell orders or stake Crypto Assets, 24 hours a day, 7 days a week. Clients are able to deposit and withdraw Crypto Assets and fiat currency, 24 hours a day, 7 days a week (or where applicable, for fiat currency during banking hours).

41. Through the Dealer Platform, Clients can enter into Crypto Contracts with the Filer directly, meaning the Filer is the counterparty to all buy and sell transactions initiated by a Client. For each of these transactions, the Filer will be a counterparty to a corresponding Crypto Asset buy or sell transaction with a Liquidity Provider.

42. With respect to Client purchases through the Dealer Platform, the Filer purchases the requisite amount of Crypto Assets on a just-in-time basis from the Liquidity Provider(s) as is necessary to execute sales to its Clients. Additionally, the Filer immediately sells the Crypto Assets it purchases from Clients through the Dealer Platform to Liquidity Provider(s). The Filer promptly settles transactions with the Liquidity Provider(s) on a net basis. The Custodians (as defined in representation 85) hold the Crypto Assets sold by the Filer to the Clients in accordance with representation 90.

43. The Filer has taken or will take reasonable steps to verify that each Liquidity Provider is appropriately registered and/or licensed to trade in the Crypto Assets in its home jurisdiction, or that its activities do not require registration in their home jurisdiction, and that it is not in default of securities legislation in the Applicable Jurisdictions.

44. The Filer has verified that each Liquidity Provider has effective policies and procedures to address concerns relating to fair price, fraud and market manipulation.

45. Before executing a Crypto Contract transaction initiated by a Client in the Dealer Platform, the Filer presents to the Client a transaction price calculated based on a variety of market factors related to the specific order initiated. Once the price is displayed, the Client has up to 15 seconds to confirm the purchase or sale transaction before such price presentation lapses and a new order must be initiated.

46. In addition, the Filer offers a separate service through the Orderbook. Through the Filer, Clients can place maker and taker orders to buy or sell Crypto Assets on the Crypto.com central limit order book. Orders on the Orderbook are matched by a matching engine, on a non-discretionary basis, based on the price and time that the orders are placed, with earlier orders taking priority over later orders placed at the same price. In some jurisdictions, the Orderbook constitutes an ATS under applicable securities legislation while in other jurisdictions it constitutes an exchange under applicable securities legislation and will be regulated as an exempt exchange.

47. The Filer also allows institutional Clients with a Client Account to place orders through one of the Filer's designated representatives, and refers to this service as the "over-the-counter (**OTC**) trading service". The Filer is the counterparty on all OTC trades and each trade results in a bilateral contract between the client and the Filer. Institutional clients using the OTC trading service may not necessarily take immediate delivery of the Crypto Assets. These services are subject to securities legislation, including the terms and conditions of this Decision.

48. Depending on the nature of the transaction, the Filer is primarily compensated through either: (i) trading fees associated with trades occurring on the Platform; or (ii) the spread on Crypto Assets that are sold when it is the counterparty to a two-party transaction with Clients. The Filer does not have any control over a blockchain network's validation fees. The Filer discloses all fees charged by the Filer to Clients and, if applicable and to the extent feasible, third-party and other fees that a Client may incur.

49. The Platform is an “open loop” system, meaning Clients are permitted to deposit Crypto Assets acquired outside the Platform into their accounts with the Filer from eligible blockchain addresses. These blockchain addresses are screened against “blacklists” maintained by industry participants as well as known Canadian and international sanctions lists. Any “hits” are blocked and reported accordingly. Crypto Assets deposited will be safeguarded on behalf of Clients for their benefit. Clients also have the right to obtain delivery of Crypto Assets in which they have an interest pursuant to their Crypto Contracts with the Filer by requesting that the Filer deliver the Crypto Assets to the Client at an eligible blockchain address.

50. Each transaction a Client undertakes on the Platform results in a bilateral contract between the client and the Filer.

51. The Filer records all of the transactions executed via the Dealer Platform and the Orderbook in separate internal ledgers maintained by the Filer for each such service (each, a **Ledger**). In order for a client to place an order, their account must be pre-funded with the applicable asset (fiat currency or Crypto Asset). When a client’s order is executed through the Platform, the applicable Ledger is updated in real-time. Because all assets are already verified as being available from both the buyer and the seller prior to order entry, all trades are settled as between the Filer and each client immediately after the order is filled. Execution occurs on the Platform and settlement is immediate and recorded in the applicable Ledger.

52. The Filer and any of its affiliates do not, and will not extend margin, credit or other forms of leverage to Clients in Canada, and will not offer derivatives based on Crypto Assets to Clients in Canada other than Crypto Contracts. The Filer does not allow clients to enter into a short position with respect to any Crypto Asset.

53. Clients can view and download the recent transaction history in their Client Account with the Filer at any time through the Dealer platform or the Orderbook and may request delivery of their complete transaction history including electronic trade confirmations. The Filer will send monthly statements.

54. The Filer has implemented policies and procedures designed to address the risks associated with potential instances of abusive trading on the Platform.

55. The Filer has implemented policies, procedures, and internal controls designed to address operational risk, custody risk, and liquidity risk.

Fair Access

56. The Filer has established and applies written standards for access to the Platform and related services that do not permit unreasonable discrimination among Clients or impose any burden on competition that is not reasonably necessary and appropriate, as described in representations 23 to 25, and has established and maintains and ensures compliance with policies and procedures to ensure clients are onboarded to the Platform and related services in accordance with those written standards.

Market Integrity

57. The Filer has taken reasonable steps to ensure that it operates a fair and orderly marketplace for Crypto Contracts, including the establishment of price and volume thresholds for orders entered on the Platform.

58. The Filer does not expect trading on the Platform to have a material impact on the global market for any Crypto Asset available through the Platform.

59. The Filer does not provide a client with access to the Platform unless it has the ability to terminate all or a portion of a client’s access, if required.

60. The Filer has the ability to cancel, vary or correct trades and makes public, fair and appropriate policies governing the cancellation, variation or correction of trades on the Platform, including in relation to trades where the Filer acting as principal was a counterparty to the trade.

61. The Filer has established, maintains and ensures compliance with policies and procedures and maintains staff knowledge and expertise, and systems to monitor for and investigate potential instances of trading on the Platform that does not comply with applicable securities legislation (including prohibitions against market manipulation, insider trading and other abusive trading prohibitions) or any trading requirements set out in the Terms and Conditions, and has appropriate provisions and mechanisms for escalation of identified issues of non-compliance, including referral to the applicable securities regulatory authority where appropriate, to allow the Filer to take any resulting action considered appropriate to promote a fair and orderly market and address potential breaches of applicable securities legislation relating to trading on the Platform, which may include halting trading or limiting a client’s activities on the Platform.

62. The policies and procedures referred to in the preceding paragraph include policies and procedures to track, review and take appropriate action in the context of complaints and reports from clients of potential instances of abusive trading on the Platform.

63. The Filer currently conducts surveillance of the Platform, which includes both automated and manual processes, for detecting abusive trading (including wash trading) and fraudulent activity. The Filer anticipates continuing development of its market surveillance software after becoming registered as a restricted dealer and resuming discussions with CIRO.

Transparency of Operations and of Order and Trade Information

64. The Filer discloses information reasonably necessary to enable a person or company to understand the marketplace operations or services, including:

    (a) access criteria, including how access is granted, denied, suspended, or terminated and whether there are differences between clients in access and trading;

    (b) procedures for funding buys and for withdrawing funds held by a client in its account with the Platform;

    (c) risks related to the operation of and trading on the Platform, including loss and cyber-risk;

    (d) hours of trading (in the event trading is not available at certain hours);

    (e) all fees and any compensation provided to the Filer or any affiliate, including foreign exchange rates, spreads etc.;

    (f) how orders are entered, handled and interact including:

        (i) the circumstances where orders trade with the Filer or an affiliate acting as principal or liquidity provider, including any compensation provided;

        (ii) where entered into the order book, the types of orders, and how orders are matched and executed;

    (g) policies and procedures relating to error trades, cancellations, modifications and dispute resolution;

    (h) a list of all Crypto Assets and products available for trading on the Platform, along with the associated Crypto Asset Statements;

    (i) conflicts of interest and the policies and procedures to manage or avoid them;

    (j) the process for payment and settlement of transactions;

    (k) how the Filer safeguards client assets, including the extent to which the Filer self- custodies client assets, along with the identity of any third-party custodians relied on by the Filer to hold client assets;

    (l) access arrangements with a third-party services provider, if any; and

    (m) requirements governing trading, including prevention of manipulation and other market abuse.

65. The Filer provides for an appropriate level of transparency regarding the orders and trades on the Platform, including that:

    (a) the Filer displays on its website price charts in various currencies, including the Canadian dollar, for each Crypto Asset traded on which members of the public can view historic pricing information; and

    (b) clients using the Orderbook can view the order book live on the Platform and generate queries to get executed trade history to assist them in making informed investment and trading decisions.

Confidentiality of Clients' Order and Trade Information

66. The Filer maintains policies and procedures to safeguard the confidentiality of client information, including information relating to their trading activities.

67. The Filer establishes, maintains and applies policies and procedures relating to confidentiality, information containment and the supervision of trading in Crypto Contracts and Crypto Assets by individuals acting on behalf of the Filer and to maintain material, non-public information about Crypto Contracts and Crypto Assets in confidence.

Books and Records

68. The Filer keeps books and records and other documents to accurately record its business activities, financial affairs and client transactions, and to demonstrate the Filer's compliance with applicable requirements of securities legislation, including but not limited to:

    (a) a record of all prospective clients granted or denied access to the Platform;

    (b) daily trading summaries of all Crypto Assets traded, with transaction volumes and values; and

    (c) records of all orders and trades, including the price, volume, times when the orders are entered, matched, cancelled or rejected, and the identifier of the client that entered the order or that was counterparty to the trade.

Internal Controls over Order Entry and Execution

69. The Filer maintains effective internal controls over systems that support order entry and execution, including that the Filer:

    (a) has effective controls for system operations, information security, change management, problem management, network support and system software support;

    (b) has effective security controls to prevent, detect and respond to security threats and cyber-attack on its systems that support trading and settlement services;

    (c) has effective business continuity and disaster recovery plans;

    (d) in accordance with prudent business practice, and on a reasonably frequent basis (at least annually):

        (i) makes reasonable current and future systems capacity estimates;

        (ii) conducts capacity stress tests to determine the ability of its order entry and execution systems to process transactions in an accurate, timely and efficient manner;

        (iii) tests its business continuity and disaster recovery plans, and

        (iv) reviews system vulnerability and its cloud-hosted environment to mitigate internal and external cyber threats; and

    (e) continuously monitors and maintains internal controls over its systems.

70. The Filer has established and will maintain and apply effective policies and procedures to prevent fraud and market manipulation in connection with the Platform, including through policies and procedures to monitor for and investigate potential instances of abusive trading and/or fraud. Certain features of the Platform also help to limit the opportunities for fraud or market manipulation. These features include:

    (a) limiting the use of the Platform to approved Clients;

    (b) only allowing orders to be entered by authorized users;

    (c) using the pricing mechanics described above to price trades via the matching engine of the Orderbook; and

    (d) prohibiting the crossing of trades between accounts of the same client.

71. The Filer has also established and maintains, and FDL has agreed to establish and maintain, policies that:

    (a) address and escalate complaints, that govern the cancellation, variation and correction of trades executed through the Platform; and that

    (b) address the maintenance of books, records and other documents relating to the transactions executed by the Filer, including, but not limited to:

        (i) records of all orders and trades, including the product, quotes, executed price, volume, time when the order is entered, matched, canceled or rejected, and

        (ii) the identifier of the authorized user that entered the order.

72. The Filer has, and FDL has agreed to have, risk management policies and procedures and internal controls in place to minimize the risk that clearing and settlement of trades will not take place according to the Filer's rules, policies and procedures. These policies and procedures address, and mitigate, counterparty risk by, among other things, establishing an approval process for counterparties, establishing risk limits per counterparty and addressing the potential for counterparty default.

73. Conflicts of interest between clients are identified and addressed by the system itself because the Platform does not permit for any level of differentiation between clients. This means that all of the Filer's Clients (including the Filer's affiliates that use the Platform) are treated the same when using the Platform. Further, the Filer will charge its affiliates fees on the same basis as it charges other clients, and all fees are transparent to the client. The Filer and the Filer's affiliates also do not trade against the Filer's clients through the Platform for speculative purposes.

74. The Filer has established and maintains and ensures compliance with policies and procedures that:

    (a) identify and manage or avoid conflicts of interest arising from the operation of the Platform and the related services it provides, including conflicts between the interests of its owners, its commercial interests, and the responsibilities and sound functioning of the Platform and related services.

    (b) are designed to identify and manage or avoid conflicts of interest that arise from the trading activities on the Platform of the Filer or its affiliates as principal.

    (c) include an appropriate level of disclosure of the specific conflicts to clients against whom the Filer or its affiliates may trade, and the circumstances in which conflicts may arise. This disclosure is included in the user agreement and other disclosures made to clients that specifically address conflicts of interest.

75. The Filer and FDL have policies and procedures and internal controls in place to identify and prevent fraudulent transactions. These policies and procedures:

    (a) ensure the Filer and FDL are complying with:

        (i) sanctions laws and regulations administered by the U.S. Department of the Treasury's Office of Foreign Assets Control,

        (ii) other applicable sanctions laws and regulations in the jurisdictions in which FDL operates, including,

            A. the United Nations Act (Canada),

            B. the Special Economic Measures Act (Canada), and

            C. the Justice for Victims of Corrupt Foreign Officials Act (Canada).

    (b) identify and prohibit users from engaging in activity with designated individuals and entities, such as terrorists and narcotics traffickers, as well as some countries, which have been specially designated by applicable government and regulatory agencies.

    (c) Along with internal controls, ensure compliance with anti-money laundering and terrorist financing legislation and regulations in the jurisdictions in which Crypto.com operates (including the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (Canada)). Money laundering and terrorist financing refers to the use of the financial system to disguise proceeds of illicit activity, like funding the financial support of terrorism. The United States and international regulators have issued requirements to prevent, detect, and report activity indicative of money laundering and terrorist financing.

Marketplace and Clearing Agency

76. In certain Applicable Jurisdictions, the Orderbook is a "marketplace" as that term is defined in National Instrument 21-101 *Marketplace Operation* and in Ontario, subsection 1(1) of the Act. Because Canadian clients can only access the Orderbook as clients of the Filer, the Filer is considered to be operating the Orderbook in Canada.

77. The Filer has filed with the Principal Regulator completed exhibits to the Form 21-101F2 -- Information Statement Alternative Trading System for each of the following:

    (a) Exhibit E -- Operations of the Marketplace;

    (b) Exhibit F -- Outsourcing;

    (c) Exhibit G -- Systems and Contingency Planning;

(d) Exhibit H -- Custody of Assets;

(e) Exhibit I -- Securities;

(f) Exhibit J -- Access to Services; and

(g) Exhibit L -- Fees.

78. In Ontario, the Filer will not operate a "clearing agency" or a "clearing house" as the terms are defined or referred to in securities or commodities futures legislation.

79. After a trade has been executed on behalf of a client by the Filer, the client's account on the Orderbook is immediately debited by the amount of the fiat or Crypto Asset sold, and credited by the amount of the fiat or Crypto Asset purchased by the client (less any fees) on a delivery versus payment basis. This settlement process may occur between two client accounts on the Orderbook, or between one client account on the Platform and a client account in another jurisdiction operated by a Crypto.com affiliate. Upon completion of this settlement process, the updated balances in the accounts on both sides of the trade are available to the respective clients.

80. As described above in representation 51, all Crypto Contracts are settled as between the Filer and each client immediately after the order is filled. Execution occurs on the Orderbook and settlement is immediate and recorded in the Orderbook Ledger.

81. The Filer has risk management controls in place to minimize the risk that clearing and settlement of trades will not take place according to the Filer's rules, policies and procedures. Importantly, all Crypto Assets and fiat currency which underlie the Crypto Contracts traded by the Filer's clients using the Platform are in the custody and control of Crypto.com Custody, FDL, the Filer's cash custodians or the Filer at all times.

Custody of Fiat Currency and Crypto Assets

82. The Filer holds Crypto Assets (i) in blockchain wallets or accounts clearly designated for the benefit of Clients or in trust for Clients, (ii) separate and apart from the assets of non-Canadian clients; and (iii) separate and apart from its own assets and from the assets of any custodial service provider. The Filer is not permitted to and does not pledge, re-hypothecate or otherwise use any Crypto Assets held on behalf of its Clients.

83. The Filer is proficient and experienced in holding Crypto Assets, and has established, and will maintain and apply policies and procedures that manage and mitigate custodial risks, including but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets and a mechanism for the return of the Crypto Assets to Clients in the event of bankruptcy or insolvency of the Filer. The Filer also maintains appropriate policies and procedures related to IT security, cyber-resilience, disaster recovery capabilities and business continuity plans.

84. The Filer has expertise in and has developed anti-fraud and anti-money-laundering monitoring systems, for both fiat and Crypto Assets, to reduce the likelihood of fraud, money laundering, or client error in sending or receiving Crypto Assets to incorrect wallet addresses.

85. The Filer has retained the services of the following Acceptable Third-party Custodians (the **Custodians** and each a **Custodian**) to hold not less than 80% of the total value of Crypto Assets held on behalf of clients:

(a) Crypto.com Custody

(b) BitGo Trust Company, Inc. (**BitGo**).

86. Crypto.com Custody is a New Hampshire limited liability company operating as a New Hampshire-chartered trust company under the supervision of the New Hampshire Banking Department (**NHBD**) since 2024. Crypto.com Custody provides custody accounts to North American institutions and high net worth clients for the safekeeping of crypto assets. The Filer also assessed whether each Custodian meets the definition of an Acceptable Third-party Custodian.

87. Crypto.com Custody has undergone a SOC 1 Type 1 examination, which evaluates the design and implementation of financial operations and reporting controls and a SOC 2 Type 1 examination, which evaluates the design and implementation of security, availability, and confidentiality controls. The Filer has reviewed such reports and has not identified any material concerns.

88. Crypto.com Custody and the Filer have entered into a custodial services agreement (the **Custody Agreement**), whereby Crypto.com Custody's personnel only perform services at the Filer's instructions with respect to Crypto Assets that Crypto.com Custody holds for Clients of the Filer. There are no other parties to the Custody Agreement. Accordingly, Crypto.com Custody cannot be instructed by any third party, including FDL or the Parent Company, to move the Filer's Client assets held by Crypto.com Custody. Access to servers, databases, data and systems of Crypto.com Custody's

custody function in relation to any transfer or withdrawal of the Filer's Client assets is strictly limited to personnel acting on behalf of Crypto.com Custody.

89. The Filer will designate certain individuals, who will be members of its personnel, as authorized to give instructions under the Custody Agreement. Such authorized individuals have appropriate authority, sophistication, expertise, and knowledge to understand the nature and risks, and make informed decisions, in respect of the custody services provided by Crypto.com Custody.

90. Those Crypto Assets that the Custodians hold for Clients of the Filer are held in segregated omnibus accounts in the name of the Filer in trust for or for the benefit of the Filer's Clients and are held separate and distinct from the assets of the Filer, the Filer's affiliates, and the Custodians' other Clients.

91. Each Custodian shall have established and apply policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian and to mitigate security breaches and cyber incidents. Each Custodian shall have established and shall apply written disaster recovery and business continuity plans.

92. Crypto.com Custody is not liable for any material financial obligations of the Filer or any affiliate of the Filer. Crypto.com Custody has its own board of managers, officers (including a compliance officer), and employees separate from those of the Filer. The board's audit committee includes an independent member of the board of managers, meaning such individual is not employed by or otherwise involved in the management of any other Crypto.com entity. Crypto.com Custody has its own policies and procedures governing its operations which are separate from the policies and procedures of the Filer. Crypto.com Custody obtains various services from its affiliates under intercompany agreements. Access to the private keys in Crypto.com Custody's custody is limited to personnel working on behalf of Crypto.com Custody.

93. Crypto.com Custody has established and applies its own policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as custodian and to protect, detect, and mitigate security breaches and cyber incidents. Crypto.com Custody has established and applies written disaster recovery and business continuity plans.

94. The Filer has assessed the risks and benefits of using Crypto.com Custody and has determined that in comparison to Canadian custodians (as that term is defined in NI 31-103), it is more prudent and beneficial to use Crypto.com Custody, to hold the Crypto Assets with such Custodian rather than using a Canadian custodian. As necessary, the Filer may use other custodians that meet the definition of an Acceptable Third-party Custodian so that it can utilize alternative or back-up custodial services in appropriate circumstances for Crypto Assets supported by the Filer.

95. All Client cash that is being held by the Filer is and will be held in trust for the benefit of the Filer's Clients with a qualified custodian in a designated trust account or in an account designated for the benefit of Clients of the Filer and separate and apart from the Filer's fiat currency balances.

96. Each of the Custodians maintains an appropriate level of insurance for Crypto Assets held by such Custodian. The Filer has assessed the Custodians' insurance policies and has determined, based on information that is publicly available and on information provided by the Custodians and considering the controls of the Custodians' business, that the amount of insurance is appropriate.

97. The Filer maintains a database of the balances of the Client Crypto Assets which is reconciled each business day against the various wallet balances of the Filer and at the Custodians to ensure all Client Crypto Assets are accounted for. Clients' Crypto Assets held in trust or for the benefit of Clients with Custodians are deemed to be the Clients' Crypto Assets in case of the insolvency and/or bankruptcy of the Filer or of its Custodians.

98. The Filer utilizes proprietary Crypto Asset wallet technology. The Filer uses this technology to store private keys and interact with various blockchains to receive Crypto Asset deposits from the Filer's Clients and to execute Client's instructions to withdraw Crypto Assets to the Client's designated recipient wallet. Deposits are transmitted to Crypto.com Custody for secure storage in Crypto.com Custody's cold wallets.

99. Crypto.com Custody utilizes proprietary Crypto Asset cold wallet technology to store private keys and interact with various blockchains to store Crypto Assets, send and receive Crypto Assets, and monitor balances. As needed, the Filer works with BitGo for additional cold storage solutions of Crypto Assets.

100. BitGo is a South Dakota corporation operating as a South Dakota trust company under the supervision of the South Dakota Division of Banking. BitGo is an Acceptable Third-party Custodian. The Filer has reviewed a copy of BitGo's most recent SOC 2, Type 2 audit report prepared by BitGo's auditor, and has not identified any material concerns.

101. The Filer and Crypto.com Custody maintain an appropriate level of insurance which covers losses of assets held by the Filer and Crypto.com Custody on behalf of its clients, including the Filer as a client of Crypto.com Custody, due to third-party hacks, copying or theft of private crypto graphic keys, insider theft or dishonest acts by the Filer's employees or executives, Crypto.com Custody employees or executives, and loss of cryptographic keys. The insurance policies benefit other entities in the Crypto.com group of companies. The Filer has assessed the insurance policies and has determined, based on information that is publicly available and on information provided by Crypto.com Custody and considering the scope of Crypto.com Custody's business, that the amount of insurance is appropriate an appropriate level of insurance for Crypto Assets held by an Acceptable Third-party Custodian.

102. BitGo maintains an appropriate level of insurance which covers losses of assets held by the Filer on behalf of its Clients, in the event of theft of Crypto Assets secured by BitGo due to copying or theft of private keys, or any malicious or intentional misbehaviour or fraud committed by employees, will be distributed among applicable BitGo's customers, which could include the Filer, pursuant to an insurance settlement agreement.

103. The insurance obtained by the Filer includes coverage for loss or theft of the Crypto Assets, in accordance with the terms of the Filer's insurance policy, and the Filer has assessed the insurance coverage to be sufficient to cover the loss of Crypto Assets, whether held directly by the Filer or indirectly through the Custodians.

Staking Services

104. The Filer also offers Staking Services to its Clients resident in each of the provinces and territories of Canada by which the Filer arranges to stake Crypto Assets and earn staking rewards for participating Clients.

105. The Filer offers Clients the Staking Services only for (i) Crypto Assets of blockchains that use a proof-of-stake consensus mechanism and (ii) the staked Crypto Assets that are used to guarantee the legitimacy of new transactions the Validator adds to the blockchain (**Stakeable Crypto Assets**).

106. The Filer is proficient and knowledgeable about staking Stakeable Crypto Assets.

107. The Filer itself shall not act as a Validator unless the Principal Regulator has provided its prior written consent. The Filer has entered into written agreements with third party Validators to provide services in respect of staking Stakeable Crypto Assets. These Validators are proficient and experienced in staking Stakeable Crypto Assets.

108. Before engaging a Validator, the Filer conducts due diligence on the Validator, with consideration for the Validator's management, infrastructure and internal control documentation, security measures and procedures, reputation of operating nodes, use by others, measures to operate nodes securely and reliably, amount of Crypto Assets staked by the Validator on its own nodes, quality of work, including any slashing incidents or penalties, financial status and insurance, and registration, licensing or other compliance under applicable laws, particularly securities laws. Where the Filer engages a Custodian to custody Crypto Assets designated for the Staking Services, the Filer conducts due diligence on how the Custodian custodies the Crypto Assets.

109. The Filer currently offers the Staking Services in respect of the Aptos, Avalanche, Cardano, Celestia, Cosmos, Cronos, Ethereum, MultiversX, Near, Polkadot, Solana, and Polygon blockchains. The Filer may offer the Staking Services in respect of other Stakeable Crypto Assets in the future.

110. The Filer, as part of its KYP Policy, reviews the Stakeable Crypto Assets made available to Clients for staking and staking protocols related to those Stakeable Crypto Assets prior to offering those Stakeable Crypto Assets as part of the Staking Services. The Filer's review includes the following:

    (a) the Stakeable Crypto Assets that the Filer proposes to offer for staking;

    (b) the operation of the proof-of-stake blockchain for the Stakeable Crypto Assets that the Filer proposes to offer for staking;

    (c) the staking protocols for the Stakeable Crypto Assets that the Filer proposes to offer for staking;

    (d) the risks of loss of the staked Stakeable Crypto Assets, including from software bugs and hacks of the protocol;

    (e) the Validators engaged by the Filer, including, but not limited to, information about:

        (i) the persons or entities that manage and direct the operations of the Validator,

        (ii) the Validator's reputation and use by others,

        (iii) the amount of Crypto Assets the Validator has staked on its own nodes,

(iv) the measures in place by the Validator to operate the nodes securely and reliably,

(v) the financial status of the Validator,

(vi) the performance history of the Validator, including but not limited to the amount of downtime of the Validator, past history of "double signing" and "double attestation/voting",

(vii) any losses of Stakeable Crypto Assets related to the Validator's actions or inactions, including losses resulting from slashing, jailing or other penalties incurred by the Validator, and

(viii) any guarantees offered by the Validator against losses including losses resulting from slashing or other penalties and any insurance obtained by the Validator that may cover this risk.

111. The Filer, as part of its account appropriateness assessment, evaluates whether offering the Staking Services is appropriate for a Client before providing access to an account that makes available the Staking Services and, on an ongoing basis, at least once in each 12-month period.

112. If, after completion of an account appropriateness assessment, the Filer determines that providing the Staking Services is not appropriate for the Client, the Filer will include prominent messaging to the Client that this is the case and the Filer will not make available the Staking Services to the Client.

113. The Filer only stakes the Stakeable Crypto Assets of those Clients who have agreed to the Staking Services and have allocated Stakeable Crypto Assets to be staked. Where a Client no longer wishes to stake all or a portion of the allocated Stakeable Crypto Assets, subject to any Lock-Up Periods (as defined below) or any terms of the Staking Services that permit the Client to remove Stakeable Crypto Assets from the Staking Services prior to the expiry of any Lock-Up Periods, the Filer ceases to stake those Stakeable Crypto Assets.

114. Before the first time a Client allocates any Stakeable Crypto Assets to be staked, the Filer delivers to the Client the Risk Statement that includes the risks with respect to staking and the Staking Services described in representation 115 below, and requires the Client to provide electronic acknowledgement of having received, read and understood the Risk Statement.

115. The Filer clearly explains in the Risk Statement the risks with respect to staking and the Staking Services in plain language, which includes:

(a) the details of the Staking Services and the role of all third parties involved;

(b) the due diligence performed by the Filer with respect to the proof-of-stake consensus protocol for each Stakeable Crypto Asset for which the Filer provides the Staking Services;

(c) the details of the Validators that will be used for the Staking Services and the due diligence performed by the Filer with respect to the Validators;

(d) the details of whether and how the custody of staked Stakeable Crypto Assets differs from Stakeable Crypto Assets held on behalf of the Filer's Clients that are not engaged in staking;

(e) the general risks related to staking and any risks arising from the arrangements used by the Filer to offer the Staking Services (e.g., reliance on third parties; risk of loss due to technical errors or bugs in the protocol; hacks or theft from the Crypto Assets being held in hot wallets (if applicable), etc.) and how any losses will be allocated to Clients;

(f) whether the Filer will reimburse Clients for any Stakeable Crypto Assets lost due to slashing or other penalties imposed due to Validator error, action or inactivity or how any losses will be allocated to Clients;

(g) whether any of the staked Stakeable Crypto Assets are subject to any lock-up, unbonding, unstaking, or similar periods imposed by the Crypto Asset protocol, custodian or Validator, where such Crypto Assets will not be accessible to the Client or will be accessible only after payment of additional fees or penalties or forfeiture of any rewards (**Lock-up Periods**); and

(h) how rewards are calculated on the staked Stakeable Crypto Assets, including any fees charged by the Filer or any third party, how rewards are paid out to Clients, and any associated risks.

116. Immediately before each time that a Client allocates Stakeable Crypto Assets to be staked under the Staking Services, the Filer requires the Client to acknowledge the risks of staking Stakeable Crypto Assets as may be applicable to the particular Staking Services or each particular Stakeable Crypto Asset, including, but not limited to:

(a) that the staked Stakeable Crypto Asset may be subject to a Lock-up Period and, consequently, the Client may not be able to sell or withdraw their Stakeable Crypto Asset for a predetermined or unknown period of time, with details of any known period, if applicable;

(b) that given the volatility of Crypto Assets, the value of a Client's staked Stakeable Crypto Asset when they are able to sell or withdraw, and the value of any Stakeable Crypto Asset earned through staking, may be significantly less than the current value;

(c) how rewards will be calculated and paid out to Clients and any risks inherent in the calculation and payout of any rewards;

(d) that there is no guarantee that the Client will receive any rewards on the staked Stakeable Crypto Asset, and that past rewards are not indicative of expected future rewards;

(e) whether rewards may be changed at the discretion of the Filer;

(f) unless the Filer guarantees any Stakeable Crypto Assets lost to slashing, that the Client may lose all or a portion of the Client's staked Stakeable Crypto Assets if the Validator does not perform as required by the network;

(g) if the Filer offers a guarantee to prevent loss of any Stakeable Crypto Assets arising from the Staking Services, including due to slashing, any limits on that guarantee and requirements for a Client to claim under the guarantee; and

(h) that additional risks can be found in the Risk Statement and Crypto Asset Statement, including the names and other information regarding the Validators and information regarding Lock-up Periods and rewards, with a link to the Risk Statement and Crypto Asset Statement.

117. To stake Stakeable Crypto Assets, a Client may use the Dealer platform or Orderbook to instruct the Filer to stake a specified amount of Stakeable Crypto Assets held by the Client on the Platform.

118. The Client may at any time use the Dealer platform or Orderbook, as applicable, to instruct the Filer to unstake a specified amount of Stakeable Crypto Assets that the Client had previously staked through the Dealer platform or Orderbook.

119. The Filer stakes and unstakes Crypto Assets by calculating the total amount of a Stakeable Crypto Asset that the Client wishes to stake or unstake and adjusting the amount actually staked to reconcile with the net amount that Clients have, in total, instructed the Filer to stake or unstake.

120. The Filer holds the staked Stakeable Crypto Assets in trust for or for the benefit of its Clients in one or more omnibus staking wallets in the name of the Filer for the benefit of the Filer's Clients with the Custodians separate and distinct from (i) the assets of the Filer, the Custodians and the Custodians' other Clients; and (ii) the Crypto Assets held for its Clients that have not agreed to staking those specific Crypto Assets.

121. To stake Clients' Stakeable Crypto Assets, the Filer instructs the Custodian to transfer Stakeable Crypto Assets to an omnibus staking wallet and to sign a blockchain transaction confirming that assets in that wallet are to be staked with a Validator.

122. Similarly, when unstaking Stakeable Crypto Assets, the Filer instructs the Custodian to sign a blockchain transaction confirming that assets in a staking wallet are no longer staked. After expiry of any Lock-up Periods that may prevent the assets from being transferred, the Filer instructs the Custodian to transfer the unstaked assets from the staking wallet to cold storage wallets holding unstaked Stakeable Crypto Assets.

123. The Filer and the Custodians remain in possession, custody and control of the staked Stakeable Crypto Assets at all times. At all times, the Custodian continues to hold the private keys or other cryptographic key material required to stake or unstake Clients' Stakeable Crypto Assets or to access staking rewards. Custody, possession and control of staked Stakeable Crypto Assets are not transferred to Validators or any other third parties in connection with the Staking Services.

124. The Filer has established and applies policies and procedures to address how staking rewards, fees and losses will be calculated and allocated to Clients that have staked Stakeable Crypto Assets under the Staking Services.

125. Staking rewards are generally issued periodically and automatically by the blockchain protocol of the Stakeable Crypto Asset and received directly into the staking wallets with the Custodians, less any fees charged by the Filer. Other than any "validator commission" that may be received by a Validator under the rules of the blockchain protocol, Validators do not receive or otherwise have control over staking rewards earned by Clients.

126. When staking rewards for a Stakeable Crypto Asset are received into staking wallets, the Filer promptly calculates the amount of the staking reward earned by each Client using the Staking Services in respect of that asset and credits each Client's account accordingly. Staking reward distributions are shown in the Dealer Platform or Orderbook, as applicable, and on Clients' account statements.

127. For certain Stakeable Crypto Assets, staking rewards are automatically staked by the blockchain protocol to compound rewards. Clients must unstake some or all of these rewards if they wish to sell or transfer them.

128. Where staking rewards are not compounded by the blockchain protocol, the Filer credits the rewards to the Client's applicable Crypto Asset balance and instructs the Custodian to transfer the staking rewards from the staking wallets to other omnibus wallets holding Client Crypto Assets.

129. Certain Stakeable Crypto Assets are subject to an activation period after being staked, during which time the Stakeable Crypto Assets do not earn any staking rewards. A Client will not receive staking rewards in respect of any of their staked Stakeable Crypto Assets that are still subject to an activation period.

130. Similarly, a Client will not receive staking rewards in respect of Stakeable Crypto Assets that have been unstaked by the Client but are still subject to Lock-up Periods.

131. The Filer does not promise or guarantee its Clients a specific staking reward rate for any Stakeable Crypto Asset. The Filer does not exercise any discretion to change reward rates issued by the applicable blockchain network.

132. The Filer may show in the Dealer Platform or Orderbook the current estimated reward rate for Stakeable Crypto Assets. This estimated reward rate is based on data derived from the blockchain for the Stakeable Crypto Asset and adjusted for any applicable validator commission and fees payable to the Filer.

133. The Filer charges a fee to Clients using Staking Services based on a percentage of the Client's staking rewards. The Filer clearly discloses the fees charged by the Filer for the Staking Services and provides a clear calculation of the rewards earned by each Client that agrees to the Staking Services.

134. When staking rewards are received into staking wallets, the Filer promptly calculates the total amount of the fee payable by Clients using the Staking Services and transfers an amount of Stakeable Crypto Assets equal to the fee to a separate wallet exclusively holding Crypto Assets belonging to the Filer.

135. For certain Stakeable Crypto Assets, a Validator can, as part of the blockchain consensus protocol, set a percentage of the staking rewards earned by Stakeable Crypto Assets staked with the Validator to be received by the Validator. This is typically referred to as the "validator commission". The validator commission is typically deducted automatically by the underlying blockchain protocol from staking rewards and transferred by the protocol directly to the Validator. The Filer clearly discloses in the Risk Statement and other disclosures regarding its Staking Services that Validator(s) may receive validator commissions (if any).

136. Under the commercial agreements between the Filer and Validators, Validators may pay some of the validator commission to the Filer for arranging the staking of Clients' Stakeable Crypto Assets with the Validators. The Filer discloses to Clients that it may receive a share of validator commissions. Further, the Filer has adopted policies and procedures for the selection of Validators and staking of Clients' Stakeable Crypto Assets to Validators to ensure that these decisions are based on factors other than the Filer's financial considerations under these commercial agreements.

137. The Filer may pay a fee to the Validator for activating and operating nodes for the Filer's Clients using the Staking Services.

138. Certain proof of stake blockchain protocols impose penalties where a validator fails to comply with protocol rules. This penalty is often referred to as "slashing" or "jailing". If a Validator is "slashed" or "jailed", a percentage of the tokens staked with that Validator and/or a percentage of staking rewards earned by Clients staking to that Validator is permanently lost and/or the Validator will not be selected to participate in transaction validation and any Stakeable Crypto Assets staked with that Validator will not be eligible to earn staking rewards. Accordingly, if a Validator fails to comply with protocol rules, a percentage of Crypto Assets staked or earned by the Filer's Clients may be lost (i.e., the balance of the staking wallet will be reduced automatically by the blockchain protocol) and/or the Filer's Clients will not earn staking rewards for a period of time.

139. For certain Stakeable Crypto Assets, the Filer may agree to reimburse Clients for slashing penalties. The applicable Terms and Conditions clearly provide for the circumstances the Filer will provide this reimbursement in respect of a Stakeable Crypto Asset. The availability of any reimbursement, and any conditions or limits on the reimbursement, are also described in the Risk Statement.

140. To mitigate the risk of slashing or jailing to Clients, the Filer may, where feasible, arrange to stake Stakeable Crypto Assets across multiple Validators, so that any penalty resulting from the actions or inaction of a specific Validator does not affect all staked Crypto Assets and the Filer can, if appropriate, re-stake with alternative Validators.

141. In addition, the Filer monitors its Validators for, among other things, downtime, jailing and slashing events and takes any appropriate action to protect Stakeable Crypto Assets staked by Clients.

142. The Filer processes its Client's staking and unstaking instructions for Stakeable Crypto Assets in batches at regular intervals. For certain Stakeable Crypto Assets that are subject to a network unbonding period, the Filer may net off its Clients' staked Stakeable Crypto Assets and the amount of such assets to be unstaked in a batch run and instruct the Validator to stake the net amount of Stakeable Crypto Assets for its Clients. Accordingly, it is possible that in certain circumstances, a Client may be able to sell or withdraw their Stakeable Crypto Assets before the network's unbonding period for those staked Stakeable Crypto Assets is complete.

143. If the netting calculation results in the net amount of Stakeable Crypto Assets to be unstaked, a Client that unstakes Stakeable Crypto Assets must wait until the applicable unbonding period expires before the Client can sell or transfer those assets.

Capital Requirements

144. The Filer will exclude from the excess working capital calculation all the Crypto Assets it holds for which there is no offsetting by a corresponding current liability, such as Crypto Assets held for its Clients as collateral to guarantee obligations under Crypto Contracts, included on line 1, *Current assets,* of Form 31-103F1 *Calculation of Excess Working Capital*. This will result in the exclusion of all the Crypto Assets inventory held by the Filer from Form 31-103F1 (Schedule 1, line 9).

Decision

The Principal Regulator is satisfied that the Decision satisfies the test set out in the Legislation for the Principal Regulator to make the Decision and each Coordinated Review Decision Maker is satisfied that the Decision in respect of the Trade Reporting Relief and the Marketplace Relief, as applicable, satisfies the tests set out in the securities legislation of its jurisdiction for the Coordinated Review Decision Maker to make the Decision in respect of the Trade Reporting Relief and the Marketplace Relief, as applicable.

The Decision of the Principal Regulator under the Legislation is that the Requested Relief is granted, and the Decision of each Coordinated Review Decision Maker under the securities legislation in its jurisdiction is that the Trade Reporting Relief and the Marketplace Relief, as applicable, is granted, provided that:

A. Unless otherwise exempted by a further decision of the Principal Regulator, and, if required under securities legislation, the regulator or securities regulatory authority of any other Applicable Jurisdiction, the Filer complies with all of the terms, conditions, restrictions and requirements applicable to a registered dealer under securities legislation, including the Legislation, and any other terms, conditions, restrictions, or requirements imposed by a securities regulatory authority or regulator in the Applicable Jurisdictions on the Filer.

B. The Filer is registered as a restricted dealer or an investment dealer in the Jurisdiction and the Applicable Jurisdiction in which the Client is resident.

C. Neither the Filer nor any employee, agent or other representative of the Filer will provide recommendations or advice to any Client or prospective Client.

D. The Filer will only engage in business activities governed by securities legislation as described above. The Filer will seek the appropriate approvals from the Principal Regulator and, if required under securities legislation, the regulator or securities regulatory authority of any other Applicable Jurisdiction, prior to undertaking any other activity governed by securities legislation. The Filer will not offer derivatives based on Crypto Assets other than Crypto Contracts.

E. The Filer has confirmed and will continue to confirm that it is not liable for the debt of an affiliate or affiliates that could have material negative effect on the Filer.

F. At all times, the Filer will hold at least 80% of the total value of all Crypto Assets held on behalf of Clients with one or more custodians that meets the definition of an "Acceptable Third-party Custodian", unless the Filer has obtained the prior written approval of the Principal Regulator to hold a different percentage with an Acceptable Third-party Custodian or has obtained the prior written approval of the Principal Regulator and the regulator or securities regulatory authority of the other Applicable Jurisdictions to hold at least 80% of the total value of Client Crypto Assets with an entity that does not meet certain criteria of an Acceptable Third-party Custodian.

G. Before the Filer holds Crypto Assets with a Custodian referred to in condition F, the Filer will take reasonable steps to verify the custodian:

(a) has appropriate insurance to cover the loss of Crypto Assets held at the custodian;

(b) has established and applies written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as a custodian;

(c) will hold the Crypto Assets for the Filer's Clients (i) in an account clearly designated for the benefit of the Filer's Clients or in trust for the Filer's Clients, (ii) separate and apart from the assets of non-Canadian clients, and (iii) separate and apart from the custodian's own assets and from the assets of any custodial service provider; and

(d) meets each of the requirements to be an Acceptable Third-party Custodian, except for those criteria in respect of which the custodian does not meet and the Principal Regulator and the regulator or securities regulatory authority of the other Applicable Jurisdictions have provided prior written approval for use of the custodian.

H. The Filer will promptly notify the Principal Regulator if the U.S. Securities and Exchange Commission, the U.S. Commodity Futures Trading Commission, the Financial Industry Regulatory Authority, the National Futures Association, the New Hampshire Banking Department, the South Dakota Division of Banking, or any other regulatory authority applicable to a custodian of the Filer makes a determination that (i) the custodian is not permitted by that regulatory authority to hold Client Crypto Assets, or (ii) if there is a change in the status of the custodian as a regulated financial institution. In such a case, the Filer will identify a suitable alternative custody provider that meets the definition of an Acceptable Third-party Custodian to hold the Crypto Assets.

I. For the Crypto Assets held by the Filer, the Filer will:

(a) hold the Crypto Assets in trust for or for the benefit of its Clients, and separate and distinct from the assets of the Filer;

(b) ensure there is appropriate insurance for the loss of Crypto Assets held by the Filer; and

(c) have established and apply written policies and procedures that manage and mitigate the custodial risks, including, but not limited to, an effective system of controls and supervision to safeguard the Crypto Assets for which it acts as a custodian.

J. The Filer will only use a Liquidity Provider that it has verified is registered and/or licensed, to the extent required in its home jurisdiction, to execute trades in the Crypto Assets and is not in default of securities legislation in any of the Applicable Jurisdictions, and will promptly stop using a Liquidity Provider if (i) the Filer is made aware that the Liquidity Provider is, or (ii) a court, regulator or securities regulatory authority in any jurisdiction of Canada determines it to be, not in compliance with securities legislation.

K. The Filer will evaluate the price obtained from its Liquidity Providers on an ongoing basis against global benchmarks and will provide fair and reasonable prices to its Clients.

L. The Filer has taken or will take reasonable steps to verify that each Liquidity Provider has effective written policies and procedures to address concerns relating to fair price, fraud and market manipulation.

M. The Filer will assess liquidity risk and concentration risk posed by any Liquidity Provider. The liquidity and concentration risks assessment will consider trading volume data (as provided in paragraph 1(e) of Appendix D) and complete a historical analysis of each Liquidity Provider and a relative analysis between the Liquidity Providers. Consideration should be given to whether the Liquidity Provider has issued its own Proprietary Tokens and to consider limiting reliance on those Liquidity Providers.

N. Before each prospective Client opens a Client Account, the Filer will deliver to the Client the Risk Statement as a separate document, and will require the Client to provide electronic acknowledgement of having received, read and understood the Risk Statement.

O. For Clients with pre-existing accounts with the Filer at the time of granting of the Requested Relief, the Filer will deliver to the Client the Risk Statement and will require the Client to provide an electronic acknowledgement of having received, read, and understood the Risk Statement at the earlier of (a) before placing their next trade or deposit of Crypto Assets on the Platform and (b) the next time they log in to their account with the Filer.

P. The Risk Statement delivered as set out in conditions N and O will be prominent and separate from other disclosures given to the Client at that time and the acknowledgement will be separate from other acknowledgements by the Client at that time.

Q. A copy of the Risk Statement acknowledged by a Client will be made available to the Client on the Platform in the same place as the Client's other statements on the Platform.

R. Before a Client enters into a Crypto Contract to buy a Crypto Asset, the Filer will provide instructions for the Client to read the Crypto Asset Statement for the Crypto Asset, which will include a link to the Crypto Asset Statement on the Website or App, and includes the information set out in representation 36.

S. Existing clients at the time of the Decision will be provided with links to the Crypto Asset Statements.

T. The Filer will promptly update the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Crypto Contracts and/or a Crypto Asset, and:

(a) in the event of any update to the Risk Statement, will promptly notify each existing Client of the update and deliver to them a copy of the updated Risk Statement; and

(b) in the event of any update to a Crypto Asset Statement, will promptly notify Clients through electronic disclosures on the Platform, with links to the updated Crypto Asset Statement.

U. Prior to the Filer delivering a Risk Statement to a Client, the Filer will deliver, or will have previously delivered, a copy of the Risk Statement delivered to the Client to the Principal Regulator.

V. For each Client, the Filer will perform an appropriateness assessment as described in representation 25 to 29 prior to opening a Client Account, on an ongoing basis and at least every twelve months.

W. The Filer has established and will apply and monitor the Client Limits as set out in representation 26.

X. The Filer will monitor client activity and contact Clients to discuss their trading behaviour if it indicates a lack of knowledge or understanding of Crypto Asset trading, in an effort to identify and deter behaviours that may indicate that trading a Crypto Contract is not appropriate for the Client, or that additional education is required.

Y. The Filer will ensure that the maximum amount of Crypto Assets, excluding Specified Crypto Assets, that a Client, other than (i) Clients resident in Alberta, British Columbia, Manitoba, Québec, and Saskatchewan, (ii) Clients that are Permitted Clients and (iii) Clients that are Registered CTPs, may purchase and sell on the Platform (calculated on a net basis and is an amount not less than $0) in the preceding 12 months does not exceed a net acquisition cost of $30,000.

Z. In the Applicable Jurisdictions where the Prospectus Relief is required, the first trade of a Crypto Contract is deemed to be a distribution under securities legislation of that jurisdiction.

AA. The Filer will provide the Principal Regulator with at least 10 days prior written notice of any:

(a) change or use of a new custodian; and

(b) material changes to the Filer's ownership, its business operations, including its systems, or its business model.

BB. The Filer will provide at least 45 days advance notice to the Principal Regulator for any material changes to the Form 21-101F2 information filed as described in representation 77, except in relation to changes to Exhibit L – Fees, in which case the Filer will provide at least 15 days advance notice.

CC. The Filer will notify the Principal Regulator, promptly, of any material breach or failure of its or its Acceptable Third-party Custodian's system of controls or supervision, and what steps have been taken by the Filer to address each such breach or failure. The loss of any amount of Crypto Assets will be considered a material breach or failure.

DD. The Filer will evaluate Crypto Assets as set out in its KYP Policy and described in representations 15 to 19.

EE. The Filer will only trade Crypto Assets or Crypto Contracts based on Crypto Assets that (i) are not securities or derivatives, or (ii) are Value-Referenced Crypto Assets, provided that the Filer does not allow Clients to buy or deposit, or enter into Crypto Contracts to buy or deposit, Value-Referenced Crypto Assets that do not comply with the terms and conditions set out in Appendix C.

FF. The Filer will not trade Crypto Assets or Crypto Contracts based on Crypto Assets with a Client in an Applicable Jurisdiction where the Crypto Asset was issued by or on behalf of a person or company that is or has in the last five years

been the subject of a publicly announced order, judgment, decree, sanction, fine or administrative penalty imposed by, or has entered into a publicly announced settlement agreement with, a government or government agency, administrative agency, self-regulatory organization, administrative tribunal or court in Canada or in a Specified Foreign Jurisdiction in relation to a claim based in whole or in part on fraud, theft, deceit, aiding and abetting or otherwise facilitating criminal activity, misrepresentation, violation of anti-money laundering (AML) laws, conspiracy, breach of trust, breach of fiduciary duty, insider trading, market manipulation, unregistered trading, illegal distributions, failure to disclose material facts or changes, or allegations of similar or analogous conduct.

GG. Except to allow Clients to liquidate their positions in those Crypto Contracts in an orderly manner or transfer such Crypto Assets to a blockchain address specified by the Client, the Filer will promptly stop trading Crypto Contracts where the underlying Crypto Asset: (a) is determined by the Filer to be; or (b) a court, regulator or securities regulatory authority in any jurisdiction of Canada or the foreign jurisdiction with which the Crypto Asset has the most significant connection determines it to be, or (c) the Filer is made aware or is informed that the Crypto Asset is viewed by a regulator or securities regulatory authority to be, (i) a security and/or derivative, or (ii) a Value-Referenced crypto Asset that does not satisfy the conditions set out in condition EE.

HH. The Filer will not engage in trades without the prior written consent of the Principal Regulator that are part of, or designed to facilitate, the creation, initial issuance, or initial distribution of Crypto Assets by the developer(s) of the Crypto Asset, its issuers or affiliates or associates of such persons.

II. The Filer will exclude from the excess working capital calculation all the Crypto Assets it holds for which there is no offsetting by a corresponding current liability, as described in representation 144.

Functional Independence

JJ. At all times when Crypto.com Custody acts as the custodian of Client assets of the Filer, the Filer will ensure that Crypto.com Custody is functionally independent from the Filer and that representation 92 remains true and correct.

KK. At all times, the Filer's representatives who are authorized to give instructions to Crypto.com Custody on behalf of the Filer will not have overlapping functions at Crypto.com Custody.

LL. At all times when a Crypto.com affiliate is the custodian of Client assets of the Filer, the Ultimate Designated Person and Chief Compliance Officer of the Filer, and 66 2/3% of the Board of Directors and Officers of the Filer, will not act as officers or directors of Crypto.com Custody.

MM. At all times when a Crypto.com affiliate is the custodian of Client assets of the Filer, the Filer will notify the Principal Regulator promptly and, in any event, no later than 30 days after, of any material change to the custodian's functional independence from the Filer.

NN. The Filer will not be liable for the financial obligations of Crypto.com Custody, FDL, the Parent Company or any other affiliate.

Financial Viability

OO. The Filer will maintain sufficient financial resources for the proper operation of the Platform as a marketplace, and for its performance of its marketplace and clearing or settlement functions in furtherance of its compliance with these terms and conditions.

PP. The Filer will notify the Principal Regulator immediately upon becoming aware that the Filer does not or may not have sufficient financial resources in accordance with the requirements of condition OO.

Trading Limitations

QQ. The Filer will not submit orders on a proprietary basis, other than in connection with offsetting trades relating to client orders that are executed on a riskless principal basis, or as it otherwise deems appropriate for the delivery of its services. For clarity, at no time shall the Filer trade against its clients for speculative purposes.

RR. The Filer must not implement a significant change to the information in the Form 21- 101F2 unless it has delivered an amendment of the Form 21-101F2 describing the significant change to the Principal Regulator at least 45 days prior to implementing the significant change.

Marketplace Activities – Fair Access

SS. The Filer will not unreasonably prohibit, condition, or limit access to the Platform and its related services.

TT. Neither the Filer nor FDL will permit unreasonable discrimination among Clients of the Platform.

UU. Any person or company resident in Canada must access the Crypto.com Global Platform, including for marketplace services and the clearing or settlement services, through the Platform.

Marketplace Activities – Market Integrity

VV. The Filer and FDL will take reasonable steps to ensure their operations do not interfere with fair and orderly markets in relation to the Platform.

WW. The Filer will not provide access to the Platform unless it has the ability to terminate all or a portion of a Client's access, if required.

XX. The Filer will maintain accurate records of all of its trade monitoring and complaint handling activities in relation to the Platform, and of the reasons for actions taken or not taken. The Filer will make such records available to the Principal Regulator upon request.

YY. The Filer will monitor each Client's compliance with restrictions relating to its use of the Platform, including complying with the Legislation and report breaches of the Legislation, as appropriate, to the Principal Regulator or the securities regulatory authority or regulator in the Non-Principal Jurisdiction (as applicable).

Marketplace Activities – Conflicts of Interest

ZZ. The Filer will annually review compliance with its policies and procedures that identify and manage conflicts of interest and will document in each review any deficiencies that were identified and how those deficiencies were remedied.

AAA. When the Filer or an affiliate trades with the Filer's clients on principal basis, the Filer will ensure that its clients receive fair and reasonable prices.

Marketplace Activities – Transparency of Operations and of Order and Trade Information

BBB. The Filer will maintain public disclosure of the information outlined in representation 64 in a manner that reasonably enables a person or company to understand the marketplace operations or services.

CCC. For orders and trades entered and executed on the Platform, the Filer will make available to Clients of the Platform an appropriate level of information regarding those orders and trades in real-time to facilitate Clients' investment and trading decisions.

DDD. The Filer will make publicly available on the Website, on a timely basis, an appropriate level of aggregated information about trades that have occurred on the Platform.

Marketplace Activities – Confidentiality

EEE. The Filer will not release a Client's order or trade information to a person or company, other than the Client, a regulator or securities regulatory authority or a regulation services provider unless:

(a) the Client has consented in writing to the release of the information;

(b) the release is made under applicable law; or

(c) the information has been publicly disclosed by another person or company and such disclosure was lawful.

FFF. Despite condition EEE, the Filer may release a Client's order and trade information to an affiliated service provider if the Filer has a written agreement with the affiliated service provider whereby such affiliated service provider agrees not to release the Filer's Client's order and trade information unless permitted under condition EEE.

Clearing and Settlement Activities

GGG. For any clearing or settlement activity conducted by the Filer, the Filer will:

(a) maintain adequate procedures and processes to ensure the provision of accurate and reliable settlement services in connection with Crypto Assets;

(b) maintain appropriate risk management policies and procedures and internal controls to minimize the risk that settlement will not take place as expected;

(c) limit the provision of clearing and settlement services to Crypto Assets and fiat currency which underlie the Crypto Contracts traded on the Platform; and

(d) limit the provision of clearing and settlement services to clients of the Filer, and, to the extent applicable, other Crypto.com entities in relation to trades executed on the Platform.

Notification to Principal Regulator

HHH. The Filer will promptly notify the Principal Regulator and indicate what steps have been taken by the Filer to address the situation should any of the following occur:

(a) any failure or breach of systems of controls or supervision that has a material impact on the Filer, including when they

(1) involve the Filer's business;

(2) involve the services or business of an affiliate of the Filer;

(3) involve the Acceptable Third-party Custodian;

(4) are cybersecurity breaches of the Filer, an affiliate of the Filer, or services that impact the Filer; or

(5) are a malfunction, delay, or security breach of the systems or controls relating to the operation of the marketplace or clearing or settlement functions;

(b) any amount of specified Crypto Assets are identified as lost;

(c) any investigations of, or regulatory action against, the Filer, or an affiliate of the Filer, by a regulatory authority in any jurisdiction in which it operates which may impact the operations of the Filer;

(d) details of any litigation instituted against the Filer, or an affiliate of the Filer, which may impact the operation of the Filer;

(e) notification that the Filer, or an affiliate of the Filer, has instituted a petition for a judgment of bankruptcy, insolvency, or similar relief, or to wind up or liquidate the Filer, or an affiliate of the Filer, or has a proceeding for any such petition instituted against it; and

(f) the appointment of a receiver or the making of any voluntary arrangement with a creditor.

Books and Records

III. The Filer and FDL will keep books, records and other documents reasonably necessary for the proper recording of their businesses and to demonstrate compliance with the Legislation and the conditions of this Decision, including, but not limited to, records of all orders and trades, including the product, quotes, executed price, volume, time when the order is entered, matched, cancelled or rejected, and the identifier of any authorized user that entered the order.

JJJ. The Filer and FDL will maintain the aforementioned books, records and other documents in electronic form and promptly provide them in the format and at the time requested by the Principal Regulator pursuant to the Legislation. Such books, records and other documents will be maintained by the Filer and FDL for a minimum of seven years.

Systems and internal controls

KKK. The Filer and FDL will maintain effective internal controls over systems that support the Platform and the Crypto.com Global Platform including internal controls to ensure that its systems function properly and have adequate capacity and security.

LLL. The Filer and FDL will maintain effective information technology controls to support the Platform and the Crypto.com Global Platform including controls relating to operations, information security, cyber resilience, change management, network support and system software support.

MMM. The Filer and FDL will maintain, update and test a business continuity plan, including emergency procedures, and a plan for disaster recovery that provides for the timely recovery of operations and fulfilment of its obligations with respect to the Platform and the Crypto.com Global Platform, including in the event of a wide-scale or major disruption.

Staking

NNN. The Filer will comply with the terms and conditions in Appendix B in respect of the Staking Services.

Reporting

OOO. The Filer will deliver the reporting as set out in Appendix D.

PPP. The Filer will deliver to the regulator or the securities regulatory authority in each of the Applicable Jurisdictions, in a form and format acceptable to the regulator or the securities regulatory authority, a report that includes the following aggregated quarterly information relating to trading activity on the Platform within 30 days of the end of each March, June, September and December:

(a) total number of trades and total traded value on a by pair basis, with each such reported value further broken out by the proportion of trades and traded value that were a result of trades between two clients compared to trades between a client and the Filer or affiliate of the Filer.

(b) total number of executed client orders and total value of executed client orders on a by pair basis, with each such reported value further broken out by the proportion of executed market orders compared to executed limit orders.

QQQ. The Filer will provide to the Principal Regulator quarterly summary statistics on its trade monitoring and complaint handling activities in relation to the Platform, including the following:

(a) the number of instances of improper trading activity identified, by category, and the proportion of each such category that arose from client complaints/reports;

(b) the number of instances in (a) that were further investigated or reviewed, by category;

(c) the number of investigations in (b), by category, that were closed with no action;

(d) a summary of each investigation in (b) that was escalated for action to be taken, including a description of the action taken in each case; and

(e) a summary of the status of any open investigations.

RRR. Within 7 calendar days from the end of each month, the Filer will deliver to the regulator or securities regulatory authority in each of the Applicable Jurisdictions, a report of all Client Accounts for which the Client Limits established pursuant to representation 26 were exceeded during that month.

SSS. The Filer will provide certain reporting in respect of the preceding calendar quarter to its Principal Regulator within 30 days of the end of March, June, September and December in connection with the Staking Services, including, but not limited to:

(a) the total number of Clients to which the Filer provides the Staking Services;

(b) the Crypto Assets for which the Staking Services are offered;

(c) for each Crypto Asset that may be staked:

(1) the amount of Crypto Assets staked,

(2) the amount of each such Crypto Assets staked that is subject to a Lock-up Period and the length of the Lock-up Period;

(3) the amount of Crypto Assets that Clients have requested to unstake; and

(4) the amount of rewards earned by the Filer and the Clients for the Crypto Assets staked under the Staking Services;

(d) the names of any third parties used to conduct the Staking Services;

(e) any instance of slashing, jailing or other penalties being imposed for validator error and the details of why these penalties were imposed; and

(f) any reporting regarding the Filer’s liquidity management as requested by the Principal Regulator.

TTT. The Filer will deliver to the Principal Regulator within 30 days of the end of each March, June, September and December, either:

(a) blackline copies of changes made to the policies and procedures on the operations of its wallets (including, but not limited to, establishment of wallets, transfer of Crypto Assets into and out of the wallets and authorizations to access the wallets) previously delivered to the Principal Regulator; or

(b) a nil report stating no changes have been made to its policies and procedures on the operations of its wallets in the quarter.

UUU. In addition to any other reporting required by the Legislation, the Filer will provide, on a timely basis, any report, data, document or information to the Principal Regulator, including any information about the Filer's Acceptable Third-party Custodian(s) and the Crypto Assets held by the Filer's Acceptable Third-party Custodian(s) that may be requested by the Principal Regulator from time to time as reasonably necessary for the purpose of monitoring compliance with the Legislation and the conditions in the Decision, in a format acceptable to the Principal Regulator.

VVV. Upon request, the Filer will provide the Principal Regulator and the regulators or securities regulatory authorities of each of the Non-Principal Jurisdictions with aggregated and/or anonymized data concerning Client demographics and activity on the Platform that may be useful to advance the development of the Canadian regulatory framework for trading Crypto Assets.

Terms and Conditions Applicable to the Parent Company and Filer's affiliates

WWW. The Parent Company will facilitate the allocation of sufficient financial and non-financial resources for the operations of the Filer to ensure the Filer can carry out its functions in a manner that is consistent with securities legislation and the Decision.

XXX. The Parent Company will notify the Principal Regulator immediately upon:

(a) becoming aware that it is or will be unable to allocate sufficient financial or other resources to the Filer as required under condition WWW; or

(b) becoming aware that any of the marketplace provisions are or will not be complied with.

YYY. The Parent Company will ensure that all conditions provided herein are complied with. To the extent investor protection concerns arise in respect of the Filer or the Platform, The Parent Company will, acting reasonably and in good faith, engage in discussions with the Principal Regulator or the Coordinated Review Decision Maker raising it to address the concern. The Parent Company will, subject to applicable law, promptly provide to the Principal Regulator, on request, any and all data, information, and analyses in its custody or control related to the business and operations of the Filer and the Platform without limitations, redactions, restrictions, or conditions, provided that nothing in this section will be construed to abrogate solicitor-client privilege or any similar doctrines that may apply to communications with and work product produced by counsel.

ZZZ. FDL will perform trading services for the Filer only upon instructions from the Filer.

AAAA. Except for the services provided by the Filer to any person or company resident in Canada and the custodial services Crypto.com Custody provides to the Filer or to any person or company resident in Canada, neither the Parent Company nor any of its affiliates is permitted to provide, or allow access to, any services governed by securities legislation, whether offered by the Parent Company or any of its affiliates, to any person or company resident in an Applicable Jurisdiction, without the approval of the securities regulatory authority or regulator in such Applicable Jurisdiction.

Changes to and Expiration of Decision

BBBB. The Filer will promptly make any changes to its business practices or policies and procedures that may be required to address investor protection concerns that may be identified by the Filer or by the Principal Regulator arising from the operation of the Platform.

CCCC. The Filer will disclose to Clients that the Filer has been registered as a restricted dealer in the Applicable Jurisdictions subject to specified terms and conditions that are the subject of a specific order and as such may not be subject to all requirements otherwise applicable to an investment dealer and CIRO member, including those that apply to marketplaces and to trading on marketplaces.

DDDD. The Filer will, if it intends to operate the Platform in Ontario and Québec after the expiry of the Decision, take the following steps:

(a) submit an application to the Principal Regulator and the Autorité des marchés financiers (**AMF**), to become registered as an investment dealer no later than 6 months after the date of the Decision;

(b) submit an application with CIRO to become a dealer member no later than 6 months after the date of the Decision; and

(c) work actively and diligently with the Principal Regulator, the AMF and CIRO to transition the Platform to investment dealer registration and obtain CIRO membership.

EEEE. This Decision shall expire upon the date that is two years from the date of this Decision.

FFFF. This Decision may be amended by the Principal Regulator upon prior written notice to the Filer in accordance with applicable securities legislation.

DATED this 8th day of May, 2025.

"Michelle Alexander"
Manager, Trading and Markets
Ontario Securities Commission

Application File #: 2022/0156

APPENDIX A

LOCAL TRADE REPORTING RULES AND MARKETPLACE RULES

In this Decision,

a) the "**Local Trade Reporting Rules**" collectively means each of the following:

(1) Part 3, Data Reporting of Ontario Securities Commission Rule 91-507 - *Trade Repositories and Derivatives Data Reporting* (**OSC Rule 91-507**);

(2) Part 3, Data Reporting of Manitoba Securities Commission Rule 91-507 - *Trade Repositories and Derivatives Data Reporting* (**MSC Rule 91-507**); and

(3) Part 3, Data Reporting of Multilateral Instrument 96-101 - *Trade Repositories and Derivatives Data Reporting* in Alberta, British Columbia, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Prince Edward Island, Saskatchewan, and Yukon (**MI 96-101**); and

b) the "**Marketplace Rules**" collectively means each of the following:

(1) National Instrument 21-101 -- *Marketplace Operation* (**NI 21-101**) in whole;

(2) National Instrument 23-101 -- *Trading Rules* (**NI 23-101**) in whole; and

(3) National Instrument 23-103 -- *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) in whole.

APPENDIX B

STAKING TERMS AND CONDITIONS

1. The Staking Services are offered in relation to the Stakeable Crypto Assets that are subject to a Crypto Contract between the Filer and a Client.

2. Unless the Principal Regulator has provided its prior written consent, the Filer offers Clients the Staking Services only for (i) Crypto Assets of blockchains that use a proof of stake consensus mechanism and (ii) the staked Crypto Assets that are used to guarantee the legitimacy of new transactions the Validator adds to the blockchain (i.e., Stakeable Crypto Assets).

3. The Filer is proficient and knowledgeable about staking Stakeable Crypto Assets.

4. The Filer itself does not act as a Validator, unless the Principal Regulator has provided its prior written consent. The Filer has entered into written agreements with one or more third parties (which may be affiliated parties or otherwise part of the same corporate group) to stake Stakeable Crypto Assets and each such third party is proficient and experienced in staking Crypto Assets.

5. The Filer's KYP Policy includes a review of the Stakeable Crypto Assets made available to Clients for staking and staking protocols related to those Stakeable Crypto Assets prior to offering those Stakeable Crypto Assets as part of the Staking Services. The Filer's review includes the following:

    (a) the Stakeable Crypto Assets that the Filer proposes to offer for staking;

    (b) the operation of the proof-of-stake blockchain for the Stakeable Crypto Assets that the Filer proposes to offer for staking;

    (c) the staking protocols for the Stakeable Crypto Assets that the Filer proposes to offer for staking;

    (d) the risks of loss of the staked Stakeable Crypto Assets, including from software bugs and hacks of the protocol;

    (e) the Validators engaged by the Filer or the Filer's Custodian, including, but not limited to, information about:

        (i) the persons or entities that manage and direct the operations of the Validator,

        (ii) the Validator's reputation and use by others,

        (iii) the amount of Stakeable Crypto Assets the Validator has staked on its own nodes,

        (iv) the measures in place by the Validator to operate the nodes securely and reliably,

        (v) the financial status of the Validator,

        (vi) the performance history of the Validator, including but not limited to the amount of downtime of the Validator, past history of "double signing" and "double attestation/voting",

        (vii) any losses of Stakeable Crypto Assets related to the Validator's actions or inactions, including losses resulting from slashing, jailing or other penalties incurred by the Validator, and

        (viii) any guarantees offered by the Validator against losses including losses resulting from slashing or other penalties and any insurance obtained by the Validator that may cover this risk.

6. The Filer has policies and procedures to assess account appropriateness for a Client that includes consideration of the Staking Services to be made available to that Client.

7. The Filer applies the account appropriateness policies and procedures to evaluate whether offering the Staking Services is appropriate for a Client before providing access to an account that makes available the Staking Services and, on an ongoing basis, at least once in each 12-month period.

8. If, after completion of an account-level appropriateness assessment, the Filer determines that providing the Staking Services is not appropriate for the Client, the Filer will include prominent messaging to the Client that this is the case and the Filer will not make available the Staking Services to the Client.

9. The Filer only stakes the Stakeable Crypto Assets of those Clients who have agreed to the Staking Services and have allocated Stakeable Crypto Assets to be staked. Where a Client no longer wishes to stake all or a portion of the allocated

Stakeable Crypto Assets, subject to any Lock-up Periods (as defined below) or any terms of the Staking Services that permit the Client to remove Stakeable Crypto Assets from the Staking Services prior to the expiry of any Lock-up Periods, the Filer will cease to stake those Stakeable Crypto Assets.

10. Before the first time a Client allocates any Stakeable Crypto Assets to be staked, the Filer will deliver to the Client the Risk Statement that includes the risks with respect to staking and the Staking Services described in paragraph 11 below, and will require the Client to provide electronic acknowledgement of having received, read and understood the Risk Statement.

11. The Filer clearly explains in the Risk Statement the risks with respect to staking and the Staking Services in plain language, which include, at a minimum:

    (a) the details of the Staking Services and the role of all third parties involved;

    (b) the due diligence performed by the Filer with respect to the proof-of-stake consensus protocol for each Crypto Asset for which the Filer provides the Staking Services;

    (c) the details of the Validators that will be used for the Staking Services and the due diligence performed by the Filer with respect to the Validators;

    (d) the details of whether and how the custody of staked Stakeable Crypto Assets differs from Crypto Assets held on behalf of the Filer's Clients that are not engaged in staking;

    (e) the general risks related to staking and any risks arising from the arrangements used by the Filer to offer the Staking Services (e.g., reliance on third parties; risk of loss due to technical errors or bugs in the protocol; hacks or theft from the Crypto Assets being held in hot wallets, etc.) and how any losses will be allocated to Clients;

    (f) whether the Filer will reimburse Clients for any Stakeable Crypto Assets lost due to slashing or other penalties imposed due to Validator error, action or inactivity or how any losses will be allocated to Clients;

    (g) whether any of the staked Stakeable Crypto Assets are subject to any lock-up, unbonding, unstaking, or similar periods imposed by the Stakeable Crypto Asset protocol, custodian or Validator, where such Stakeable Crypto Assets will not be accessible to the Client or will be accessible only after payment of additional fees or penalties or forfeiture of any rewards (**Lock-up Periods**); and

    (h) how rewards are calculated on the staked Stakeable Crypto Assets, including any fees charged by the Filer or any third party, how rewards are paid out to Clients, and any associated risks.

12. Immediately before each time that a Client allocates Stakeable Crypto Assets to be staked under the Staking Services, the Filer requires the Client to acknowledge the risks of staking Stakeable Crypto Assets as may be applicable to the particular Staking Services or each particular Stakeable Crypto Asset, including, but not limited to:

    (a) that the staked Stakeable Crypto Assets may be subject to a Lock-up Period and, consequently, the Client may not be able to sell or withdraw their Stakeable Crypto Assets for a predetermined or unknown period of time, with details of any known period, if applicable;

    (b) that given the volatility of Crypto Assets, the value of a Client's staked Stakeable Crypto Assets when they are able to sell or withdraw, and the value of any Stakeable Crypto Assets earned through staking, may be significantly less than the current value;

    (c) how rewards will be calculated and paid out to Clients and any risks inherent in the calculation and payout of any rewards;

    (d) that there is no guarantee that the Client will receive any rewards on the staked Stakeable Crypto Assets, and that past rewards are not indicative of expected future rewards;

    (e) whether rewards may be changed at the discretion of the Filer;

    (f) unless the Filer guarantees any Stakeable Crypto Assets lost to slashing, that the Client may lose all or a portion of the Client's staked Stakeable Crypto Assets if the Validator does not perform as required by the network;

    (g) if the Filer offers a guarantee to prevent loss of any Stakeable Crypto Assets arising from the Staking Services, including due to slashing, any limits on that guarantee and requirements for a Client to claim under the guarantee; and

(h) that additional risks can be found in the Risk Statement and Crypto Asset Statement, including the names and other information regarding the Validators and information regarding Lock-up Periods and rewards, with a link to the Risk Statement and Crypto Asset Statement.

13. Immediately before each time a Client buys or deposits Stakeable Crypto Assets that will be automatically staked pursuant to an existing agreement by the Client to the Staking Services, the Filer will provide prominent disclosure to the Client that the Stakeable Crypto Assets it is about to buy or deposit will be automatically staked.

14. The Filer will promptly update the Risk Statement and each Crypto Asset Statement to reflect any material changes to the disclosure or include any material risks that may develop with respect to the Staking Services and/or Stakeable Crypto Assets.

15. In the event of any update to the Risk Statement, for each existing Client that has agreed to the Staking Services, the Filer will promptly notify the Client of the update and deliver to them a copy of the updated Risk Statement.

16. In the event of any update to a Crypto Asset Statement, for each existing Client that has agreed to the Staking Services in respect of the Stakeable Crypto Asset for which the Crypto Asset Statement was updated, the Filer will promptly notify the Client of the update and deliver to the Client a copy of the updated Crypto Asset Statement.

17. The Filer or the Custodians will remain in possession, custody and control of the staked Stakeable Crypto Assets at all times.

18. The Filer will hold the staked Stakeable Crypto Assets for its Clients in one or more omnibus staking wallets in the name of the Filer for the benefit of the Filer's Clients with the Custodians and the staked Stakeable Crypto Assets are held separate and distinct from (i) the assets of the Filer, the Custodians and the Custodians' other Clients; and (ii) the Crypto Assets held for its Clients that have not agreed to staking those specific Crypto Assets.

19. The Filer has established policies and procedures that manage and mitigate custodial risks for staked Stakeable Crypto Assets, including but not limited to, an effective system of controls and supervision to safeguard the staked Stakeable Crypto Assets.

20. If the Filer permits Clients to remove Stakeable Crypto Assets from the Staking Services prior to the expiry of any Lock-up Period, the Filer applies appropriate liquidity management policies and procedures to fulfill withdrawal requests made, which may include using the Stakeable Crypto Assets it holds in inventory or entering into agreements with its Liquidity Providers that permit the Filer to purchase any required Crypto Assets. The Filer holds Stakeable Crypto Assets in trust for its Clients and will not use Stakeable Crypto Assets of those Clients who have not agreed to the Staking Services for fulfilling such withdrawal requests.

21. If the Filer provides a guarantee to Clients from some or all of the risks related to the Staking Services, the Filer has established, and will maintain and apply, policies and procedures to address any risks arising from such guarantee.

22. In the event of bankruptcy or insolvency of the Filer, the Filer will assume and will not pass to Clients any losses arising from slashing or other penalties arising from the performance or non-performance of the Validator.

23. The Filer monitors its Validators for downtime, jailing and slashing events and takes any appropriate action to protect Stakeable Crypto Assets staked by Clients.

24. The Filer has established, and applies, policies and procedures to address how staking rewards, fees and losses will be calculated and allocated to Clients that have staked Stakeable Crypto Assets under the Staking Services.

25. The Filer regularly and promptly determines the amount of staking rewards earned by each Client that has staked Stakeable Crypto Assets under the Staking Services and distributes each Client's staking rewards to the Client promptly after they are made available to the Filer.

26. The Filer clearly discloses the fees charged by the Filer for the Staking Services and provides a clear calculation of the rewards earned by each Client that agrees to the Staking Services.

APPENDIX C

TERMS AND CONDITIONS FOR TRADING VALUE-REFERENCED CRYPTO ASSETS WITH CLIENTS

1. The Filer establishes that all of the following conditions are met:

   (a) The Value-Referenced Crypto Asset references, on a one-for-one basis, the value of a single fiat currency (the **reference fiat currency**).

   (b) The reference fiat currency is the Canadian dollar or United States dollar.

   (c) The Value-Referenced Crypto Asset entitles a Value-Referenced Crypto Asset holder who maintains an account with the issuer of the Value-Referenced Crypto Asset to a right of redemption, subject only to reasonable publicly disclosed conditions, on demand directly against the issuer of the Value-Referenced Crypto Asset or against the reserve of assets, for the reference fiat currency on a one-to-one basis, less only any fee that is publicly disclosed by the issuer of the Value-Referenced Crypto Asset, and payment of the redemption proceeds within a reasonable period as disclosed by the issuer of the Value-Referenced Crypto Asset.

   (d) The issuer of the Value-Referenced Crypto Asset maintains a reserve of assets that is:

      (i) in the reference fiat currency and is comprised of any of the following:

         cash;

         investments that are evidence of indebtedness with a remaining term to maturity of 90 days or less and that are issued, or fully and unconditionally guaranteed as to principal and interest, by the government of Canada or the government of the United States;

         securities issued by one or more Money Market Funds licensed, regulated or authorized by a regulatory authority in Canada or the United States of America; or

         such other assets that the principal regulator of the Filer and the regulator or securities regulatory authority in each Canadian jurisdiction where clients of the Filer reside has consented to in writing;

   (e) all of the assets that comprise the reserve of assets are:

      (i) measured at fair value in accordance with Canadian GAAP for publicly accountable enterprises or U.S. GAAP at the end of each day;

      (ii) held with a Qualified Custodian;

      (iii) held in an account clearly designated for the benefit of the Value-Referenced Crypto Asset holders or in trust for the Value-Referenced Crypto Asset holders;

      (iv) held separate and apart from the assets of the issuer of the Value-Referenced Crypto Asset and its affiliates and from the reserve of assets of any other Crypto Asset, so that, to the best of the knowledge and belief of the Filer after taking steps that a reasonable person would consider appropriate, including consultation with experts such as legal counsel, no creditors of the issuer other than the Value-Referenced Crypto Asset holders in their capacity as Value-Referenced Crypto Asset holders, will have recourse to the reserve of assets, in particular in the event of insolvency; and

      (v) not encumbered or pledged as collateral at any time; and

   (f) the fair value of the reserve of assets is at least equal to the aggregate nominal value of all outstanding units of the Value-Referenced Crypto Asset at least once each day.

2. The issuer of the Value-Referenced Crypto Asset makes all of the following publicly available:

   (a) details of each type, class or series of the Value-Referenced Crypto Asset, including the date the Value-Referenced Crypto Asset was launched and key features and risks of the Value-Referenced Crypto Asset;

   (b) the quantity of all outstanding units of the Value-Referenced Crypto Asset and their aggregate nominal value at least once each business day;

   (c) the names and experience of the persons or companies involved in the issuance and management of the Value-Referenced Crypto Asset, including the issuer of the Value-Referenced Crypto Asset, any manager of the

reserve of assets, including any individuals that make investment decisions in respect of the reserve of assets, and any custodian of the reserve of assets;

(d) the quantity of units of the Value-Referenced Crypto Asset held by the issuer of the Value-Referenced Crypto Asset or any of the persons or companies referred to in paragraph (c) and their nominal value at least once each business day;

(e) details of how a Value-Referenced Crypto Asset holder can redeem the Value-Referenced Crypto Asset, including any possible restrictions on redemptions such as the requirement for a Value-Referenced Crypto Asset holder to have an account with the issuer of the Value-Referenced Crypto Asset and any criteria to qualify to have an account;

(f) details of the rights of a Value-Referenced Crypto Asset holder against the issuer of the Value-Referenced Crypto Asset and the reserve of assets, including in the event of insolvency or winding up;

(g) all fees charged by the issuer of the Value-Referenced Crypto Asset for distributing, trading or redeeming the Value-Referenced Crypto Asset;

(h) whether Value-Referenced Crypto Asset holders are entitled to any revenues generated by the reserve of assets;

(i) details of any instances of any of the following:

(i) the issuer of the Value-Referenced Crypto Asset has suspended or halted redemptions for all Value-Referenced Crypto Asset holders;

(ii) the issuer of the Value-Referenced Crypto Asset has not been able to satisfy redemption rights at the price or in the time specified in its public policies;

(j) within 45 days of the end of each month, an assurance report from a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America, and that meets the professional standards of that jurisdiction, that complies with all of the following:

(i) provides reasonable assurance in respect of the assertion by management of the issuer of the Value-Referenced Crypto Asset that the issuer of the Value-Referenced Crypto Asset has met the requirements in paragraphs (1)(d)-(f) as at the last business day of the preceding month and at least one randomly selected day during the preceding month;

(ii) the randomly selected day referred to in subparagraph (i) is selected by the public accountant and disclosed in the assurance report;

(iii) for each day referred to in subparagraph (i), management's assertion includes all of the following:

(iv) details of the composition of the reserve of assets;

(v) the fair value of the reserve of assets in subparagraph (1)(e)(i);

(vi) the quantity of all outstanding units of the Value-Referenced Crypto Asset in paragraph (b);

(vii) the assurance report is prepared in accordance with the Handbook, International Standards on Assurance Engagements or attestation standards established by the American Institute of Certified Public Accountants;

(k) starting with the first financial year ending after December 1, 2023, within 120 days of the issuer of the Value-Referenced Crypto Asset's financial year end, annual financial statements of the issuer of the Value-Referenced Crypto Asset that comply with all of the following:

(i) the annual financial statements include all of the following:

1. a statement of comprehensive income, a statement of changes in equity and a statement of cash flows, each prepared for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;

2. a statement of financial position, signed by at least one director of the issuer of the Value-Referenced Crypto Asset, as at the end of the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, if any;

3. notes to the financial statements;

(ii) the statements are prepared in accordance with one of the following accounting principles:

1. Canadian GAAP applicable to publicly accountable enterprises;

2. U.S. GAAP;

(iii) the statements are audited in accordance with one of the following auditing standards:

1. Canadian GAAS;

2. International Standards on Auditing;

3. U.S. PCAOB GAAS;

(iv) the statements are accompanied by an auditor's report that,

1. if (iii)(1) or (2) applies, expresses an unmodified opinion,

2. if (iii)(3) applies, expresses an unqualified opinion,

3. identifies the auditing standards used to conduct the audit, and

4. is prepared and signed by a public accountant that is authorized to sign such a report under the laws of a jurisdiction of Canada or the United States of America.

3. The Crypto Asset Statement includes all of the following:

(a) a prominent statement that no securities regulatory authority or regulator in Canada has evaluated or endorsed the Crypto Contracts or any of the Crypto Assets made available through the platform;

(b) a prominent statement that the Value-Referenced Crypto Asset is not the same as and is riskier than a deposit in a bank or holding cash with the Filer;

(c) a prominent statement that although Value-Referenced Crypto Assets may be commonly referred to as "stablecoins", there is no guarantee that the Value-Referenced Crypto Asset will maintain a stable value when traded on secondary markets or that the reserve of assets will be adequate to satisfy all redemptions;

(d) a prominent statement that, due to uncertainties in the application of bankruptcy and insolvency law, in the event of the insolvency of [Value-Referenced Crypto Asset issuer], there is a possibility that creditors of [Value-Referenced Crypto Asset issuer] would have rights to the reserve assets that could outrank a Value-Referenced Crypto Asset holder's rights, or otherwise interfere with a Value-Referenced Crypto Asset holder's ability to access the reserve of assets in the event of insolvency;

(e) a description of the Value-Referenced Crypto Asset and its issuer;

(f) a description of the due diligence performed by the Filer with respect to the Value-Referenced Crypto Asset;

(g) a brief description of the information in section (2) and links to where the information in that section is publicly available;

(h) a link to where on its website the issuer of the Value-Referenced Crypto Asset will disclose any event that has or is likely to have a significant effect on the value of the Value-Referenced Crypto Asset or on the reserve of assets;

(i) a description of the circumstances where the secondary market trading value of the Value-Referenced Crypto Asset may deviate from par with the reference fiat currency and details of any instances where the secondary market trading value of the Value-Referenced Crypto Asset has materially deviated from par with the reference fiat currency during the last 12 months on the Filer's platform;

(j) a brief description of any risks to the client resulting from the trading of a Value-Referenced Crypto Asset or a Crypto Contract in respect of a Value-Referenced Crypto Asset that may not have been distributed in compliance with securities laws;

(k) any other risks specific to the Value-Referenced Crypto Asset, including the risks arising from the fact that the Filer may not, and a client does not, have a direct redemption right with the issuer of the Value-Referenced Crypto Asset;

(l) a direction to the client to review the Risk Statement for additional discussion of general risks associated with the Crypto Contracts and Crypto Assets made available through the platform;

(m) a statement that the statutory rights in section 130.1 of the Act, and, if applicable, similar statutory rights under securities legislation of other Applicable Jurisdictions, do not apply in respect of the Crypto Asset Statement to the extent a Crypto Contract is distributed under the Prospectus Relief in this Decision;

(n) the date on which the information was last updated.

4. If the Filer uses the term “stablecoin” or “stablecoins” in any information, communication, advertising or social media related to the Platform and targeted at or accessible by Canadian investors, the Filer will also include the following statement (or a link to the following statement when impractical to include):

“Although the term ”stablecoin“ is commonly used, there is no guarantee that the asset will maintain a stable value in relation to the value of the reference asset when traded on secondary markets or that the reserve of assets, if there is one, will be adequate to satisfy all redemptions.”

5. The issuer of the Value-Referenced Crypto Asset has filed an undertaking in substantially the same form as set out in Appendix B of CSA Notice 21-333 Crypto Asset Trading Platforms: *Terms and Conditions for Trading Value-Referenced Crypto Assets with Clients* (**CSA SN 21-333**) and the undertaking is posted on the CSA website.

6. To the extent the undertaking referred to in section (5) of this Appendix includes language that differs from sections (1) or (2) of this Appendix, the Filer complies with sections (1) and (2) of this Appendix as if they included the modified language from the undertaking.

7. The KYP Policy of the Filer requires the Filer to assess whether the Value-Referenced Crypto Asset or the issuer of the Value-Referenced Crypto Asset satisfies the criteria in sections (1), (2), (5) and (6) of this Appendix on an ongoing basis.

8. The Filer has policies and procedures to facilitate halting or suspending deposits or purchases of the Value-Referenced Crypto Asset, or Crypto Contracts in respect of the Value-Referenced Crypto Asset, as quickly as is commercially reasonable, if the Value-Referenced Crypto Asset no longer satisfies the criteria in sections (1), (2), (5) and (6) of this Appendix.

9. In this Appendix, terms otherwise not defined herein have the meanings set out in Appendix D of CSA SN 21-333.

APPENDIX D

DATA REPORTING

1. Commencing with the quarter ending June 30, 2025, the Filer will deliver the following information to the Principal Regulator and each of the Coordinated Review Decision Makers in an agreed form and manner specified by the Principal Regulator and each of the Coordinated Review Decision Makers with respect to Clients residing in the jurisdiction of such Coordinated Review Decision Maker, within 30 days of the end of each March, June, September and December:

    (a) aggregate reporting of activity conducted pursuant to the Platform's operations that will include the following:

        (1) number of Client Accounts opened each month in the quarter,

        (2) number of Client Accounts frozen or closed each month in the quarter,

        (3) number of Client Account applications rejected by the platform each month in the quarter based on the account appropriateness factors described in representation 25;

        (4) number of trades in each month in the quarter,

        (5) average value of the trades in each month in the quarter,

        (6) number of Client Accounts with a net acquisition cost greater than $30,000 of Crypto Assets at the end of each month in the quarter,

        (7) number of Client Accounts that in the preceding 12 months, excluding Specified Crypto Assets, exceeded a net acquisition cost of $30,000 at the end of each month in the quarter;

        (8) number of Client Accounts at the end of each month in the quarter;

        (9) number of Client Accounts with no trades during the quarter,

        (10) number of Client Accounts that have not been funded at the end of each month in the quarter;

        (11) number of Client Accounts that hold a positive amount of Crypto Assets at the end of each month in the quarter; and

        (12) number of client accounts that exceeded their Client Limit at the end of each month in the quarter.

    (b) the details of any material Client complaints received by the Filer during the calendar quarter and how such complaints were addressed;

    (c) a listing of all blockchain addresses, except for deposit addresses, that hold Crypto Assets on behalf of Clients, including all hot and cold wallets;

    (d) the details of any fraudulent activity or cybersecurity incidents on the Platform during the calendar quarter, any resulting harm and effects on Clients, and the corrective measures taken by the Filer to remediate such activity or incident and prevent similar activities or incidents from occurring in the future; and

    (e) the details of the transaction volume per Liquidity Provider, per Crypto Asset during the quarter.

2. The Filer will deliver to the Principal Regulator and each of the Coordinated Review Decision Makers, in an agreed form and manner specified by the Principal Regulator and each of the Coordinated Review Decision Makers, a report that includes the anonymized account-level data for the Platform's operations for each Client residing in the jurisdiction of such Coordinated Review Decision Maker, within 30 days of the end of each March, June, September and December for data elements outlined in Appendix E.

APPENDIX E

DATA ELEMENT DEFINITIONS, FORMATS AND ALLOWABLE VALUES

Number	Data Element Name	Definition for Data Element[1]	Format	Values	Example
Data Elements Related to each Unique Client					
1	Unique Client Identifier	Alphanumeric code that uniquely identifies a customer.	Varchar(72)	An internal client identifier code assigned by the CTP to the client. The identifier must be unique to the client.	ABC1234
2	Unique Account Identifier	Alphanumeric code that uniquely identifies an account.	Varchar(72)	A unique internal identifier code which pertains to the customer's account. There may be more than one Unique Account Identifier linked to a Unique Client Identifier.	ABC1234
3	Jurisdiction	The Province or Territory where the client, head office or principal place of business is, or under which laws the client is organized, or if an individual, their principal place of residence.	Varchar(5)	Jurisdiction where the client is located using ISO 3166-2 - See the following link for more details on the ISO standard for Canadian jurisdictions codes. https://www.iso.org/obp/ui/#iso:code:3166:CA	CA-ON
Data Elements Related to each Unique Account					
4	Account Open Date	Date the account was opened and approved to trade.	YYYY-MM- DD, based on UTC.	Any valid date based on ISO 8601 date format.	2022-10-27
5	Cumulative Realized Gains/Losses	Cumulative Realized Gains/Losses from purchases, sales, deposits, withdrawals and transfers in and out, since the account was opened as of the end of the reporting period.	Num(25,0)	Any value rounded to the nearest dollar in CAD. Use the market value at the time of transfers in, transfers out, deposits and withdrawals of the Digital Token to determine the	205333

[1] Note: Digital Token refers to either data associated with a Digital Token, or a Digital Token referenced in an investment contract.

Number	Data Element Name	Definition for Data Element[1]	Format	Values	Example
				cost basis or the realized gain or loss.	
6	Unrealized Gains/Losses	Unrealized Gains/Losses from purchases, deposits and transfers in as of the end of the reporting period.	Num(25,0)	Any value rounded to the nearest dollar in CAD. Use the market value at the time of transfers in or deposits of the Digital Token to determine the cost basis.	-30944
7	Digital Token Identifier	Alphanumeric code that uniquely identifies the Digital Token held in the account.	Char(9)	Digital Token Identifier as defined by ISO 24165. See the following link for more details on the ISO standard for Digital Token Identifiers. https://dtif.org/	4H95J0R2X
Data Elements Related to each Digital Token Identifier Held in each Account					
8	Quantity Bought	Number of units of the Digital Token bought in the account during the reporting period.	Num(31,18)	Any value greater than or equal to zero up to a maximum number of 18 decimal places.	4358.326
9	Number of Buy Transactions	Number of transactions associated with the Quantity Bought during the reporting period.	Num(25,0)	Any value greater than or equal to zero.	400
10	Quantity Sold	Number of units of the Digital Token sold in the account during the reporting period.	Num(31,18)	Any value greater than or equal to zero up to a maximum number of 18 decimal places.	125
11	Number of Sell Transactions	Number of transactions associated with the Quantity Sold during the reporting period.	Num(25,0)	Any value greater than or equal to zero.	3325
12	Quantity Transferred In	Number of units of the Digital Token transferred into the account during	Num(31,18)	Any value greater than or equal to zero up to a maximum	10.928606

Number	Data Element Name	Definition for Data Element[1]	Format	Values	Example
		the reporting period.		number of 18 decimal places.	
13	Number of Transactions from Transfers In	Number of transactions associated with the quantity transferred into the account during the reporting period.	Num(25,0)	Any value greater than or equal to zero.	3
14	Quantity Transferred Out	Number of units of the Digital Token transferred out of the account during the reporting period.	Num(31,18)	Any value greater than or equal to zero up to a maximum number of 18 decimal places.	603
15	Number of Transactions from Transfers Out	Number of transactions associated with the quantity transferred out of the account during the reporting period.	Num(25,0)	Any value greater than or equal to zero.	45
16	Quantity Held	Number of units of the Digital Token held in the account as of the end of the reporting period.	Num(31,18)	Any value greater than or equal to zero up to a maximum number of 18 decimal places.	3641.25461
17	Value of Digital Token Held	Value of the Digital Token held as of the end of the reporting period.	Num(25,0)	Any value greater than or equal to zero rounded to the nearest dollar in CAD. Use the unit price of the Digital Token as of the last business day of the reporting period multiplied by the quantity held as reported in (16).	45177788
18.	Client Limit	The Client Limit established on each account.	Num(25,2)	Any value greater than or equal to zero rounded to the nearest dollar in CAD, or if a percentage, in decimal format.	0.50

Number	Data Element Name	Definition for Data Element[1]	Format	Values	Example
19.	Client Limit Type	The type of limit as reported in (18).	Char(3)	AMT (amount) or PER (percent).	PER

B.3.4 Lithium Americas Corp.

Headnote

Multilateral Instrument 11-102 Passport System and National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – National Instrument 51-102 Continuous Disclosure Obligations, s. 13.1 – National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer, s. 9.2 – An issuer wants relief to send proxy-related materials to its registered and beneficial securityholders using a delivery method permitted under U.S. securities laws – The issuer is an SEC issuer; the issuer has a limited Canadian presence but does not qualify for exemptions that permit delivery methods under U.S. securities laws; the issuer will comply with notice-and-access procedures under U.S. securities laws; the issuer will provide securityholders additional information relating to the upcoming meeting and delivery and voting processes.

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted permitting issuer to send proxy-related materials to registered securityholders and beneficial owners using a delivery method permitted under U.S. federal securities law.

Applicable Legislative Provisions

National Instrument 51-102 Continuous Disclosure Obligations, ss. 9.1, 9.1.5 and 13.1.
National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer, ss. 2.7, 9.1.1 and 9.2.

Citation: 2025 BCSECCOM 166

April 22, 2025

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

AND

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

AND

IN THE MATTER OF
LITHIUM AMERICAS CORP.
(the Filer)

DECISION

Background

¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (the Decision Maker) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for relief from the requirements in National Instrument 51-102 *Continuous Disclosure Obligations* (NI 51-102) and National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* (NI 54-101) to permit the Filer to:

(a) send proxy-related materials to registered holders (Registered Holders) of securities entitled to vote at any meeting of securityholders of the Filer using a delivery method permitted under U.S. federal securities law (the Registered Holder Notice-and-Access Relief); and

(b) send proxy-related materials to beneficial holders (Beneficial Holders) of securities entitled to vote at any meeting of securityholders of the Filer using a delivery method permitted under U.S. federal securities law (the Beneficial Holder Notice-and-Access Relief and, together with the Registered Holder Notice-and-Access Relief, the Exemption Sought).

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

(a) the British Columbia Securities Commission is the principal regulator for this application;

(b) the Filer has provided notice that subsection 4.7(1)(c) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in Alberta, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon, and Nunavut; and

(c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

¶ 2 Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, NI 51-102 and NI 54-101 have the same meaning if used in this decision, unless otherwise defined.

Representations

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

1. the Filer was incorporated under the *Business Corporations Act* (British Columbia) (the BCBCA);

2. the Filer's head office is located in British Columbia;

3. the Filer's business is focused on developing the Thacker Pass project located in Nevada to production to supply battery-quality lithium carbonate for the North American critical minerals supply chain;

4. the Filer is a reporting issuer in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Québec, New Brunswick, Nova Scotia, Prince Edward Island, Newfoundland and Labrador, Northwest Territories, Yukon, and Nunavut and is not in default of securities legislation in any jurisdiction of Canada;

5. on March 31, 2025, the Filer had approximately 218,686,462 common shares (Common Shares) issued and outstanding;

6. the Common Shares are listed on the Toronto Stock Exchange (TSX) and the New York Stock Exchange (NYSE) under the symbol LAC;

7. the Filer is an SEC issuer and is required to comply with applicable U.S. securities laws in all respects;

8. the Filer has determined that it does not qualify as a “foreign private issuer” under U.S. federal securities laws and, therefore, in order to use notice-and-access to send proxy-related materials to holders of securities entitled to vote at a meeting of securityholders of the Filer, the Filer is required to comply with the U.S. proxy rules applicable to U.S. domestic registrants under Rule 14a-16 of the 1934 Act;

9. NI 51-102 requires the Filer to deliver proxy-related materials to Registered Holders and NI 54-101 requires the Filer to deliver proxy-related materials to intermediaries for delivery to those Beneficial Holders that have requested materials for meetings of the Filer;

10. the Filer is unable to use the Canadian notice-and-access procedures in section 9.1.1 of NI 51-102 and section 2.7.1 of NI 54-101 because the Canadian notice-and-access procedures and U.S. proxy rules relating to notice-and-access applicable to the Filer have irreconcilable requirements regarding proxy-related materials to be provided to securityholders;

11. section 9.1.5 of NI 51-102 and section 9.1.1(1) of NI 54-101 allow a reporting issuer that is an SEC issuer, if certain applicable requirements are met, to send proxy-related materials to registered holders and beneficial holders of securities, respectively, using a delivery method permitted under U.S. federal securities law;

12. in accordance with section 9.1.5 of NI 51-102, a reporting issuer that is an SEC issuer can send proxy-related materials to registered holders under section 9.1 of NI 51-102 using a delivery method permitted under U.S. federal securities law if both of the following apply:

    (a) the SEC issuer is subject to, and complies with Rule 14a-16 (U.S. Notice-and-Access Rules) under the 1934 Act; and

    (b) residents of Canada do not own, directly or indirectly, outstanding voting securities carrying more than 50% of the votes for the election of directors, and none of the following apply:

        (i) the majority of the executive officers or directors of the issuer are residents of Canada;

(ii) more than 50% of the consolidated assets of the issuer are located in Canada; and

(iii) the business of the issuer is administered principally in Canada

(the Automatic Registered Holder Exemption);

13. in accordance with section 9.1.1(1) of NI 54-101, despite section 2.7 of NI 54-101, a reporting issuer that is an SEC issuer can send proxy-related materials to beneficial owners using a delivery method permitted under U.S. federal securities law if all of the following apply:

(a) the SEC issuer is subject to and complies with the U.S. Notice-and-Access Rules;

(b) the SEC issuer has arranged with each intermediary through whom the beneficial owner holds its interest in the reporting issuer's securities to have each intermediary send the proxy-related materials to the beneficial owner by implementing the procedures under Rule 14b-1 or Rule 14b-2 under the 1934 Act that relate to the procedures in the U.S. Notice-and-Access Rules; and

(c) residents of Canada do not own, directly or indirectly, outstanding voting securities of the issuer carrying more than 50% of the votes for the election of directors, and none of the following apply:

(i) the majority of the executive officers or directors of the issuer are residents of Canada;

(ii) more than 50% of the consolidated assets of the issuer are located in Canada; and

(iii) the business of the issuer is administered principally in Canada

(the Automatic Beneficial Holder Exemption and, together with the Automatic Registered Holder Exemption, the Automatic Exemptions);

14. the Filer is unable to rely on the Automatic Exemptions as its business is administered principally in Canada, but despite this:

(a) approximately 61% of the Filer’s outstanding voting securities carrying the right to vote for the election of the Filer’s directors are held by persons that are not residents of Canada;

(b) the majority of the Filer’s executive officers are not residents of Canada, with six of the Filer's nine executive officers being residents of the U.S.;

(c) the majority of the Filer’s directors are not residents of Canada, with four of the Filer's eight directors being residents of the U.S. and one being a resident of Australia;

(d) over 81% of the trading volume of the Common Shares occurred on the NYSE and other trading systems outside of Canada during the twelve-month period ended March 31, 2025;

(e) while the Filer’s head office is located in Canada, a substantial portion of the Filer’s business is administered principally in the U.S., as the Filer’s only material mining project, Thacker Pass, is located in the U.S.;

(f) the majority of the Filer’s employees are located in the U.S.;

(g) as of December 31, 2024, approximately 85% of the consolidated assets of the Filer were located outside of Canada; and

(h) the Filer's consolidated assets located in Canada consist primarily of cash and cash equivalents, which the Filer expects will be used to, among other things, develop Thacker Pass;

15. for any meeting of securityholders of the Filer for which the Filer elects to deliver proxy-related materials by using notice-and-access (each, a Notice-and-Access Meeting), the Filer will send proxy-related materials to holders of voting securities in compliance with the U.S. Notice-and-Access Rules;

16. the U.S. Notice-and-Access Rules allow the Filer to furnish proxy-related materials by sending Registered Holders a notice of internet availability of proxy materials (the Notice) 40 calendar days or more prior to the date of the applicable Notice-and-Access Meeting and sending the record holder, broker or respondent bank the Notice in sufficient time for the record holder, broker or respondent bank to prepare, print and send the Notice to Beneficial Holders at least 40 calendar days before the date of the Notice-and-Access Meeting and making

all proxy-related materials identified in the Notice, including a management proxy circular, publicly accessible, free of charge, at a website address specified in the Notice;

17. the Notice will comply with the requirements of the U.S. Notice-and-Access Rules and include instructions regarding how a securityholder entitled to vote at the applicable Notice-and-Access Meeting may request a paper or e-mail copy of the proxy-related materials at no charge;

18. the U.S. Notice-and-Access Rules prohibit the Filer and, in turn, the record holder, broker or respondent bank, from accompanying the Notice with any other documents or materials, including the form of proxy, subject to certain limited exceptions;

19. in lieu of delivering to each Registered Holder the proxy-related materials required under NI 51-102, for each Notice-and-Access Meeting, the Filer will deliver by mail or electronically (if permitted by applicable law) the Notice to each Registered Holder;

20. in lieu of delivering to each Beneficial Holder the proxy-related materials required under NI 54-101, for each Notice-and-Access Meeting, the Filer will deliver to Broadridge Financial Solutions, Inc., its affiliates, successor or an equivalent provider of proxy services (collectively, Broadridge), the Notice for delivery to each Beneficial Holder; Broadridge will deliver the English-only Notice to all Beneficial Holders by postage-paid mail or electronically (if permitted by applicable law); Broadridge will act as the Filer's agent for delivery purposes and the Filer will pay all of the expenses involved in printing and delivering the Notice to all requesting Beneficial Holders;

21. the Notice sent by the Filer to securityholders entitled to vote at a Notice-and-Access Meeting will include the following information:

    (a) the date, time and location of the Notice-and-Access Meeting as well as information on how to obtain directions to be able to attend the Notice-and-Access Meeting and vote in person or to designate another person to attend, vote and act on the securityholder's behalf;

    (b) a clear and impartial description of each matter to be voted on at the Notice-and-Access Meeting including the recommendations of the board of directors of the Filer regarding those matters;

    (c) an indication that the Notice is not a form for voting and presents only an overview of the more complete proxy materials;

    (d) a plain language explanation of the U.S. Notice-and-Access Rules, including that the circular, form of proxy and voting instruction form for the Notice-and-Access Meeting have been made available online and that securityholders may request a physical copy at no charge;

    (e) an explanation of how to obtain a physical copy of the circular, form of proxy and voting instruction form for the Notice-and-Access Meeting, including the date by which securityholders should make the request to facilitate timely delivery, and an indication that the securityholders will not otherwise receive a paper or e-mail copy;

    (f) the website addresses for SEDAR+, the Filer's website and other third-party hosting website where the proxy-related materials are posted;

    (g) a reminder to review the circular for the Notice-and-Access Meeting before voting;

    (h) an explanation of the methods available for securityholders to vote at the Notice-and-Access Meeting; and

    (i) the date by which a validly completed form of proxy or voting instruction form must be deposited in order for the securities represented by the form of proxy or voting instruction form to be voted at the Notice-and-Access Meeting, or any adjournment;

22. Registered Holders and Beneficial Holders requesting the proxy-related materials will receive the same materials required to be sent to securityholders under the U.S. Notice-and-Access Rules;

23. a Beneficial Holder who wants to attend a Notice-and-Access Meeting in person will be required to obtain a proxy from their applicable intermediary;

24. for each Notice-and-Access Meeting, Broadridge will notify all Canadian intermediaries on whose behalf it or a related company acts as agent under NI 54-101 to advise them of the Filer's reliance on the U.S. Notice-and-Access Rules and this decision;

25. for each Notice-and-Access Meeting, the Filer will retain Broadridge to respond to requests for the proxy related-materials from all Beneficial Holders and will retain Computershare Investor Services Inc., its affiliates, successor or an equivalent provider of transfer agent or proxy services (collectively with Broadridge, the Agents) to respond to requests for proxy related materials from all Registered Holders;

26. the Notice from the Filer will direct all Registered Holders and Beneficial Holders to contact the applicable Agent at a specified toll-free telephone number, by e-mail or via the internet to request a printed copy of the proxy-related materials for the Notice-and-Access Meeting; the Agents will give notice to the Filer of the receipt of requests for printed copies and the Filer will provide English-only materials to the Agents in compliance with the requirements of the U.S. Notice-and-Access Rules;

27. to comply with the U.S. Notice-and-Access Rules, the Filer will not receive any information about the Registered Holders and Beneficial Holders that contact the Agents other than the aggregate number of proxy-related material packages requested by the Registered Holders or Beneficial Holders and will reimburse the Agents for delivery of requests; and

28. the Filer has consulted with the Agents in developing the mailing and voting procedures for the Registered Holders and Beneficial Holders described in this decision.

Decision

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

The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted, provided that, in respect of a Notice-and-Access Meeting, at the time the Filer sends the notification of meeting and record dates for such meeting in accordance with section 2.2 of NI 54-101, the Filer meets all of the requirements of the Automatic Exemptions other than those set out in:

(a) section 9.1.5(b)(iii) of NI 51-102, in the case of the Automatic Registered Holder Exemption; and

(b) section 9.1.1(1)(c)(iii) of NI 54-101, in the case of the Automatic Beneficial Holder Exemption.

“John Hinze”
Director, Corporate Finance
British Columbia Securities Commission

OSC File #: 2025/0159

B.3.5 Purpose Investments Inc. and Purpose Ether Staking Corp. ETF

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted under subsection 62(5) of the Securities Act to extend the lapse date of a fund's simplified prospectus by 75 days to facilitate its combination with the prospectus of other funds under common management – No conditions.

Applicable Legislative Provisions

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

May 8, 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
PURPOSE INVESTMENTS INC.
(the Filer)

AND

PURPOSE ETHER STAKING CORP. ETF
(the Fund)

DECISION

I. BACKGROUND

1. The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Fund for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) that the time limits for the renewal of the simplified prospectus of the Fund dated June 14, 2024 (the **Current Prospectus**) be extended to the time limits that would apply as if the lapse date of the Current Prospectus was August 28, 2025 (the **Exemption Sought**).

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

   (a) the Ontario Securities Commission is the principal regulator for this application; and

   (b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the other provinces and territories of Canada (together with Ontario, the **Jurisdictions**).

II. INTERPRETATION

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

III. REPRESENTATIONS

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

1. The Filer is a corporation existing under the laws of Ontario with its registered head office in Toronto, Ontario.

2. The Filer is registered as (a) an investment fund manager, exempt market dealer, portfolio manager and commodity trading manager in the province of Ontario, (b) an investment fund manager and exempt market dealer in the provinces of Manitoba, New Brunswick, Nova Scotia, Prince Edward Island and Saskatchewan, and (c) an investment fund manager, exempt market dealer and portfolio manager in Alberta, British Columbia, Newfoundland and Labrador and Quebec.

3. The Filer is the trustee and manager of the Fund. The Filer is also the manager of other mutual funds as listed in Schedule A (the **Other Funds**) that are offered in each of the Jurisdictions under a simplified prospectus with a lapse date of August 28, 2025.

4. The Fund is (a) a mutual fund corporation established under the laws of the province of Ontario, and (b) a reporting issuer as defined in the securities legislation of each of the Jurisdictions.

5. Securities of the Fund are currently qualified for distribution in each of the Jurisdictions under the Current Prospectus.

6. Neither the Filer nor the Fund are in default of securities legislation in any of the Jurisdictions.

7. Pursuant to subsection 62(1) of the *Securities Act* (Ontario) (the **Act**), the lapse date for the Current Prospectus is June 14, 2025 (the **Current Lapse Date**). Accordingly, under subsection 62(2) of the Act and National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, the distribution of securities of the Fund would have to cease on the Current Lapse Date unless: (i) the Fund files a *pro forma* simplified prospectus at least 30 days prior to the Current Lapse Date; (ii) the final simplified prospectus is filed no later than 10 days after the Current Lapse Date; and (iii) a receipt for the final simplified prospectus is obtained within 20 days after the Current Lapse Date.

8. The Filer wishes to combine the Current Prospectus with the simplified prospectus of the Other Funds in order to reduce renewal, printing and related costs and intends to file the *pro forma* simplified prospectus and final simplified prospectus of both the Fund and the Other Funds under a single prospectus document as though the lapse date of the Current Prospectus was August 28, 2025, consistent with the lapse date of the simplified prospectus of the Other Funds. Offering the Fund under the same renewal simplified prospectus as the Other Funds would facilitate the distribution of the Fund in the Jurisdictions under the same prospectus and enable the Filer to streamline disclosure across the Filer's fund platform. The Fund shares many common operational and administrative features with the Other Funds and combining them in the same simplified prospectus will allow investors to more easily compare their features.

9. It would be unreasonable to incur the costs and expenses associated with preparing two separate renewal simplified prospectuses given how close in proximity the lapse date of the Current Prospectus and the lapse date of the current simplified prospectus of the Other Funds are to one another.

10. The Filer may make changes to the features of the Other Funds as part of the process of renewing the Other Funds' simplified prospectus. The ability to renew the Current Prospectus with the simplified prospectus of the Other Funds will ensure that the Filer can make the operational and administrative features of the Fund and the Other Funds consistent with each other, if necessary.

11. There have been no material changes in the affairs of the Fund since the date of the Current Prospectus. Accordingly, the Current Prospectus, current ETF Facts and current fund facts of the Fund continue to provide accurate information regarding the Fund.

12. Given the disclosure obligations of the Filer and the Fund, should any material change in the business, operations or affairs of the Fund occur, the Current Prospectus, current ETF Facts and current fund facts of the Fund will be amended as required under the Legislation.

13. New investors of the Fund will receive delivery of the most recently filed ETF Facts and fund facts of the Fund. The Current Prospectus of the Fund will remain available to investors upon request.

14. The Exemption Sought will not affect the accuracy of the information contained in the Current Prospectus, ETF Facts or fund facts of the Fund, and therefore will not be prejudicial to the public interest.

IV. DECISION

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

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

"Darren McKall"
Manager, Investment Management Division
Ontario Securities Commission

Application File #: 2025/0295
SEDAR+ File #: 6278877

SCHEDULE A

THE OTHER FUNDS

Purpose Diversified Real Asset Fund

Purpose Structured Equity Yield Plus Fund

Purpose Multi-Strategy Market Neutral Fund

Purpose Credit Opportunities Fund

Purpose Select Equity Fund

Purpose Bitcoin Yield ETF

Purpose Ether Yield ETF

Purpose Bitcoin ETF

Purpose Ether ETF

Purpose Structured Equity Growth Fund

B.3.6 Xin Lian

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5,
AS AMENDED

AND

IN THE MATTER OF
AN APPLICATION FOR REGISTRATION OF
XIN LIAN

DECISION OF THE DIRECTOR

1. Xin (also known as Grace) Lian has applied for reactivation of registration as a dealing representative in the category of mutual fund dealer under the *Securities Act*, R.S.O. 1990, c. S.5 (the **Act**) with Desjardins Financial Security Investments Inc. (**Desjardins**).

2. Ms. Lian was previously registered under the Act with another firm from 2012 to 2022. She subsequently applied to reactivate her registration, under Desjardins' sponsorship, on September 21, 2022. Following a review of that application, the Registrations, Inspections and Examinations Division (the **RIE Division**) took the position that Ms. Lian had not demonstrated the requisite integrity for registration and that her registration would otherwise be objectionable, and recommended to the Director that Ms. Lian's application be refused on July 5, 2023.

3. RIE Division relied on the following grounds in recommending a refusal of Ms. Lian's prior application for registration:

    a. She accessed customers' profiles without a business reason while working at her former sponsoring firm.

    b. She shared a customer's confidential investment statement with her former colleague after her colleague departed from her former sponsoring firm.

    c. She failed to provide true and complete disclosure regarding the incidents surrounding her termination from her former sponsoring firm during her interactions with the Ontario Securities Commission.

4. Ms. Lian's prior application for registration was withdrawn on July 6, 2023.

5. Ms. Lian re-applied for registration on November 15, 2024, and the RIE Division again reviewed the application. Following this review, the RIE Division sent a letter to Ms. Lian on April 23, 2025, informing her that the RIE Division had recommended to the Director that her registration be granted subject to following terms and conditions (**Terms and Conditions**) which are set out in Schedule "A":

    a. Ms. Lian would be subject to strict supervision by Desjardins for a minimum period of one year.

6. The RIE Division's April 23, 2025 letter cited the following grounds, among others, in support of its recommendation:

    a. Ms. Lian demonstrated remorse for the actions that caused her termination from her former sponsoring firm.

    b. Ms. Lian acknowledged that it was improper for her to provide inaccurate information to the RIE Division with respect to her termination for cause from her former sponsoring firm.

    c. Ms. Lian advised that since the time of her prior application she had not been in contact with her former colleague who was involved in the incidents surrounding her termination from her former sponsoring firm.

    d. Ms. Lian completed the Conduct and Practices Handbook course offered by the Canadian Securities Institute.

    e. Ms. Lian submitted reference letters by Desjardins, and she has been steadily employed by Desjardins since the time of her prior application without any complaints or concerns.

    f. As a result, because of the steps that Ms. Lian took towards the rehabilitation of her suitability, the RIE Division now recommended to the Director that Ms. Lian could be registered with Terms and Conditions on her registration.

7. The RIE Division's April 23, 2025 letter informed Ms. Lian of her right to be heard before a decision was made regarding the RIE Division's recommendation, in accordance with s. 31 of the Act. Ms. Lian did not request to be heard, and both

she and Desjardins accepted the Terms and Conditions. Accordingly, Ms. Lian's registration in Ontario was reactivated effective April 25, 2025, subject to the Terms and Conditions.

May 8, 2025

Michael Denyszyn
Manager, Registration

Date

Schedule "A"

Terms and Conditions for Registration of Xin (Grace) Lian

The registration of Xin (Grace) Lian (the **Registrant**) as a dealing representative in the category of mutual fund dealer is subject to the terms and conditions set out below. These terms and conditions were imposed by the Director pursuant to subsection 27(3) of the *Securities Act*, R.S.O. 1990, c. S.5.

Strict Supervision

1. The Registrant is subject to strict supervision for a period of not less than one year from the date these terms and conditions are imposed.

2. Monthly Strict Supervision Reports (in the form specified in Schedule B to CSA Staff Notice 31-349 *Change to Standard Form Reports for Close Supervision and Strict Supervision Terms and Conditions*) are to be completed on the Registrant's sales activities and dealings with clients. The supervision reports are to be retained by the sponsoring firm and must be made available for review upon request or as required by the Strict Supervision Report.

These terms and conditions of registration constitute Ontario securities law, and a failure by the Registrant to comply with these terms and conditions may result in further regulatory action against the Registrant, including a suspension of her registration.

B.3.7 Franklin Templeton Investments Corp.

Headnote

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

Applicable Legislative Provisions

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

May 8, 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
FRANKLIN TEMPLETON INVESTMENTS CORP.
(the Filer)

DECISION

BACKGROUND

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

(A) revoking the Existing Relief (as defined below) (the **Revocation**); and

(B) replacing the Existing Relief with a decision pursuant to section 9.1 of NI 81-105 *Mutual Fund Sales Practices* (**NI 81-105**) exempting the Filer from subsection 5.1(a) of NI 81-105 to permit the Filer to pay to a participating dealer direct costs incurred by the participating dealer relating to a sales communication, investor conference or investor seminar prepared or presented by the participating dealer (each individually referred to as a **Cooperative Marketing Initiative,** and collectively as **Cooperative Marketing Initiatives**), if the primary purpose of the Cooperative Marketing Initiative is to promote, or provide educational information concerning investing in securities and investment, retirement, tax and estate planning (collectively, **Financial Planning**) matters (the **Exemption Sought**).

Under 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 for this application; and

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon by the Filer in each of the other provinces and territories of Canada (together with the Jurisdiction, the **Canadian Jurisdictions**) in respect of the Exemption Sought.

INTERPRETATION

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102 or NI 81-105 have the same meaning if used in this decision, unless otherwise defined.

Existing Relief means *In the Matter of Franklin Templeton Investments Corp*. dated July 24, 2012 - (2012) 35 OSCB 7319.

REPRESENTATIONS

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

1. The Filer is a corporation amalgamated under the laws of the Province of Ontario with its head office in Toronto, Ontario.

2. The Filer is registered as:

   (a) an investment fund manager in British Columbia, Alberta, Manitoba, Ontario, Québec, Nova Scotia and Newfoundland & Labrador;

   (b) a portfolio manager, mutual fund dealer and exempt market dealer in each province of Canada and the Yukon territory; and

   (c) a commodity trading manager in Ontario.

3. The Filer acts, or will act, as investment fund manager of various investment funds governed by the applicable provisions of National Instrument 81-102 *Investment Funds*, subject to any exemptions therefrom that have been, or may in the future be, granted by the securities regulatory authorities (each a **Fund** and collectively, the **Funds**).

4. Each Fund is or will be (a) a reporting issuer in one or more Canadian Jurisdictions, and (b) subject to NI 81-105, including Part 5 thereof, which governs marketing and educational practices.

5. Securities of the Funds are, or will be, distributed by participating dealers in one or more Canadian Jurisdictions.

6. The Filer is a "member of the organization" (as such term is defined in NI 81-105) of the Funds, as the Filer is the manager of the Funds.

7. The Filer complies with NI 81-105, including Part 5 of NI 81-105, in respect of its marketing and educational practices.

8. The Filer and each existing Fund are not in default of applicable securities legislation in any Canadian Jurisdiction.

9. Under subsection 5.1(a) of NI 81-105, the Filer is permitted to pay to a participating dealer the direct costs incurred by the participating dealer relating to a Cooperative Marketing Initiative if the primary purpose of the Cooperative Marketing Initiative is to promote, or provide educational information about, the Funds, the mutual fund family of which the Funds are members, or mutual funds generally.

10. Subsection 5.1(a) of NI 81-105 prohibits the Filer from paying to a participating dealer the direct costs incurred by the participating dealer relating to a Cooperative Marketing Initiative where the primary purpose is to provide educational information about Financial Planning matters.

11. The Existing Relief obtained by the Filer provides exemption from subsection 5.1(a) of NI 81-105 to permit the Filer to pay to a participating dealer direct costs incurred by the participating dealer relating to the Cooperative Marketing Initiative if the primary purpose of the Cooperative Marketing Initiative is to provide educational information concerning tax or estate planning matters. In addition to the topics currently permitted under subsection 5.1(a) of NI 81-105 and the Existing Relief, the Filer also wishes to sponsor Cooperative Marketing Initiatives where the primary purpose of the Cooperative Marketing Initiatives is to provide educational information concerning investing in securities and investment planning and retirement planning, each of which are aspects of Financial Planning matters. The Filer will otherwise comply with subsections 5.1(b) through (e) of NI 81-105 in respect of such Cooperative Marketing Initiative it sponsors.

12. The Filer has expertise in Financial Planning matters or may retain others with such expertise from time to time.

13. Mutual funds, including the Funds managed by the Filer, can be used to meet a variety of financial goals and accordingly are regularly used as financial planning tools. Allowing the Filer to sponsor Cooperative Marketing Initiatives on Financial Planning matters may benefit investors as it may facilitate and potentially increase investors' access to educational information on such matters, which may in turn better equip them to make financial decisions that involve mutual funds.

14. Under sections 5.2 and 5.5 of NI 81-105, the Filer is permitted to sponsor the costs incurred by participating dealers in attending or organizing and presenting at conferences where the primary purpose is the provision of educational information on, among other things, certain Financial Planning matters.

15. Specifically, under subsection 5.2(a) of NI-81-105, the Filer is permitted to provide a non-monetary benefit to a representative of a participating dealer by allowing him or her to attend a conference or seminar organized and presented by the Filer where the primary purpose is the provision of educational information about, among other things, financial planning, investing in securities or mutual fund industry matters.

16. Similarly, under subsection 5.5(a) of NI 81-105, the Filer is permitted to pay to a participating dealer part of the direct costs that the participating dealer incurs in organizing or presenting at a conference or seminar that is not an investor conference or investor seminar referred to in section 5.1 of NI 81-105, where the primary purpose is the provision of educational information about, among other things, financial planning, investing in securities or mutual fund industry matters.

17. The Filer will not require participating dealers to sell any of the Funds or other financial products to investors as a condition of the Filer's sponsorship of a Cooperative Marketing Initiative.

18. The Filer will pay for its sponsorship of Cooperative Marketing Initiatives out of its normal sources of revenue. Accordingly, the sponsorship cost will not be borne by the Funds.

DECISION

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

The decision of the principal regulator under the Legislation is that:

(a) the Revocation is granted; and

(b) the Exemption Sought is granted, provided that in respect of a Cooperative Marketing Initiative whose primary purpose is to provide educational information concerning Financial Planning matters:

(i) the Filer otherwise complies with the requirements of subsections 5.1(b) through (e) of NI 81-105;

(ii) the Filer does not require any participating dealer to sell any of the Funds or other financial products to investors;

(iii) other than as permitted by NI 81-105, the Filer does not provide participating dealers and their representatives with any financial or other incentives for recommending any of the Funds to investors;

(iv) the materials presented in a Cooperative Marketing Initiative concerning Financial Planning matters contain only general educational information about such matters;

(v) the Filer prepares or approves the content of the general educational information about Financial Planning matters presented in a Cooperative Marketing Initiative it sponsors and selects or approves an appropriately qualified speaker for each presentation about such matters delivered in a Cooperative Marketing Initiative;

(vi) any general educational information about Financial Planning matters presented in a Cooperative Marketing Initiative contains an express statement that the content presented is for information purposes only, and is not providing advice to the attendees of the investor conference or investor seminar or the recipients of the sales communication, as applicable; and

(vii) any general educational information about Financial Planning matters presented in a Cooperative Marketing Initiative contains an indication of the types of professionals who may generally be qualified to provide advice on the subject matter of the information presented.

“Darren McKall”
Manager, Investment Management Division
Ontario Securities Commission

Application File #: 2025/0168
SEDAR+ #: 6257444

B.3.8 The Huntington National Bank

Headnote

Application to the Ontario Securities Commission for a decision to exempt from the dealer registration requirement and the prospectus requirement, in sections 25(1) and 53(1) of the Securities Act, in connection with certain trades in over-the-counter (OTC) derivatives with "permitted counterparties", consisting exclusively of persons or companies who are "permitted clients" as defined in Section 1.1 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations – Relief sought in Ontario as interim response to regulatory uncertainty associated with certain OTC derivatives in Canada – Relief subject to sunset condition that is (i) the date that is four years after the date of the decision; and (ii) 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, R.S.O. 1990, c. S.5, as am., ss. 25(1), 53(1), 74(1).
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 1.1 ("permitted client").
OSC Rule 13-502 Fees, Part 6 — Derivatives Participation Fees.

May 6, 2025

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

AND

IN THE MATTER OF
THE HUNTINGTON NATIONAL BANK
(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**) to provide that the dealer registration requirement and the prospectus requirement in the Legislation that may otherwise be applicable to a trade in or distribution of an OTC Derivative transaction (as defined below) made by either

(a) the Filer to a "Permitted Counterparty" (as defined below), or

(b) by a Permitted Counterparty to the Filer,

shall not apply to the Filer or the Permitted Counterparty, as the case may be (the **Requested Relief**), subject to certain terms and conditions.

Interpretation

Unless otherwise defined herein, terms in this decision have the respective meanings given to them in National Instrument 14-101 *Definitions*.

The terms **OTC Derivative** and **Underlying Interest** are defined in the Appendix to this decision.

The term "Permitted Counterparty" means a person or company that is a "permitted client", as that term is defined in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**).

Representations

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

The Filer

1. The Filer is a national full-service commercial and retail bank organized under the laws of the United States of America (**U.S.**). The Filer's head office is located in Columbus, Ohio.

2. The Filer is regulated, supervised and examined by the U.S. Office of the Comptroller of the Currency. Additionally, the U.S. Federal Deposit Insurance Corporation has supervisory and enforcement authority over the Filer as an insured depository institution. The U.S. Consumer Financial Protection Bureau has regulatory, supervision, examination and enforcement authority over the Filer with respect to applicable U.S. federal consumer financial protection laws. The Filer's parent corporation, Huntington Bancshares Incorporated (**HBI**), is a bank holding company under the U.S. *Bank Holding Company Act of 1956* which has elected to be a financial holding company. HBI is subject to primary supervision, regulation, and examination by the Board of Governors of the Federal Reserve System, which serves as the primary regulator of the consolidated organization. HBI is also subject to the disclosure and regulatory requirements of the U.S. *Securities Act of 1933*, as amended, and the *U.S. Securities Exchange Act of 1934*, as amended, both as administered by the U.S. Securities and Exchange Commission, as well as the rules of The Nasdaq Stock Market that apply to companies with securities listed on the Nasdaq Global Select Market.

3. The Filer is currently not registered under securities, derivatives or commodities laws of any jurisdiction of Canada or the U.S., nor is the Filer relying on any exemption from a registration requirement under the securities legislation of any jurisdiction of Canada.

4. The Filer is not authorized to carry on business in Canada as a Schedule II bank or Schedule III bank under the *Bank Act* (Canada). Accordingly, the Filer does not maintain an office, sales force or physical place of business in Canada.

5. There are no U.S. securities laws or regulations that apply to the Filer in connection with OTC Derivative transactions. The Filer is relying on an exception from the definition of a "swap dealer" under applicable Commodity Futures Trading Commission rules.

6. Other than the matter to which this application relates, the Filer is not in default of any requirements of securities, commodity futures or derivatives legislation in any jurisdiction of Canada.

7. The Filer is in material compliance with securities, commodity futures and derivatives laws of the U.S.

Conduct of OTC Derivative Transactions

8. The Filer currently enters, has entered, or proposes to enter into bilateral OTC Derivative transactions with counterparties located in Ontario that consist exclusively of persons or companies that are Permitted Counterparties. The Filer understands that the Permitted Counterparties are entering into the OTC Derivative transactions for hedging or investment purposes. The Underlying Interest of the OTC Derivatives that are entered into consist of one of the following: a commodity; an interest rate; a currency; a foreign exchange rate; a security; an economic indicator; an index; a basket; a benchmark; another variable; another OTC Derivative; or some relationship between, or combination of, one or more of the foregoing.

9. While a Permitted Counterparty may transfer margin or collateral with the Filer in respect of its obligations under an OTC Derivative transaction, the Filer itself does not offer or provide credit or margin to any of its Permitted Counterparties for purposes of an OTC Derivative transaction.

10. The Filer seeks the Requested Relief as an interim solution pending the development of a uniform registration framework with respect to OTC Derivative transactions in all provinces and territories of Canada. The Filer acknowledges that registration and prospectus requirements may be triggered for the Filer in connection with the derivative contracts under any such uniform framework to be developed for the regulation of OTC Derivative transactions.

Regulation of OTC Derivative Transactions in Canada

11. There remains some uncertainty respecting the regulation of OTC Derivative transactions as "securities" in the provinces and territories of Canada other than Québec.

12. In each of Prince Edward Island, the Northwest Territories, Nunavut and Yukon, OTC Derivative transactions are regulated as securities on the basis that the definition of the term "security" in the securities legislation of each of these jurisdictions includes an express reference to this term including a "derivative".

13. In Alberta, British Columbia, Manitoba, Ontario, New Brunswick, Nova Scotia and Saskatchewan, the term "security" no longer includes an express reference to a "futures contract". Following the introduction of a new framework and terminology for the regulation of derivatives, Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Saskatchewan securities legislation now each include a definition of "derivative".

14. In Manitoba, Newfoundland and Labrador and Ontario, it is not always certain whether, or in what circumstances, OTC Derivative transactions are "securities" because the definition of the term "security" in the securities legislation of each of these jurisdictions is a non-exhaustive definition that makes no express reference to a "futures contract" or a "derivative".

15. In October 2009, staff of the OSC published OSC Staff Notice 91-702 *Offerings of Contracts for Difference and Foreign Exchange Contracts to Investors in Ontario* (**OSC Notice 91-702**). OSC Notice 91-702 states that OSC staff take the view that contracts for differences, foreign exchange contracts and similar OTC Derivative products, when offered to investors in Ontario, engage the purposes of the *Securities Act* (Ontario) (**OSA**) and constitute "investment contracts" and "securities" for the purposes of Ontario securities law. However, OSC Notice 91-702 also states that it is not intended to address direct or intermediated trading between institutions. OSC Notice 91-702 does not provide any additional guidance on the extent to which OTC Derivative transactions between the Filer and a Permitted Counterparty may be subject to Ontario securities law.

16. In Québec, OTC Derivative transactions are subject to the *Derivatives Act* (Québec), which sets out a comprehensive scheme for the regulation of derivative transactions that is distinct from Québec's securities regulatory requirements.

17. In Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia and Saskatchewan (the **Blanket Order Jurisdictions**) and Québec (collectively, the **OTC Exemption Jurisdictions**), OTC Derivative transactions are generally not subject to securities or derivative regulatory requirements, pursuant to applicable exemptions (the **OTC Derivative Exemptions**), when they are negotiated, bi-lateral contracts that are entered into between sophisticated non-retail parties, referred to as "Qualified Parties" in the Blanket Order Jurisdictions and "accredited counterparties" in Québec.

18. The corresponding OTC Derivative Exemptions are as follows:

Alberta	ASC Blanket Order 91-507 *Over-the-Counter Trades in Derivatives*
British Columbia	BC Instrument 91-501 *Over-the-Counter Derivatives*
Manitoba	Blanket Order 91-501 *Over-the-Counter Trades in Derivatives*
New Brunswick	Local Rule 91-501 *Over-the-Counter Trades in Derivatives*
Nova Scotia	Blanket Order 91-501 *Over the Counter Trades in Derivatives*
Québec	Section 7 of the *Derivatives Act* (Québec)
Saskatchewan	General Order 91-908 *Over-the-Counter Derivatives*

The Evolving Regulation of OTC Derivative Transactions as Derivatives

19. Each of the OTC Exemption Jurisdictions has sought to address the regulatory uncertainty associated with the regulation of OTC Derivative transactions as securities by regulating them as derivatives rather than securities, whether directly through the adoption of a distinct regulatory framework for derivatives in Québec, or indirectly through amendments to the definition of the term "security" in the securities legislation of the other OTC Exemption Jurisdictions and the granting of the OTC Derivative Exemptions.

20. Between 1994 and 2000, the OSC sought to achieve a similar objective by introducing proposed OSC Rule 91-504 *Over-the-Counter Derivatives* (the **Proposed OSC Rule**) for the purpose of establishing a uniform, clearly defined regulatory framework for the conduct of OTC Derivative transactions in Ontario, but the Proposed OSC Rule was returned to the OSC for further consideration by Ontario's Minister of Finance in November 2000.

21. The Final Report of the Ontario Commodity Futures Act Advisory Committee, published in January 2007, concluded that OTC Derivative contracts are not suited to being regulated in accordance with traditional securities regulatory requirements and should therefore be excluded from the scope of securities legislation, because they are used for commercial-risk management purposes and not for investment or capital-raising purposes.

22. On April 19, 2018, the Canadian Securities Administrators (**CSA**) published a Notice and Request for Comment on the Proposed National Instrument 93-102 *Derivatives: Registration*, and on September 28, 2024, National Instrument 93-101 *Derivatives: Business Conduct* (the **Business Conduct Rule**) took effect.

Reasons for the Requested Relief

23. The Requested Relief would provide the Filer and its Permitted Counterparties additional certainty with respect to the 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 Legislation that are comparable to the OTC Derivative Exemptions.

Books, Records and Reporting

24. The Filer will become a "market participant" for the purposes of the OSA if the Requested Relief is granted. 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.

25. For the purposes of its compliance with subsection 19(1) of the OSA, the books and records that the Filer keeps, and will continue to keep, include books and records that:

    (a) demonstrate the extent of the Filer's compliance with applicable requirements of securities legislation;

    (b) demonstrate compliance with the policies and procedures of the Filer for establishing a system of controls and supervision sufficient to provide reasonable assurance that the Filer, and each individual acting on its behalf, complies with securities legislation; and

    (c) identify all OTC Derivative transactions conducted on behalf of the Filer and entered into by each of its clients, including the name and address of all parties to the transactions and the terms of those transactions.

26. In respect of the OTC Derivative transactions, the Filer complies with any applicable OTC Derivative-specific 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 Business Conduct Rule;

    (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).

27. 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.

28. The Filer will ensure that it is in compliance with the securities laws in all jurisdictions in which it operates.

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 counterparty to any OTC Derivative transaction that is entered into by the Filer is a Permitted Counterparty;

    (b) in the case of any trade entered into by the Filer with a Permitted Counterparty, the Filer does not offer or provide any credit or margin to the Permitted Counterparty, although the Filer and a Permitted Counterparty may exchange collateral under an OTC Derivative transaction;

    (c) the Filer complies with the filing and fee payment requirements under Part 6 of OSC Rule 13-502 *Fees*; and

    (d) the Requested Relief shall terminate on the date that is the earlier of:

        (i) the date that is four years after the date of this decision; and

        (ii) 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.

"Michelle Alexander"
Manager, Trading & Markets
Ontario Securities Commission

OSC File #: 2025/0021

APPENDIX

DEFINITIONS

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

Contract for Differences means an agreement, other than an Option, a Forward Contract, a spot currency contract or a conventional floating rate debt security, that provides for:

(a) an exchange of principal amounts; or

(b) the obligation or right to make or receive a cash payment based upon the value, level or price, or on relative changes or movements of the value, level or price of, an Underlying Interest.

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, a Contract for Differences 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, Contract for Differences 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, currency, 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.

B.3.9 ENMAX Corporation

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Filer granted exemption from the prospectus requirement in connection with trades of commercial paper/short term debt instruments that do not meet the rating threshold condition requirement of the short-term debt exemption in section 2.35 of National Instrument 45-106 Prospectus and Registration Exemptions – Relief granted subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5.
National Instrument 45-106 Prospectus Exemptions.

Citation: *Re ENMAX Corporation*, 2025 ABASC 39

April 22, 2025

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

AND

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

AND

IN THE MATTER OF
ENMAX CORPORATION
(the Filer)

DECISION

Background

The securities regulatory authority or regulator in each of the Jurisdictions (**Decision Maker**) has received an application from the Filer for a decision under the securities legislation of the Jurisdictions (the **Legislation**),

1. in respect of certain negotiable promissory notes or commercial paper maturing not more than one year from the date of issue (**Notes**), that distributions of Notes issued by the Filer and offered for sale in Canada are exempt from the prospectus requirement under the Legislation (the **Exemption Sought**); and

2. revoking the order dated February 1, 2021 cited as *Re ENMAX Corporation*, 2021 ABASC 12 (the **Revocation Request**).

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

(a) the Alberta Securities Commission is the principal regulator for this application;

(b) the Filer has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in respect of its application in each of British Columbia, Saskatchewan, Manitoba, Québec, New Brunswick, Nova Scotia, Prince Edward Island and Newfoundland and Labrador; and

(c) this decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

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

Representations

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

1. The Filer is a corporation governed by the *Business Corporations Act* (Alberta) with its head and registered office located in Calgary, Alberta.

2. The Filer is not a reporting issuer in any jurisdiction, and is not in default of any requirement of the securities legislation in any jurisdiction.

3. All of the shares of the Filer are owned by the City of Calgary.

4. The Filer has implemented a commercial paper program that involves the sale, from time to time, of Notes issued by the Filer to purchasers located in Canada.

5. The offering and sale of Notes issued by the Filer are subject to the prospectus requirement under the Legislation.

6. Paragraph 2.35(1)(b) and (c) of National Instrument 45-106 *Prospectus Exemptions* (**NI 45-106**) provides that an exemption from the prospectus requirement of the Legislation for short-term debt (the **CP Exemption**) is only available where such short-term debt: (a) "has a credit rating from a designated rating organization… that is at or above" the prescribed short-term ratings; and (b) "has no credit rating from a designated rating organization… that is below" the prescribed short-term ratings.

7. Prior to March 25, 2020, the Notes had a designated rating of "R-1 (low)" from DBRS Limited (**DBRS**), which satisfied the rating categories prescribed in the CP Exemption under paragraphs 2.35(1)(b) and (c) of NI 45-106.

8. Accordingly, prior to March 25, 2020 the Notes were offered and sold in Canada pursuant to, and in accordance with, the CP Exemption.

9. On March 25, 2020, DBRS downgraded the Notes by one rating category to "R-2 (high)" (the **Downgrade**) with a stable trend, which remains DBRS' rating of the Notes. As a result of the Downgrade, the Filer was no longer able to rely on the CP Exemption for the distribution of Notes.

10. On February 1, 2021, ENMAX obtained the 2021 Decision which provides that, subject to the conditions set forth in the 2021 Decision, distributions of Notes issued by ENMAX and offered for sale in Canada are exempt from the prospectus requirements under the Legislation (the **Existing Exemption**).

11. ENMAX is currently distributing Notes under its commercial paper program in reliance on the Existing Exemption, which will expire on December 31, 2025 in accordance with the terms of the 2021 Decision.

12. ENMAX intends to update its commercial paper program and, for administrative efficiency in connection with such update and to avoid potential disruptions in ENMAX's ability to issue Notes under its commercial paper program resulting from the upcoming expiry of the Existing Exemption, ENMAX has applied to replace the Existing Exemption with the Exemption Sought.

13. The Exemption Sought is substantially similar to the Existing Exemption.

14. All Notes will have a maturity not exceeding 365 days from the date of issuance, and will be sold in denominations of not less than $250,000.

15. The Notes will be offered and sold in Canada only:

    (a) through investment dealers registered, or exempt from the requirement to register, under applicable securities legislation in Canada (**Canadian Dealers**); and

    (b) to "accredited investors" (as defined in NI 45-106), other than those that are any of the following:

        (i) an individual referred to in any of paragraphs (j), (j.1), (k) and (l) of that definition;

        (ii) a person or company referred to in paragraph (t) of that definition in respect of which any owner of an interest, direct, indirect or beneficial, except the voting securities required by law to be owned by directors, is an individual referred to in any of paragraphs (j), (j.1), (k) and (l) of that definition; or

        (iii) a trust referred to in paragraph (w) of that definition

        (**Canadian Qualified Purchasers**).

16. The Filer will require each Canadian Dealer to apply procedures to ensure that sales of Notes by such Canadian Dealer, as well as any subsequent resales of previously issued Notes by such Canadian Dealer, are made only to Canadian Qualified Purchasers.

Decision

Each of the Decision Makers is satisfied that the decision concerning the Exemption Sought and the Revocation Request meet the test set out in the Legislation to make the decision.

1. The decision of the Decision Makers under the Legislation is that the Exemption Sought is granted in respect of the distribution of Notes, provided that:

   (a) each Note:

      (i) is not convertible or exchangeable into, or accompanied by a right to purchase, another security other than a Note;

      (ii) is not a "securitized product" (as defined in NI 45-106); and

      (iii) is of a class of Notes that has a rating issued by a "designated rating organization" (as defined in NI 45-106), a "DRO affiliate" (as defined in NI 45-106) of an organization listed below, a designated rating organization that is a successor credit rating organization of an organization listed below or a DRO affiliate of such successor credit rating organization at or above one of the following rating categories:

Designated Rating Organization	Rating
DBRS Limited	R-2 (high)
Fitch Ratings, Inc.	F1
Moody's Canada Inc.	P-1
S&P Global Ratings Canada	A-1 (Low) (Canada national scale)

      and has no rating below:

Designated Rating Organization	Rating
DBRS Limited	R-2 (high)
Fitch Ratings, Inc.	F2
Moody's Canada Inc.	P-2
S&P Global Ratings Canada	A-1 (Low) (Canada national scale) or A-2 (global scale)

   (b) each distribution of Notes is made:

      (i) to a purchaser that is purchasing as a principal and is a Canadian Qualified Purchaser; and

      (ii) through a Canadian Dealer; and

   (c) each Canadian Dealer has agreed to apply the procedures referred to in paragraph 16 of this decision.

   The decision in respect of the Exemption Sought expires on March 31, 2030.

2. The decision of the Decision Makers under the Legislation is that the Revocation Request is granted and the 2021 Decision is revoked as of the date hereof.

For the Commission:

“Stan Magidson, K.C”
Chair & Chief Executive Officer

“Kari Horn, K.C.”
Vice-Chair

OSC File #: 2025/0131

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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
Gratomic Inc.	May 7, 2025	
LNG Energy Group Corp.	May 7, 2025	
Lowell Farms Inc.	May 7, 2025	
4Front Ventures Corp.	May 7, 2025	
Cloud DX Inc.	May 7, 2025	
Corsa Coal Corp.	May 7, 2025	
Newtopia Inc.	May 7, 2025	
LevelJump Healthcare Corp.	May 7, 2025	
Montauk Metals Inc.	May 7, 2025	
Montfort Capital Corp.	May 7, 2025	
Nuinsco Resources Limited	May 7, 2025	
Pearl River Holdings Limited	May 7, 2025	
Oceansix Future Paths Ltd.	May 7, 2025	
Red Pine Camp Inc	May 7, 2025	
Street Capital Inc.	May 7, 2025	
Stans Energy Corp.	May 7, 2025	
Tenet Fintech Group Inc.	May 7, 2025	
SOPerior Fertilizer Corp.	May 7, 2025	
Promino Nutritional Sciences Inc.	May 7, 2025	
NexJ Health Holdings Inc.	May 7, 2025	May 8, 2025
Pluribus Technologies Corp.	May 12, 2025	
Transpacific Resources Inc.	August 3, 2004	May 12, 2025

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

Company Name	Date of Order	Date of Lapse
NorthStar Gaming Holdings Inc.	May 8, 2025	
Frontenac Mortgage Investment Corporation	May 9, 2025	

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	
Sproutly Canada, Inc.	June 30, 2022	
iMining Technologies Inc.	September 30, 2022	
Alkaline Fuel Cell Power Corp.	April 4, 2023	
mCloud Technologies Corp.	April 5, 2023	
FenixOro Gold Corp.	July 5, 2023	
HAVN Life Sciences Inc.	August 30, 2023	
Perk Labs Inc.	April 4, 2024	
Rivalry Corp.	May 1, 2025	
Pond Technologies Holdings Inc.	May 1, 2025	
Cult Food Science Corp.	May 5, 2025	
NorthStar Gaming Holdings Inc.	May 8, 2025	
Frontenac Mortgage Investment Corporation	May 9, 2025	

B.7
Insider Reporting

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

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

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

B.9
IPOs, New Issues and Secondary Financings

INVESTMENT FUNDS

Issuer Name:
Global X Active Canadian Bond ETF
Global X Active Canadian Dividend ETF
Global X Active Canadian Municipal Bond ETF
Global X Active Corporate Bond ETF
Global X Active Global Dividend ETF
Global X Active Global Fixed Income ETF
Global X Active Hybrid Bond and Preferred Share ETF
Global X Active Preferred Share ETF
Global X Active Ultra-Short Term Investment Grade Bond ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated May 7, 2025
NP 11-202 Final Receipt dated May 7, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06261666

Issuer Name:
CIBC Graduation Portfolio
CIBC Income Advantage Fund
CIBC Target 2030 Education Portfolio
CIBC Target 2035 Education Portfolio
CIBC Target 2040 Education Portfolio
CIBC Target 2045 Education Portfolio
CIBC U.S. Dollar Income Advantage Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 9, 2025
NP 11-202 Final Receipt dated May 12, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06264134

Issuer Name:
3iQ XRP ETF
Principal Regulator – Ontario
Type and Date:
Preliminary and amendment to preliminary Long Form Prospectus dated May 9, 2025
Withdrawn on Apr 11, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06233029

Issuer Name:
Oak Hill AQR Delphi Long-Short Equity Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 8, 2025
NP 11-202 Final Receipt dated May 9, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06260041

Issuer Name:
Fidelity All-American Equity ETF Fund
Fidelity All-in-One Conservative Income ETF Fund
Fidelity All-in-One Fixed Income ETF Fund
Fidelity All-International Equity ETF Fund
Fidelity International Value ETF Fund
Fidelity U.S. Value ETF Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 5, 2025
NP 11-202 Final Receipt dated May 7, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06266373

Issuer Name:
MegaLong (3X) 20+ Year US Treasury Daily Leveraged Alternative ETF
MegaLong (3X) Canadian Banks Daily Leveraged Alternative ETF
MegaLong (3X) Canadian Gold Miners Daily Leveraged Alternative ETF
MegaLong (3X) NASDAQ-100® Daily Leveraged Alternative ETF
MegaLong (3X) S&P 500® Daily Leveraged Alternative ETF
MegaLong (3X) US Semiconductors Daily Leveraged Alternative ETF
MegaShort (-3X) 20+ Year US Treasury Daily Leveraged Alternative ETF
MegaShort (-3X) Canadian Gold Miners Daily Leveraged Alternative ETF
MegaShort (-3X) NASDAQ-100® Daily Leveraged Alternative ETF
MegaShort (-3X) S&P 500® Daily Leveraged Alternative ETF
MegaShort (-3X) US Semiconductors Daily Leveraged Alternative ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated May 6, 2025
NP 11-202 Preliminary Receipt dated May 6, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06281015

Issuer Name:
RP Alternative Credit Opportunities Fund
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated May 5, 2025
NP 11-202 Preliminary Receipt dated May 6, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06280715

Issuer Name:
Arrow Income Alternative Fund
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Simplified Prospectus dated May 7, 2025
NP 11-202 Preliminary Receipt dated May 7, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06281743

Issuer Name:
Outcome Canadian Equity Income Fund
Outcome Tactical Bond Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 1, 2025
NP 11-202 Final Receipt dated May 7, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06259940

Issuer Name:
CIBC Canadian Government Long-Term Bond ETF
CIBC Premium Cash Management ETF
CIBC USD Premium Cash Management ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated May 6, 2025
NP 11-202 Final Receipt dated May 7, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06253850

Issuer Name:
GBW Alternative All-Weather Growth Fund
GBW Alternative Short-Term Growth Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectus dated May 6, 2025
NP 11-202 Final Receipt dated May 7, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06264725

Issuer Name:
Fidelity All-in-One Conservative Income ETF
Fidelity All-in-One Fixed Income ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated May 5, 2025
NP 11-202 Final Receipt dated May 6, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06266091

Issuer Name:
Harvest Apple Enhanced High Income Shares ETF
Principal Regulator – Ontario
Type and Date:
Combined Preliminary and Pro Forma Long Form Prospectus dated May 6, 2025
NP 11-202 Preliminary Receipt dated May 6, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06281073

Issuer Name:
Venator Founders Alternative Fund
Principal Regulator – Ontario
Type and Date:
Amendment No. 1 to Final Simplified Prospectus dated May 8, 2025
NP 11-202 Final Receipt dated May 12, 2025
Offering Price and Description:
-
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Filing #06133036

NON-INVESTMENT FUNDS

Issuer Name:
VIZSLA ROYALTIES CORP.
Principal Regulator – British Columbia
Type and Date:
Preliminary Shelf Prospectus dated May 7, 2025
NP 11-202 Preliminary Receipt dated May 7, 2025
Offering Price and Description:
$100,000,000 – Common Shares, Debt Securities, Subscription Receipts, Warrants, Units
Filing # 06281626

Issuer Name:
SolarBank Corporation
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 7, 2025
NP 11-202 Final Receipt dated May 8, 2025
Offering Price and Description:
C$200,000,000 – Common Shares, Debt Securities, Warrants, Subscription Receipts, Share Purchase Contracts, Units
Filing # 06268828

Issuer Name:
Tribe Property Technologies Inc.
Principal Regulator – British Columbia
Type and Date:
Preliminary Shelf Prospectus dated May 7, 2025
NP 11-202 Preliminary Receipt dated May 8, 2025
Offering Price and Description:
$25,000,000 – Common Shares, Subscription Receipts, Warrants, Units
Filing # 06282652

Issuer Name:
Spartan Delta Corp.
Principal Regulator – Alberta
Type and Date:
Final Shelf Prospectus dated May 7, 2025
NP 11-202 Final Receipt dated May 7, 2025
Offering Price and Description:
Common Shares, Preferred Shares, Subscription Receipts, Warrants, Debt Securities, Units
Filing # 06281375

Issuer Name:
U.S. Gold Corp.
Principal Regulator – Ontario
Type and Date:
Preliminary MJDS Prospectus dated May 2, 2025
NP 11-202 Preliminary Receipt dated May 6, 2025
Offering Price and Description:
US$150,000,000 – Common Stock, Preferred Stock, Warrants, Units
Filing # 06280521

Issuer Name:
Barrick Mining Corporation
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 7, 2025
NP 11-202 Final Receipt dated May 7, 2025
Offering Price and Description:
US$4,000,000,000 – COMMON SHARES, DEBT SECURITIES, SUBSCRIPTION RECEIPTS, WARRANTS, SHARE PURCHASE CONTRACTS, UNITS
Filing # 06281589

Issuer Name:
Tantalus Systems Holding Inc. (formerly RiseTech Capital Corp.)
Principal Regulator – British Columbia
Type and Date:
Preliminary Shelf Prospectus dated May 9, 2025
NP 11-202 Preliminary Receipt dated May 9, 2025
Offering Price and Description:
$50,000,000 – Common Shares, Preferred Shares, Debt Securities, Warrants, Subscription Receipts, Units
Filing # 06283520

Issuer Name:
Discovery Silver Corp.
Principal Regulator – Ontario
Type and Date:
Final Shelf Prospectus dated May 1, 2025
NP 11-202 Final Receipt dated May 6, 2025
Offering Price and Description:
C$500,000,000 – Common Shares, Warrants, Subscription Receipts, Units
Filing # 06260838

B.10
Registrations

B.10.1 Registrants

Type	Company	Category of Registration	Effective Date
Change Registration Category	National Bank Investments Inc.	From: Investment Fund Manager To: Investment Fund Manager and Portfolio Manager	May 6, 2025
New Registration	Foris DAX CAN ULC	Restricted Dealer	May 8, 2025
New Registration	Park Capital Management 2012 Inc.	Portfolio Manager and Exempt Market Dealer	May 12, 2025

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B.11
CIRO, Marketplaces, Clearing Agencies and Trade Repositories

B.11.2 Marketplaces

B.11.2.1 Nasdaq CXC Limited – Proposed Change – Notice and Request for Comment

NASDAQ CXC LIMITED

NOTICE OF
PROPOSED CHANGE AND REQUEST FOR COMMENT

Staff of the Ontario Securities Commission (**OSC**) are publishing this Notice and Proposed Changes and Request for Comment (**Notice**) regarding a proposal for a change in functionality, and the manner in which the associated fees are applied, to expand the eligible orders that a Midpoint Extended Life Order (**M-ELO**) can execute against to include certain Mid-Peg orders in Nasdaq CXC Limited's (**Nasdaq**) CXC Trading Book (**Proposed Change**).

A full description of the Proposed Change and Nasdaq's submissions on its rationale and expected impact are in the Notice. While comments are requested on all aspects of the Proposed Change, for the purpose of responding to Staff's request for specific comments below, Staff notes that a member choosing to enter a Mid-Peg order without a Post-Only parameter may receive a rebate or pay a fee depending on the order type against which it executes.

Staff request for specific comments

1. Fair access – how would the Proposed Change, which entails a passive Mid-Peg order paying trading fees or receiving a rebate depending on the type of the contra order it executes against, impact fair access to such participants?

2. Informational advantage – would the passive participant have an informational advantage over other market participants since they would have information about the type of the contra order it executes against, which is not available to other market participants?

Comments on this Notice should be in writing and submitted by June 16, 2025 to:

Trading and Markets Division
Ontario Securities Commission
20 Queen St. West, 22nd Floor
Toronto, ON
M5H 3S8
Email: tradingandmarkets@osc.gov.on.ca

And to:

Matt Thompson
Chief Compliance Officer
Nasdaq CXC Limited
25 York St., Suite 900
Toronto, ON M5J 2V5
Email: matthew.thompson@nasdaq.com

Comments received will be made public on the OSC website. Upon completion of the review by Staff, and in the absence of any regulatory concerns, notice will be published to confirm the completion of Staff's review and the intended implementation date of the changes.

NASDAQ CXC LIMITED

NOTICE OF
PROPOSED CHANGES AND REQUEST FOR COMMENT

Nasdaq CXC Limited (Nasdaq Canada) has announced plans to implement the changes described below subject to regulatory approval. Nasdaq Canada is publishing this Notice of Proposed Changes in accordance with the requirements set out in the Process for the Review and Approval of Rules and the Information Contained in Form 21-101F1 and the Exhibits Thereto (Exchange Protocol). Pursuant to the Exchange Protocol, market participants are invited to provide the Commission with comment on the proposed changes.

Comment on the proposed changes should be in writing and submitted by June 16, 2025 to:

Markets and Trading Division
Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, ON M5H 3S9
Email: tradingandmarkets@osc.gov.on.ca

And to

Matt Thompson
Chief Compliance Officer
Nasdaq CXC Limited
25 York St., Suite 900
Toronto, ON M5J 2V5
Email: matthew.thompson@nasdaq.com

Comments received will be made public on the OSC website. Upon completion of the review by OSC staff, and in the absence of any regulatory concerns, notice will be published to confirm the completion of Commission staff's review and to outline the intended implementation date of the changes.

NASDAQ CXC LIMITED

NOTICE OF PROPOSED CHANGES

DESCRIPTION OF PROPOSED CHANGES

The Midpoint Extended Life Order (M-ELO) is a non-displayed order supported on the CXC Trading Book (CXC) that rests at the midpoint of the NBBO. Unlike a Mid-Peg order, a M-ELO Order must meet a minimum resting time requirement in the order book before it becomes eligible to trade ("Minimum Resting Time" or "MRT"). An execution between two M-ELO Orders will only occur after each M-ELO Order has met the MRT. Today M-ELO Orders are only eligible to trade against other M-ELO Orders – they will not interact with other Mid-Peg orders in the CXC Trading Book.

Nasdaq Canada is proposing to expand the eligible orders that M-ELO Orders can execute against by permitting Mid-Peg Orders that have been posted at the midpoint of the NBBO for the Minimum Resting Time (the MRT is 10ms today) to also be able to interact with M-ELO Orders ("Proposed Change"). Mid-Peg Orders will continue to interact with other Mid-Peg Orders first before interacting with M-ELO Orders. In addition, if there are two or more Mid-Peg Orders in the order book that are eligible to trade with a M-ELO Order after the M-ELO Order meets the MRT and becomes available to trade, these orders will be matched in the sequence of time priority – the Mid-Peg Order that was entered first will be given matching priority.

With the adoption of the Proposed Change, all Mid-Peg Orders will be eligible to match with M-ELO Orders after they have been posted at the midpoint of the NBBO for the duration of the MRT. However, should a Member want to opt-out of interacting with M-ELO Orders, they can do so by entering the Mid-Peg Order with a Post-Only condition. Only non Post-Only Mid-Peg Orders and M-ELO Orders will be eligible to match with M-ELO Orders. Dark Orders entered on CXC with a limit price that is at, or becomes the same price as the midpoint of the NBBO (for example a limit price of $10.01 when the NBBO is $10.00 – $10.02) will not be eligible to trade with M-ELO Orders.

All trades between M-ELO Orders and Mid-Peg Orders will be identified on the CXC Market Data Feed as M-ELO trades and the M-ELO trading fee schedule will apply to these trades.

EXAMPLES

For each example below the NBBO is $10.00 – $10.01, all Mid-Peg Orders are entered without a Post-Only condition and all orders are entered on the CXC Trading Book.

EXAMPLE 1: Mid-Peg Order Fully Executes Against a M-ELO Order

Order Number	Order Type	Side	Order Qty	Order Price	Order Time
1	M-ELO	S	100	$10.005	T

Actions:

1. A Mid-Peg Order is entered to buy 100 shares @ $10.005 at time T+5ms (Order #2)
2. Order #1 becomes eligible to trade at T+10ms
3. Order #2 becomes eligible to trade against M-ELO at T+15ms
4. At time T+15ms Order #2 matches with Order #1 for 100 shares at $10.005

EXAMPLE 2: Multiple Mid-Peg Orders Execute Against M-ELO and Mid-Peg Orders

Order Number	Order Type	Side	Order Qty	Order Price	Order Time
1	M-ELO	B	10,000	$10.005	T
2	M-ELO	B	10,000	$10.005	T+1s

Actions:

1. Order #1 becomes eligible to trade at T+10ms
2. Order #2 becomes eligible to trade at T+1.01 s
3. A Mid-Peg Order is entered to sell 5,000 shares @ $10.005 at time T+2s (Order #3)

4. Order #3 becomes eligible to trade at T+2.01s

5. Order #1 matches with Order #3 for 5,000 shares at 10.005

Order Number	Order Type	Side	Order Qty	Order Price	Order Time
1	M-ELO	B	5,000	$10.005	T
2	M-ELO	B	10,000	$10.005	T+1s
4	Mid-Peg	B	10,000	$10.005	T+3s

Actions:

6. A Mid Peg Order is entered to sell 10,000 shares @ $10.005 at time T+4s (Order #5)

7. Order #4 matches with Order #5 for 10,000 shares at 10.005

EXAMPLE 3: Multiple M-ELO Orders Execute Against Multiple Mid-Peg Orders

Order Number	Order Type	Side	Order Qty	Order Price	Order Time
1	Mid-Peg	B	10,000	$10.005	T
2	Mid-Peg	B	10,000	$10.005	T+1s

Actions:

1. Order #1 becomes eligible to trade against M-ELO orders at T+10ms

2. Order #2 becomes eligible to trade against M-ELO orders at T+1.01s

3. A M-ELO Order is entered to sell 5,000 shares @ $10.005 at time T+2s (Order #3)

4. Order #3 becomes eligible to trade at T+2.01s

5. Order #1 matches with Order #3 for 5,000 shares at 10.005

Order Number	Order Type	Side	Order Qty	Order Price	Order Time
1	Mid-Peg	B	5,000	$10.005	T
2	Mid-Peg	B	10,000	$10.005	T+1 s

Actions:

5. A M-ELO Order is entered to sell 10,000 shares @ $10.005 at time T+3s (Order #4)

6. Order #4 becomes eligible to trade at T+3.01s

7. Order #1 matches with Order #4 for 5,000 shares at 10.005

8. Order #3 matches with Order #4 for 5,000 shares at 10.005

EXAMPLE 4: Mid-Peg Order Executes Against another Mid-Peg Order Entered after a M-ELO Order

Order Number	Order Type	Side	Order Qty	Order Price	Order Time
1	Mid-Peg	B	10,000	$10.005	T

Actions:

1. A M-ELO Order is entered to sell 1,000 shares @ $10.005 at time T+5ms (Order #2)

2. A Mid-Peg Order is entered to sell 100 shares @ $10.005 at time T+10ms (Order#3)

3. Order # 3 matches with Order # 1 for 100 shares at $10.005

4. Order #2 becomes eligible to trade at T+15ms

5. Order #2 matches with Order #1 for 1,000 shares at $10.005

Expected Date of Implementation

The Proposed Change will be introduced after regulatory approval has been received.

Rationale and Relevant Supporting Analysis

The Proposed Change is being made to provide M-ELO Orders access to an additional source of liquidity while continuing to ensure that the trading objectives of M-ELO Orders are met. M-ELO Orders are designed to attract and unite counterparties with longer-term investment horizons. By de-emphasizing speed and immediacy, M-ELO Orders facilitate long-term trading strategies by reducing opportunities for latency arbitrage and adverse selection for non-latency sensitive participants. These objectives are achieved through the requirement for M-ELO Orders to meet a Minimum Resting Time before they are eligible to trade. By permitting Mid-Peg Orders to also become eligible to trade against M-ELO Orders after they meet the same Minimum Resting Time period, M-ELO Orders will be able to source additional liquidity on CXC while continuing to mitigate against latency arbitrage opportunities and adverse selection.

The Proposed Change is also being made to provide Members using Mid-Peg Orders access to an additional liquidity source while not interfering with their trading objective and the option to trade immediately. With the Proposed Change a user of a Mid-Peg Order will continue to be eligible for immediate execution at the midpoint of the NBBO upon order entry. However, with the introduction of the Proposed Change the user will also gain access to trade against available M-ELO Orders after they have met the MRT.

Members using both Mid-Peg and M-ELO Orders will be able to source liquidity at their intended execution price (the midpoint of the NBBO) and in turn will help achieve better trading outcomes and trading objectives.

Expected Impact on Market Structure

The Proposed Change will increase trading opportunities for Members by expanding access to liquidity that is not available today. This in turn will facilitate trading strategies and improve trading performance. By permitting the interaction of Mid-Peg Orders with M-ELO Orders users of both order types will be provided with more opportunities to trade. More opportunities to trade in turn will increase Member execution rates and improve trading performance.

The Proposed Change will also result in potentially lowering trading fees for users of Mid-Peg Orders. Active trading fees for hidden liquidity on CXC are substantially higher than the trading fees (pay-pay fee model) for M-ELO Orders. If a Mid-Peg Order that otherwise would incur a high active trading fee (which all users are willing to pay by the fact they have entered a Mid-Peg Order) trades against a M-ELO Order it will result in a lower trading fee and in turn lower the trading costs of these trades. The possibility of lowering fees will be provided to any user of a Mid-Peg Order that enters an order without a Post-Only condition today as they are willing upon order entry to remove liquidity and pay the active fee. For any Member that wants to forego immediate execution for the possibility of receiving a rebate they can enter a Mid-Peg Order with a Post-Only Parameter.

Expected Impact on the Exchange's Compliance with Ontario Securities Law

There is no expected impact on Nasdaq Canada's compliance with Ontario Securities Law.

a) Fair Access

The Proposed Change will not impact Nasdaq Canada's compliance with the fair access requirements of National Instrument 21-101. With the adoption of the Proposed Change, all Members will continue to be afforded an equal opportunity to use both M-ELO Orders and Mid-Peg Orders on the same basis. While Members using Mid-Peg Orders will now be provided the benefit of accessing M-ELO Orders automatically after these orders have met the MRT, Members will still be able to opt-out of this change by using a Post-Only Condition with their Mid-Peg Orders. Consequently, the use of Mid-Peg Orders and M-ELO Orders is completely optional and users of Mid-Peg Orders today will be empowered to accept the Proposed Change or opt out of it at their own discretion.

b) Maintenance of a Fair and Orderly Market

The Proposed Change will create efficiencies that will help support a more fair, orderly and competitive market. The Canadian equity market is fragmented by both the number of different trading venues and the different pools of liquidity domiciled within a trading venue. The Proposed Change will provide Members using M-ELO Orders and Mid-Peg Orders the ability to source and trade against another set of order flow with a similar execution objective – to trade at the midpoint. This in turn will result in greater trading opportunities and better execution outcomes.

Consultation and Review

Consultations were undertaken with Members using Mid-Peg Orders and M-ELO Orders. Both constituents realized the efficiencies that would be created from the Proposed Change and in turn expressed their support for the Proposed Change.

Estimated Time Required by Subscribers and Vendors (or why a reasonable estimate is not provided)

There is no additional work required by Members to be made to their systems to accommodate the Proposed Change.

Will Proposed Fee Change or Significant Change introduce a Fee Model or Feature that Currently Exists in other Markets or Jurisdictions

Yes. The M-ELO Order type is also supported on Nasdaq in the United States and M-ELO orders on that exchange are able to interact with orders in the Continuous Order Book.

Any questions regarding these changes should be addressed to Matt Thompson, Nasdaq CXC Limited: matthew.thompson@nasdaq.com, T: 647-243-6242

Appendix A

Text of the Public Interest Rule Change to Nasdaq Canada Trading Rules and Policies

1.1 Definitions and Interpretation

CXD Conditional Order Book	A facility of the CXD Trading Book accepting IOC, CXD and XFT Conditional Orders
CXD Conditional Order Minimum Order Size	The minimum order size required for a CXD Conditional Order to be accepted by the Exchange.
CXD Connect	A service providing Members the option to have CXD Connect Orders interact with orders on the CXD Conditional Order Book.
CXD Connect Eligibility Criteria	An Order entered on the CXD Trading Book meeting the following conditions: • The order must be priced at the midpoint of the NBBO or better (higher than the mid-point in the case of a buy order or lower than the midpoint in the case of a sell order); • A Member must opt-in on an order-by-order basis or by using a default setting at the port level that will apply to all orders meeting the CXD Conditional Order size entered from that port; • The remaining order quantity must meet the CXD Conditional Order Minimum Order Size.
CXD Connect Order	An Order that meets the CXD Connect Eligibility Criteria.
PureStream Connect	A service providing Members the option to have CXD Conditional Orders seamlessly interact on both PureStream and the CXD Conditional Order Book on an order-by-order basis.
XFT Minimum Order Size	The minimum order size required for an XFT Order to be accepted by the Exchange.

5.6.1 Order Types

ORDER TYPE	DEFINITION
CXD Conditional Order	"CXD Conditional Order" means an order entered on the CXD Conditional Order Book that meets the CXD Conditional Minimum Order Size and has a conditional execution order attribute.
XFT Conditional Order	"XFT" means an order entered on the CXD Conditional Order Book that meets the XFT Conditional Minimum Order Size and has a conditional execution order attribute that provides a longer time to respond to a firm-up request.

5.7.3 CXD Book

CXD is a dark book with matching based on price/broker/time priority. Orders entered on CXD that do not meet the minimum size requirements as defined by UMIR must provide incoming orders with minimum price improvement.

CXD Orders are attributed by default and are automatically eligible for broker preferencing. Members may not opt-out of broker preferencing for attributed orders.

Anonymous orders are eligible for broker preferencing. Jitney orders are not eligible for broker preferencing.

CXD supports Board Lot, Mixed Lot and Odd Lot orders.

CXD supports PureStream Orders where pairing priority is based on Broker/LTR/Size/PureStream Limit Price/Time. Only Board Lots can be entered as PureStream Orders.

CXD supports CXD and XFT Conditional Orders where matching priority is based on Broker/Size/Time.

CXD supports CXD Connect where Members can elect to have orders meeting the CXD Connect Eligibility Criteria entered on CXD interact with the CXD Conditional Order Book.

CXD supports PureStream Connect where Members can elect to have orders entered on the CXD Conditional Order Book to interact with PureStream Orders.

B.11.3 Clearing Agencies

B.11.3.1 CDS Clearing and Depository Services Inc. (CDS) – Proposed Material Amendments to CDS External Procedures for the Addition of Scheduled Intraday Margin Calls and Requirements for the CNS Service – Notice of Material Rule Submission

NOTICE OF MATERIAL RULE SUBMISSION

CDS CLEARING AND DEPOSITORY SERVICES INC. (CDS)

PROPOSED MATERIAL AMENDMENTS TO
CDS EXTERNAL PROCEDURES FOR THE ADDITION OF
SCHEDULED INTRADAY MARGIN CALLS AND REQUIREMENTS FOR THE CNS SERVICE

CDS has submitted to the Commission proposed material amendments to the CDS External Procedures for the addition of scheduled intraday margin calls and requirements for the Continuous Net Settlement (CNS) service.

The purpose of the proposed amendments, which are subject to Commission approval, is to introduce a scheduled process for intraday margin collection and to enhance CDS's observance of Principle 4 "Credit Risk" and Principle 6 "Margin" of the Principles for Financial Market Infrastructures (PFMI) published by the Committee on Payments and Market Infrastructures and the International Organization of Securities Commissions (CPMI-IOSCO).

The proposed amendments have been posted for public comment on the **CDS website**. The 30-day public comment period ends on June 16, 2025.

B.11.3.2 Canadian Derivatives Clearing Corporation (CDCC) – Proposed Amendments to the Rules, Operations Manual, Risk Manual, and Default Manual of the CDCC Regarding the Introduction of Clearing Service for Equity Total Return Swaps – Notice of Material Rule Submission

NOTICE OF MATERIAL RULE SUBMISSION

PROPOSED AMENDMENTS TO
THE RULES, OPERATIONS MANUAL, RISK MANUAL, AND DEFAULT MANUAL OF THE CDCC
REGARDING THE INTRODUCTION OF CLEARING SERVICE FOR EQUITY TOTAL RETURN SWAPS

CANADIAN DERIVATIVES CLEARING CORPORATION (CDCC)

CDCC has submitted to the Commission proposed amendments to the Rules, Operations Manual, Risk Manual, and Default Manual of the CDCC regarding the introduction of clearing service for equity total return swaps (TRS) over U.S. listed products to Canadian and certain foreign participants.

The purpose of the proposed amendments, which are subject to Commission approval, is to facilitate market adoption of a cleared solution for TRS and describe the design of the operational aspects and risk architecture regarding the TRS clearing service.

The proposed amendments have been posted for public comment on CDCC's **website**. The comment period ends on June 16, 2025.

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